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Charter Communications, Inc. and  
Charter Communications Operating, LLC*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

WINDSTREAM FINANCE, CORP., *et al.*,  
Debtors.

WINDSTREAM HOLDINGS, INC., *et al.*,  
Plaintiffs,

vs.

CHARTER COMMUNICATIONS, INC.  
and CHARTER COMMUNICATIONS  
OPERATING, LLC,  
Defendants.

Chapter 11

Case No. 19-22397 (RDD)

(Formerly Jointly Administered  
under Lead Case Windstream  
Holdings, Inc., 19-22312)

Adv. Pro. No. 19-08246

Related Case No.  
19-cv-09354



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**DEFENDANTS-APPELLANTS' DESIGNATION OF THE RECORD  
AND STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8009, Defendants Charter Communications, Inc. and Charter Communications Operating, LLC ("Defendants-Appellants") respectfully designate the following items to be included in the Record on Appeal.

Defendants-Appellants reserve their right to designate additional items for inclusion in the record and/or restate issues presented on appeal. For items designated, the designation includes all documents referenced with the particular document number including, without limitation, all statements, appendices, exhibits, attachments, declarations, and/or related affidavits.

**Designation of Items to be Included in the Record on Appeal**

<b>Item No.</b>	<b>Date</b>	<b>Docket No.</b>	<b>Document Title</b>	<b>Trial Exhibit</b>
1	04/05/2019	1	Adversary Complaint	
2	04/16/2019	25	Temporary Restraining Order (TRO)	
3	05/16/2019	61	Preliminary Injunction	
4	06/11/2019	76	Joint Rule 26(f) Report	
5	06/13/2019	77	Scheduling and Pre-Trial Order	
6	07/24/2019	84	April 15, 2019 TRO Transcript	
7	10/14/2019	109	Defendants' Motion for Judgment on the Pleadings on Count VI and Motion to Dismiss Count VII for Lack of Subject Matter Jurisdiction	
8	10/22/2019	112	Plaintiffs' Request for Telephonic Discovery Dispute Conference	
9	10/23/2019	113	Defendants' Response to Plaintiffs' October 22, 2019 Request for Teleconference	
10	11/15/2019	115	Defendants' Motion to Exclude the Testimony of John C. Jarosz	
11	11/15/2019	116	Defendants' Memorandum of Law in Support of Motion to Exclude the Testimony of John C. Jarosz	
12	11/15/2019	117	Declaration of Brian Hockett in Support of Defendants' Motion to Exclude the Testimony of John C. Jarosz	



13	11/15/2019	121	Defendants' Memorandum in Opposition to Motion to Strike the Rebuttal Expert Reports of Robert Borders and Dr. Henry Ostberg	
14	11/15/2019	122	Plaintiffs' Motion for Summary Judgment as to Liability on All Counts	
15	11/15/2019	123	Plaintiffs' Memorandum of Law in Support of Motion for Summary Judgment	
16	11/15/2019	124	Plaintiffs' Statement of Undisputed Material Facts	
17	11/15/2019	125	Declaration of Jeffrey H. Auman in Support of Plaintiffs' Motion for Summary Judgment	
18	11/15/2019	126	Declaration of Paul Strickland, Jr. in Support of Plaintiffs' Motion for Summary Judgment	
19	11/15/2019	127	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion for Summary Judgment	
20	11/15/2019	129	Defendants' Motion for Summary Judgment	
21	11/15/2019	130	Defendants' Memorandum of Law in Support of Motion for Summary Judgment	
22	11/15/2019	131	Defendants' Statement of Undisputed Material Facts	
23	11/15/2019	132	Declaration of Brian Hockett in Support of Defendants' Motion for Summary Judgment	
24	12/06/2019	140	Defendants' Response to Plaintiffs' Statement of Facts	
25	12/06/2019	141	Declaration of Brian Hockett in Support of Defendants' Response to Plaintiffs' Statement of Facts	
26	12/06/2019	144	Plaintiffs' Memorandum in Opposition to Defendants' Motion for Summary Judgment	
27	12/06/2019	145	Plaintiffs' Response to Defendants' Statement of Facts	
28	12/06/2019	146	Declaration of Grace A. Thompson in Support of Plaintiffs' Opposition to Defendants' Summary Judgment	
29	12/06/2019	147	Declaration of Jeffrey H. Auman in Support of Plaintiffs' Opposition to Defendants' Summary Judgment	

30	12/06/2019	148	Declaration of John C. Jarosz in Support of Plaintiffs' Opposition to Defendants' Summary Judgment	
31	12/06/2019	150	Plaintiffs' Motion for Leave to File Rebuttal Expert Report	
32	12/06/2019	152	Plaintiffs' Memorandum of Law in support of their Motion for Leave to File a Rebuttal Expert Report	
33	12/06/2019	153	Declaration of Brian Hockett in Support of Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment	
34	12/06/2019	154	Expert Declaration of Sarah Butler	
35	12/06/2019	155	Plaintiffs' Motion to Exclude the Rebuttal Expert Report of Henry D. Ostberg	
36	12/06/2019	156	Plaintiffs' Memorandum of Law in Support of their Motion to Exclude the Rebuttal Expert Report of Henry D. Ostberg	
37	12/06/2019	157	Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Partial Summary Judgment	
38	12/06/2019	158	Defendants' Statement of Additional Facts	
39	12/11/2019	161	Plaintiffs' Opposition to Defendants' Motion for Judgment on the Pleadings and Motion to Dismiss	
40	12/11/2019	162	Declaration of Grace E. Thompson in Support of Plaintiffs' Opposition of Defendants' Motion for Judgment on the Pleadings and Motion to Dismiss	
41	12/11/2019	164	Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Exclude the Testimony of John C. Jarosz	
42	12/11/2019	165	Declaration of John C. Jarosz in Support of Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Exclude the Expert Testimony of John C. Jarosz	
43	12/11/2019	166	Declaration of Grace A. Thompson in Support of Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Exclude the Expert Testimony of John C. Jarosz	
44	12/13/2019	169	Plaintiffs' Reply Memorandum in Support of their Motion for Summary Judgment	

45	12/13/2019	170	Plaintiffs' Reply Statement of Facts in Support of their Motion for Summary Judgment	
46	12/13/2019	171	Plaintiffs' Response to Defendants' Statement of Additional Facts [Dkt. No. 158]	
47	12/13/2019	172	Declaration of Jeffrey H. Auman in Further Support of Plaintiffs' Motion for Summary Judgment	
48	12/13/2019	175	Defendants' Response to Plaintiffs' Statement of Additional Material Facts [Dkt. No. 145]	
49	12/13/2019	176	Defendants' Reply Memorandum in Support of Motion for Summary Judgment	
50	12/17/2019	179	Defendants' Reply in Support of Motion for Judgment on the Pleadings and Motion to Dismiss [Dkt. No. 109]	
51	12/17/2019	181	Defendants' Reply Memorandum in Support of Motion to Exclude the Testimony of John C. Jarosz [Dkt. No. 116]	
52	12/23/2019	185	Plaintiffs' Motion to Exclude the Expert Testimony of Robert Borders	
53	12/23/2019	186	Plaintiffs' Memorandum of Law in support of their Motion to Exclude the Expert Testimony of Robert Borders	
54	12/23/2019	187	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion to Exclude the Expert Testimony of Robert Borders	
55	12/23/2019	188	Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
56	12/23/2019	189	Plaintiffs' Memorandum of Law in Support of their Motion to Exclude the Expert Testimony of Matthew Kardos	
57	12/23/2019	190	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
58	12/23/2019	191	Plaintiffs' Motion to Exclude the Expert Testimony of Jules Kamin	
59	12/23/2019	192	Plaintiffs' Memorandum of Law in Support of their Motion to Exclude the Expert Testimony of Jules Kamin	
60	12/23/2019	193	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion to Exclude the Expert Testimony of Jules Kamin	

61	01/02/2020	204	Defendants' Objections to Report and Recommendation [Dkt. No. 200]	
62	01/09/2020	213	Defendants' Response in Opposition to Plaintiffs' Motion to Exclude the Expert Testimony of Robert Borders	
63	01/09/2020	214	Declaration of Justin Mulligan in support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Robert Borders	
64	01/09/2020	216	Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Expert Testimony of Dr. Jules Kamin	
65	01/09/2020	217	Declaration of Justin Mulligan in Support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin	
66	01/09/2020	220	Defendants' Opposition to Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
67	01/09/2020	221	Declaration of Justin Mulligan in Support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Matthew Kardos	
68	01/09/2020	223	Defendants' Response in Opposition to Plaintiffs' Motion to Exclude the Expert Report of Dr. Henry Ostberg	
69	01/09/2020	224	Declaration of Justin Mulligan in Support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Henry Ostberg	
70	01/13/2020	229	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Henry D. Ostberg	
71	01/13/2020	231	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Robert Borders	
72	01/13/2020	232	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Matthew Kardos	
73	01/13/2020	233	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Jules Kamin	
74	01/15/2020	237	Revised Bench Ruling and Hearing Transcript	

75	01/15/2020	238	Plaintiffs' Response to Notice of Defendants' Objections to Bankruptcy Court's Report and Recommendation and Suggestions in Support of Defendants' Objections to Bankruptcy Court's Report and Recommendation	
76	01/16/2020	242	Defendants' Designation of the Record in Support of Defendants' Objections to Bankruptcy Court's Report and Recommendation	
77	01/23/2020	247	Defendants' Motion to Continue the March 30, 2020 Trial Setting for Counts VI and VII Pending a Jury Trial on Predicate Claims (Counts I-V)	
78	01/28/2020	250	Order Denying in Part and Continuing in Part Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
79	01/28/2020	251	Order Granting Plaintiffs' Motion to Exclude the Rebuttal Expert Report and Testimony of Henry D. Ostberg	
80	01/28/2020	252	Order Granting in Part and Denying in Part Plaintiffs' Motion the Expert Testimony of Robert Borders	
81	01/28/2020	253	Order Granting in Party and Denying in Part Plaintiffs' Motion to exclude the Expert Testimony of Matthew Kardos	
82	01/28/2020	254	Order Denying Defendants' Motion to Exclude the Testimony of John C. Jarosz	
83	01/30/2020	259	Order on Defendants' Motion for Judgment on the Pleadings on Count VI and Motion to Dismiss Count VII for Lack of Subject Matter Jurisdiction	
84	02/06/2020	263	Plaintiffs' Objection to Defendants' Motion to Continue the March 30, 2020 Trial Setting for Counts VI and VIII Pending a Jury Trial on the Predicate Claims (Counts I-V)	
85	02/10/2020	264	Defendants' Reply in Support of Motion to Continue the Bench Trial on Counts VI and VII Pending a Jury Trial on Plaintiffs' Predicate Claim	
86	02/19/2020	269	Opinion re Defendants' Objections to Bankruptcy Court's Report and Recommendation	
87	02/18/2020	270	Transcript re Defendants' Motion to Continue March 30, 2020 Trial Setting	

88	02/21/2020	271	Order re Defendants' February 11, 2020 Objections to Bankruptcy Court's Report and Recommendations	
89	03/03/2020	274	Order Denying in Part Plaintiffs' Motion for Partial Summary Judgment of Liability	
90	03/03/2020	275	Order Denying Defendants' Motion for Summary Judgment	
91	03/17/2020	281	Memorandum of Decision on Defendants' Motion to Continue Bench Trial in Light of Jury-Trial Demand	
92	03/23/2020	286	Letter to the Court in connection with the recently issued decision on Defendants' Motion to Continue Trial	
93	03/30/2020	287	Order Denying Defendants' Motion to Continue March 30, 2020 trial Setting for Counts VI & VII	
94	04/13/2020	289	Defendants' Motion for Relief from March 30, 2020 Order	
95	04/21/2020	294	Plaintiffs' Objection to Defendants' Motion for Relief from March 30, 2020 Order	
96	04/21/2020	295	Declaration of Grace A. Thompson in Support of Plaintiffs' Objection to Defendants' Motion for Relief from March 30, 2020 Order	
97	04/21/2020	296	Plaintiffs' Objections to Defendants' Trial Exhibits	
98	05/11/2020	315	Defendants' Letter to Bankruptcy Court re Defendants' Exhibit 383	
99	05/14/2020	316	Designation of Exhibits Admitted at Trial	
100	06/09/2020	317	Plaintiffs' Post-Trial Memorandum	
101	06/09/2020	319	Defendants' Post-Trial Brief on Counts VI and VII	
102	08/03/2020	321	Plaintiffs' Request for Judicial Notice of Fee Applications to Supplement Sanctions Request against Defendants	
103	09/09/2020	323	Plaintiffs' Request for Judicial Notice of Fee Applications to Supplement Sanctions Request Against Defendants	
104	09/28/2020	326	Transcript re 01/16/2020 Hearing re Expert Motions	
105	09/30/2020	325	Transcript re Final Pre-Trial Conference	
106	10/02/2020	327	Transcript re 04/20/2020 Hearing re Trial	
107	10/01/2020	328	Transcript re 05/06/2020 Hearing re Trial	

108	10/01/2020	330	Transcript re 004/27/2020 Hearing re Trial	
109	30/23/2021	331	Amended Transcript re 04/28/20 Hearing re Trial	
110	04/08/2021	332	Memorandum of Decision on Count VI and Count VII	
111	04/15/2021	334	Judgment against Defendants in favor of Debtors	
112	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 1 – Spectrum Business Value Added Reseller Agreement, dated April 11, 2018	J. Ex. 1
113	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 2 - Charter_046353	J. Ex. 2
114	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 3 - Defendants' Form 10-K for the period ending 12/31/18	J. Ex. 3
115	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 4 - Defendants' Form 10-Q for the period ending 6/30/19	J. Ex. 4
116	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 5 - Charter_006319-Charter 006325	J. Ex. 5
117	Admitted 04/27/2020	Attached	Joint Trial Ex. 6 - Charter_007830-Charter 007831	J. Ex. 6
118	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 7 - Ex. 28 to Rule 30(b)(6) Deposition of Keith Dardis	J. Ex. 7
119	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 8 - Charter_047110; Charter_047065-Charter_047109; Charter_047111-Charter_047113	J. Ex. 8
120	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 9 - <i>Proof of Claim No. 5739, Bankr. Case No. 19-22345; Proof of Claim No. 5740, Bankr. Case No. 19-22349; Proof of Claim No. 5738, Bankr. Case No. 19-22440; Proof of Claim No. 5786, Bankr. Case No. 19-22456; Proof of Claim No. 5768, Bankr. Case No. 19-22469; Proof of Claim No. 5731, Bankr. Case No. 19-22366; Proof of Claim No. 5792, Bankr. Case No. 19-22366; Proof of Claim No. 5791, Bankr. Case No. 19-22369; Proof of Claim No. 5760, Bankr. Case No. 19-22372; Proof of Claim No. 5759, Bankr. Case No. 19-22375; Proof of Claim No. 5758, Bankr. Case No. 19-22378; Proof of Claim No. 5755, Bankr. Case No. 19-22380; Proof of Claim No. 5767, Bankr. Case No. 19-22380; Proof</i>	J. Ex. 9

			<i>of Claim No. 5761, Bankr. Case No. 19-22384; Proof of Claim No. 5748, Bankr. Case No. 19-22386; Proof of Claim No. 5762, Bankr. Case No. 19-22388; Proof of Claim No. 5790, Bankr. Case No. 19-22391; Proof of Claim No. 5780, Bankr. Case No. 19-22394; Proof of Claim No. 5736, Bankr. Case No. 19-22399; Proof of Claim No. 5749, Bankr. Case No. 19-22423; Proof of Claim No. 5750, Bankr. Case No. 19-22427; Proof of Claim No. 5734, Bankr. Case No. 19-22447; Proof of Claim No. 5766, Bankr. Case No. 19-22325; Proof of Claim No. 5751, Bankr. Case No. 19-22347; Proof of Claim No. 5752, Bankr. Case No. 19-22311; Proof of Claim No. 5735, Bankr. Case No. 19-22393; Proof of Claim No. 5765, Bankr. Case No. 19-22409; Proof of Claim No. 5753, Bankr. Case No. 19-22340; Proof of Claim No. 5732, Bankr. Case No. 19-22460; Proof of Claim No. 5764, Bankr. Case No. 19-22478; Proof of Claim No. 5754, Bankr. Case No. 19-22433; Proof of Claim No. 5830, Bankr. Case No. 19-22434; Proof of Claim No. 5763, Bankr. Case No. 19-22458; Proof of Claim No. 5737, Bankr. Case No. 19-22486; Proof of Claim No. 5733, Bankr. Case No. 19-22476; Proof of Claim No. 5747, Bankr. Case No. 19-22492; Proof of Claim No. 5793, Bankr. Case No. 19-22496; Proof of Claim No. 5769, Bankr. Case No. 19-22400</i>	
121	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 10 - Charter Direct Mail Marketing Mailers	J. Ex. 10
122	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 11 - 5/16/19 Invoice and Letter from Kurtzman Carson Consultants to Windstream Holdings, Inc.	J. Ex. 11
123	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 12 - Charter Direct Mailer Sample Envelope	J. Ex. 12
124	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 13 - Ex. 44 to Rule 30(b)(6) Deposition of Frederick Gunzel	J. Ex. 13
125	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 14 - Ex. 46 to Rule 30(b)(6) Deposition of Frederick Gunzel	J. Ex. 14



126	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 15 - Ex. 47 to Rule 30(b)(6) Deposition of Frederick Gunzel	J. Ex. 15
127	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 16 - Robert Borders Curriculum Vitae	J. Ex. 16
128	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 17 - Revised Segment Results from Direct Mailer	J. Ex. 17
129	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 1 - <i>Windstream Holdings, Inc., et. al. v. Charter Communications, Inc., et. al.</i> , Adv. Pro. No. 19-08246, Adv. Dkt. No. 1	P. Ex. 1
130	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 3 - <i>Charter Communications Holding Co., et. al. v. DirecTV, Inc.</i> , No. 4:09-cv-00730, Dkt. No. 1 (E.D. Mo. May 11, 2009)	P. Ex. 3
131	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 5 - Tab 5 to Expert Report of John C. Jarosz	P. Ex. 5
132	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 6 - Windstream Holdings, Inc. 2Q18 Earnings Presentation	P. Ex. 6
133	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 7 - Windstream Holdings, Inc. 2Q19 Earnings Presentation	P. Ex. 7
134	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 8 - Charter 000652-000654	P. Ex. 8
135	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 9 - Charter 000998-000999	P. Ex. 9
136	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 10 - Charter 001005	P. Ex. 10
137	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 11 - Charter 001005	P. Ex. 11
138	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 12 - Charter 009885-009886	P. Ex. 12
139	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 14 - WIN002467	P. Ex. 14
140	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 15 - Ex. 6 to 11/15/19 Thompson Dec.	P. Ex. 15
141	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 17 - WIN002058-WIN002063	P. Ex. 17
142	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 18 - WIN000381-WIN000467; WIN000675-WIN001770; WIN001780-WIN002057; WIN002072-WIN002094	P. Ex. 18
143	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 19 - WIN002772-WIN002814	P. Ex. 19

144	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 20 – <i>Charter Communications Holding Co., et. al. v. DirecTV, Inc.</i> , No. 4:09-cv- 00730, Dkt. No. 9-2 (E.D. Mo. May 11, 2009)	P. Ex. 20
145	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 25 - Charter 045452	P. Ex. 25
146	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 26 - Charter 000540- Charter 000543	P. Ex. 26
147	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 27 - Charter 000677- Charter 000678	P. Ex. 27
148	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 28 - Charter 001217- Charter 001220	P. Ex. 28
149	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 29 - Charter 006088	P. Ex. 29
150	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 30 - Ex. 3 from 9/19/19 Atkinson Dep. II	P. Ex. 30
151	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 33 - Charter 000514	P. Ex. 33
152	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 34 - Ex. 1 to 12/6/19 Auman Dec.	P. Ex. 34
153	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 35 - Third Supplemental Initial Disclosures of Plaintiff Windstream Holdings, Inc. and Affiliated Debtors	P. Ex. 35
154	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 39 - Ex. 4 from 9/12/19 RAPP Dep.	P. Ex. 39
155	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 40 - Charter 000936-000941	P. Ex. 40
156	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 41 - Charter 006254-006255	P. Ex. 41
157	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 42 - Charter 006103-006109	P. Ex. 42
158	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 43 - Charter 010013-010021	P. Ex. 43
159	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 44 - Ex. 9 from 9/12/19 RAPP Dep.	P. Ex. 44
160	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 45 - Ex. 10 from 9/12/19 RAPP Dep.	P. Ex. 45
161	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 46 - Ex. 1 to 4/11/19 Langston Supp. Dec.	P. Ex. 46
162	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 47 - Charter 020211-020218	P. Ex. 47

163	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 48 – <i>Windstream Holdings, Inc., et. al. v. Charter Communications, Inc., et. al.</i> , Adv. Pro. No. 19-08246, Adv. Dkt. No. 84	P. Ex. 48
164	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 50 - Charter 000583-Charter 000585	P. Ex. 50
165	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 51 - Charter 001458-Charter 001461	P. Ex. 51
166	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 52 - Charter 001492-Charter 001496	P. Ex. 52
167	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 53 - Charter 009191-Charter 009192	P. Ex. 53
168	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 55 - Charter 020026-Charter 020027	P. Ex. 54
169	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 58 - Charter 020032	P. Ex. 58
170	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 59 - Charter's Responses and Objections to Windstream's Interrogatories (9/23/19)	P. Ex. 59
171	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 60 - "190917 Charter Litigation Information – damages.xlsx"	P. Ex. 60
172	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 61 - "Consumer ARPU_GM.pdf"	P. Ex. 61
173	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 62 - Email – "Charter Corrective Mailings," July 31, 2019	P. Ex. 62
174	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 64 - WIN002771	P. Ex. 64
175	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 65 - WIN000069-WIN000070	P. Ex. 65
176	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 66 - WIN000381; WIN000389-WIN000391; WIN000414-WIN000467; WIN001203; WIN001207-WIN001209; WIN001223-WIN001227; WIN001248; WIN001394; WIN001398; WIN001401-WIN001404; WIN001419-WIN001425; WIN001442; WIN001909; WIN001926-WIN001931; WIN001944; WIN001948-WIN001950; WIN001867-WIN001877; WIN001882; WIN000727-WIN000728; WIN000735-WIN000736; WIN000746-WIN000757; WIN000762; WIN000766-WIN000772; WIN000781-WIN000783; WIN000797-WIN000800; WIN000819; WIN000862; WIN000876-	P. Ex. 66

			WIN000891; WIN000898-WIN000906; WIN000948-WIN000951; WIN000969- WIN000971; WIN000984-WIN000986; WIN000992; WIN001156; WIN001196- WIN001202; WIN000993-WIN000994; WIN000997-WIN000998; WIN001010- WIN001013; WIN001041; WIN001299; WIN001329-WIN001330; WIN001341- 1342; WIN001345; WIN001443- WIN001445; WIN001449; WIN001479- WIN001484; WIN001490; WIN001042- WIN001045; WIN001049-WIN001052; WIN001055-WIN001058; WIN001095; WIN001249-WIN001250; WIN001252- WIN001258; WIN001286; WIN001291- WIN001292; WIN001298; WIN001571; WIN001581-WIN001582; WIN001610; WIN001614-WIN001615; WIN001620; WIN002002-WIN002011; WIN002041- WIN002045; WIN002048; WIN001096; WIN001100-WIN001104; WIN001110; WIN001133-WIN001145; WIN001155; WIN001529; WIN001554; WIN001557- WIN001558; WIN001570; WIN001621- WIN001625; WIN001657-WIN001663; WIN001669; WIN001951-WIN001975; WIN001993-WIN001994; WIN002001; WIN001883; WIN001896-WIN001903; WIN001908; WIN001346-WIN001347; WIN001352- WIN001360-WIN001371; WIN001383-WIN001385; WIN001393; WIN001670; WIN001677-WIN001679; WIN001724; WIN001809; WIN001842- WIN001846; WIN001855-WIN001859; WIN001862-WIN001866; WIN001725- WIN00732; WIN001766-WIN00767; WIN001770	
177	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 67 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 504	P. Ex. 67
178	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 68 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 551	P. Ex. 68
179	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 69 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 693	P. Ex. 69

180	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 70 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 822	P. Ex. 70
181	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 71 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 932	P. Ex. 71
182	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 72 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 970	P. Ex. 72
183	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 73 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1079	P. Ex. 73
184	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 74 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1157	P. Ex. 74
185	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 75 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1238	P. Ex. 75
186	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 76 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1319	P. Ex. 76
187	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 77 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1360	P. Ex. 77
188	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 78 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1449	P. Ex. 78
189	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 79 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1522	P. Ex. 79
190	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 80 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 612	P. Ex. 80
191	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 81 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 812	P. Ex. 81
192	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 82 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 878	P. Ex. 82
193	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 83 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 936	P. Ex. 83
194	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 84 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 982	P. Ex. 84

195	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 85 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1114	P. Ex. 85
196	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. .86 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1163	P. Ex. 86
197	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 87 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1239	P. Ex. 87
198	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 88 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1322	P. Ex. 88
199	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 89 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1375	P. Ex. 89
200	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 90 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1454	P. Ex. 90
201	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 91 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1548	P. Ex. 91
202	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 92 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1188	P. Ex. 92
203	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 93 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1507	P. Ex. 93
204	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 94 - Analysis Group invoices, September 2019 through December 2019 (not included on Fee Applications)	P. Ex. 94
205	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 95 - NERA invoices, December 2019 (not included on Fee Applications)	P. Ex. 95
206	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 99 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1598	P. Ex. 99
207	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 100 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1642	P. Ex. 100
208	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 101 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1631	P. Ex. 101
209	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 102 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1632	P. Ex. 102

210	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 103 - John Jarosz CV (as of March 2020)	P. Ex. 103
211	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 104 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1679	P. Ex. 104
212	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 105 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1682	P. Ex. 105
213	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 106 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1701	P. Ex. 106
214	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 313 - WIN003249 - WIN003249	P. Ex. 313
215	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 315 - Internal Windstream Legal Time	P. Ex. 315
216	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 316 – Customer Credits	P. Ex. 316
217	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 350 - Debtors Objections and Responses to Charters Written Discovery Related to Alleged Legal and Promotional Costs	P. Ex. 350
218	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 3 - Windstream Holdings, Inc. Form 10-K	D. Ex. 3
219	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 15 - 6/19/19 Initial Disclosures	D. Ex. 15
220	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 16 - 8/29/19 Supplemental Initial Disclosures	D. Ex. 16
221	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 17 - 9/6/19 Second Supplemental Initial Disclosures	D. Ex. 17
222	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 26 - 2/16/19 - 2/28/19 One Touch Intelligence LLC Report	D. Ex. 26
223	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 27 - 2/25/19 One Touch Intelligence LLC Competitive Alert	D. Ex. 27
224	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 77 - S. Gunzel Dep. Ex. 48	D. Ex. 77
225	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 78 - S. Gunzel Dep. Ex. 49	D. Ex. 78
226	Admitted 04/28/2020	In possession of counsel	Charter Trial Ex. No. 84 - M. Kardos Dep. Ex. 10	D. Ex. 84
227	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 87 - M. Kardos Dep. Ex. 13	D. Ex. 87

228	Admitted 5/6/2020	In possession of counsel	Charter Trial Ex. No. 110 - March 2019 Mailing List Produced to Plaintiffs on May 13, 2019	D. Ex. 110
229	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 127 - Understanding Your Residential Bill	D. Ex. 127
230	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 128 – Understanding Your Business Bill	D. Ex. 128
231	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 130 - April 2019 Windstream Holdings, Inc. Corporate Monthly Operating Report	D. Ex. 130
232	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 146 - Windstream's Responses and Objections to Second Interrogatories	D. Ex. 146
233	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 185 - Chapter 11 Petition, Case No. 19-22324	D. Ex. 185
234	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 252 - Chapter 11 Petition, Case No. 19-22311	D. Ex. 252
235	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 309 - Chapter 11 Petition, Case No. 19-22418	D. Ex. 309
236	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 383 - May 13, 2019 email containing the box link providing the Charter mailing list (i.e., Defendants' Ex. No. 110)	D. Ex. 383
237	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 1 - FCC Fixed Broadband Deployment – Fabens, Texas; 2020-03-16	D. Imp. 1
238	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 2 - FCC Fixed Broadband Deployment – Fabens, Texas; 2020-03-16	D. Imp. 2
239	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 4 - FCC View Service Provider Details; Dec. 2018	D. Imp. 4
240	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 5 - FCC View Service Provider Details; Provider coverage overlap and population coverage; Dec. 2018	D. Imp. 5
241	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 23 - FCC Fixed Broadband Deployment – Odenville, Alabama; Dec. 2018	D. Imp. 23
242	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 25 - FCC Fixed Broadband Deployment – Census Block 011504052214; Dec. 2019	D. Imp. 25
243	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 30 - FCC Fixed Broadband Deployment – Catlettsburg, Kentucky; Dec. 2018	D. Imp. 30



244	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 31 - FCC Fixed Broadband Deployment – Dover, Kentucky; Dec. 2018	D. Imp. 31
245	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 38 - FCC Fixed Broadband Deployment – Madison, Missouri; Dec. 2018	D. Imp. 38
246	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 39 - FCC Fixed Broadband Deployment – Murdock, Nebraska; Dec. 2018	D. Imp. 39
247	04/04/2020	Attached	Declaration of Jeffrey H. Auman in Lieu of Direct Testimony at Trial	
248	04/04/2020	Attached	Declaration of John C. Jarosz in Lieu of Direct Testimony at Trial	
249	05/01/2019	Attached	Lewis Langston 30(b)(6) Deposition Excerpts	
250	05/01/2019	Attached	Kelly Atkinson Deposition Excerpts	
251	05/01/2019	Attached	Keith Dardis Deposition Excerpts	
252	09/10/2019	Attached	Andrew Sites Deposition Excerpts	
253	09/11/2019	Attached	Emmitt Walker Deposition Excerpts	
254	09/12/2019	Attached	Peter Maguire Deposition Excerpts	
255	09/19/2019	Attached	Kelly Atkinson Deposition Excerpts	
256	09/19/2019	Attached	Latisha Truong Deposition Excerpts	
257	09/19/2019	Attached	Shonne Bandy Deposition Excerpts	
258	09/19/2019	Attached	Frederick Gunzel Deposition Excerpts	
259	09/19/2019	Attached	Matthew Kardos Deposition Excerpts	
260	09/20/2019	Attached	Paul Strickland Jr. Deposition Excerpts	
261	09/24/2019	Attached	Jeffrey Auman Deposition Excerpts	
262	2/25/2019	Attached	Debtors' Motion for Entry of an Order (I) Authorizing Debtors to (A) Prepare a List of Creditors in Lieu of Submitted a Formatted Mailing Matrix and (B) File a Consolidated List of the 50 Largest Unsecured Creditors, (II) Authorizing Debtors to Redact Certain Personal Identification Information for Individual Creditors, and (III) Approving the Form and Manner of Notifying Creditors of Commencement of these Chapter 11 Cases (Case No. 19-22312-rdd, Dkt. No. 15)	

263	03/05/2019	Attached	Order Granting Motion (I) Authorizing Debtors to (A) Prepare a List of Creditors in Lieu of Submitting a Formatted Mailing Matrix and (B) File a Consolidated List of the 50 Largest Unsecured Creditors, (II) Authorizing Debtors to Redact Certain Personal Identification Information for Individual Creditors, and (III) Approving the Form and Manner of Notifying Creditors of Commencement of these Chapter 11 Cases (Case No. 19-22312-rdd, Dkt. No. 90)	
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**Defendants-Appellants' Statement of Issues on Appeal**

Defendants-Appellants respectfully state the following issues for the appeal:

1) Did the Bankruptcy Court err in holding that (a) Defendants-Appellants violated the automatic stay by committing an “an act to exercise control over property of the estate” within the meaning of section 362(a)(3), based not on creditor activity, but rather on competitive activity designed to encourage customers to switch telecommunications service away from a company facing the risk and uncertainty of Chapter 11 bankruptcy; and (b) there was no fair ground of doubt, and it was clear and unambiguous, that Defendants-Appellants’ advertising campaign violated the automatic stay and that application of contempt sanctions to Defendants-Appellants’ advertising did not violate the First Amendment?

2) Did the Bankruptcy Court err in holding that (a) “improper” advertising “exercise[s] control” over property in violation of the automatic stay, but “legitimate” advertising does not; and (b) the advertising here was “improper” based on the Bankruptcy Court’s summary judgment ruling that Defendants-Appellants’ advertising violated the Lanham Act and state laws regulating competition?

3) Did the Bankruptcy Court err in holding that “no reasonable person would believe that Defendants[-Appellants’] advertising campaign . . . protected a legitimate interest of Charter’s and did not harm property interests of the Debtors”?

4) Did the Bankruptcy Court err in holding that (a) Defendants-Appellants should face contempt sanctions, including attorneys’ fees and expenses, for violating the automatic stay regardless of whether (i) the standard Form 309F “Notice of Chapter 11 Bankruptcy Case” (*see* Case No. 19-22312, ECF No. 90) transmitted by Plaintiffs-Appellees to creditors, which stated that creditors may not take “action to collect debts from the debtor or the debtor’s property,” apprised competitors that attempting to lure customers away from the Plaintiffs-Appellees could be an act to exercise control of estate property, (ii) Defendants-Appellants violated any provision of any order issued by the Bankruptcy Court, including the temporary restraining order (*see* Case

No. 19-08246, ECF No. 25), which explicitly stated that the automatic stay applied to discontinuation of service to customers but made so such finding with respect to any competitive activity (e.g., advertising), or (iii) Defendants-Appellants acted willfully or in good faith; and (b) Defendants-Appellants willfully violated the automatic stay?

5) Did the Bankruptcy Court err (a) in holding that it had the authority to hold Defendants-Appellants in contempt, and impose compensatory damages and attorneys' fees, for a supposed violation of the automatic stay, and (b) in taking away from a jury the question of whether Defendants-Appellants' advertising was "literally false" or otherwise improper and what money damages resulted from any supposed unlawful advertising? And to the extent the Bankruptcy Court's decisions on summary judgment (as to liability) and at trial (as to money damages) were permissible at all, should its findings and conclusions be treated merely as proposed findings and conclusions subject to de novo review?

6) Did the Bankruptcy Court err in holding that Defendants-Appellants should be required to pay and that the evidence supported as properly compensatory for a violation of the automatic stay (a) damages in the amount of \$9,996,200 based on the Plaintiffs-Appellees' supposed lost profits from the claimed loss of 1,386 customers out of potentially overlapping customers (in geographies where Charter engaged in the challenged ad campaign) of 360,865 (or 0.38% of potentially overlapping customers), the cost of the Plaintiffs-Appellees' purportedly corrective advertising, and the cost of the Plaintiffs-Appellees' promotional campaign that included customer upgrades, discounts, and other pricing promotions; and (b) Plaintiffs-Appellees' attorney's fees and expenses in the amount of \$9,183,179.45?

Dated: May 13, 2021

Respectfully submitted,

THOMPSON COBURN LLP

By /s/ Brian Hockett

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*Counsel for Defendants-Appellants Charter  
Communications, Inc. and Charter Communications  
Operating, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of May, 2021, I served a copy of the foregoing ***Defendants-Appellants' Designation of the Record and Statement of Issues to be Presented on Appeal*** via operation of the Court's Electronic Filing System upon all counsel of record in the adversary proceeding.

/s/ Brian Hockett



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AUTHORIZED  
RESELLER

**SPECTRUM BUSINESS  
VALUE ADDED RESELLER AGREEMENT**

This **Spectrum Business Value Added Reseller Agreement**, including the Exhibits hereto (this "Agreement") is entered into as of the date of last signature below ("Effective Date") by and between Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum") and **Windstream Services, LLC, on behalf of itself and its Affiliates** ("Windstream"), a Delaware Limited Liability Company having a principal place of business at 4001 Rodney Parham Rd, Little Rock, AR 72212.

**RECITALS**

**WHEREAS**, Spectrum is in the business of providing Spectrum Services (defined below); and

**WHEREAS**, Windstream wishes to have non-exclusive rights to market and distribute the Spectrum Services to Companies (defined below), with added value in the form of Windstream Services (defined below), and Spectrum desires to grant Windstream such rights, all as set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the above premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Spectrum and Windstream agree as follows:

**1. DEFINITIONS**

1.1 "Affinity Company" means a Company that gathers independent end-users sharing the same interests or membership.

1.2 "Company" or "Companies" means a customer(s) of Windstream that purchases Spectrum Services with added value in the form of additional Windstream Services.

1.3 "Documentation" means the Spectrum documentation made available in hard copy or in electronic form with the Spectrum Services or otherwise under this Agreement.

1.4 "End User" means an end user accessing or using the Spectrum Services.

1.5 "Equipment" means the equipment, software and other tangible products made available to Windstream hereunder.

1.6 "Intellectual Property Rights" means Spectrum patent rights, copyright rights, trade secret rights, and any other intellectual property rights recognized by the law of each applicable jurisdiction.

1.7 "Marks" means the Spectrum trademarks, trade names, service marks, and/or service names specified by Spectrum and provided to Windstream in writing.

1.8 "Order" means a written or electronic order submitted by an authorized representative of Windstream (or, in the case of an Order submitted via email, submitted from an authorized e-mail address of Windstream) to Spectrum for Spectrum Services pursuant to this Agreement.

1.9 "Order Term" has the meaning ascribed to it in Section 11.1, below.

1.10 "Price List" means Spectrum's standard wholesale price list for the Spectrum Services on Exhibit B, attached hereto and incorporated herein by reference, which price list Spectrum may revise from time to time.

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**Chris Czekaj**

E-signed 2018-04-11 12:04PM EDT

chris.czekaj@charter.com

Spectrum

Document Integrity Verified

Adobe Sign Transaction Number: CBJCHBCAABAy6UqLaxEIn4iNXtQldl-CX\_2SJanTXg

**JOINT Ex. 1**  
**Page 1 of 16**



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1.11 "Spectrum Services" means any one or more of a number of services including but not limited to: business Internet access (via coax), and Voice, as described on Exhibit A, attached hereto and incorporated herein by reference, which Spectrum may revise from time to time.

1.12 "Term" has the meaning ascribed to it in Section 11.1, below.

1.13 "Terms of Use" means all rules, terms and conditions set forth in this Agreement or now or hereafter otherwise established by Spectrum for the Spectrum Services, as may be modified from time to time at Spectrum's sole discretion.

1.14 "Territory" means, with respect to each Spectrum Service, all geographic areas where such Spectrum Service is made available by Spectrum.

1.15 "Windstream Services" means the services offered by Windstream, which provide substantial added value when combined with the Spectrum Services including the use of the Spectrum Services to obtain connectivity between Windstream's customer Companies and Windstream's network to access Windstream's finished products and services.

## 2. LICENSE

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Spectrum grants to Windstream, a non-exclusive, non-transferable license to (a) market and distribute in the Territory the Spectrum Services to Companies solely in conjunction with the provision of the Windstream Services; (b) use the Spectrum Services as reasonably required in connection with such marketing and distribution; and (c) sublicense Companies and End Users to use the Spectrum Services in conjunction with the Windstream Services in accordance with the provisions of Section 3.1.

2.2 Added Value. In the exercise of Windstream's rights under this Agreement, Windstream will market and distribute the Spectrum Services solely in combination with the Windstream Services.

2.3 Restrictions. Windstream will not (a) disassemble, decompile or reverse engineer any Spectrum Services, or portions thereof; or (b) modify the Spectrum Services in any manner, except as expressly directed by Spectrum in writing; or (c) sell Windstream Services to an Affinity Company. Spectrum expressly reserves the right to market and solicit Spectrum Services sales through any channels of distribution at any time, as Spectrum deems desirable, and to promote, market and sell the Spectrum Services in any manner that Spectrum deems advisable. In addition, Spectrum reserves the right to modify or discontinue the Spectrum Services at any time in Spectrum's sole discretion, provided however, to the extent that Spectrum has provisioned such Spectrum Services that it chooses to discontinue to Windstream and/or Windstream's customer Companies, Spectrum shall give Windstream thirty (30) days' notice prior to such discontinuance and shall continue to provide the Spectrum Services to Windstream's customer Companies for the Term of the Spectrum Services ordered.

## 3. OTHER AGREEMENTS AND MARKETING

Distribution of Spectrum Services. Windstream may only distribute Spectrum Services to any Company or to such Company's End Users under the following conditions: (a) Windstream shall defend, indemnify and hold Spectrum and its officers, directors, employees, contractors and affiliates harmless from and against any third party claims by any of Windstream's end user customers or against Spectrum for losses, liabilities, damages and expenses, including the fees of attorneys and other professionals, arising out of Windstream's ordering and Spectrum's provisioning and Windstream's end user and Company's use of Spectrum's Services; (b) Windstream shall insure that its end user customers are contractually obligated to Windstream to use the Spectrum services only for lawful purposes and to comply with the AUP and all applicable laws and regulations governing use of the Spectrum Services; (c) Windstream represents and warrants that its retail customer end users will not resell the Spectrum Services and that Windstream will not resell the Spectrum Services in the wholesale market; (d); (e) Windstream agrees that it will protect Spectrum's proprietary rights in the Spectrum Services to at least the same degree as the terms and conditions of this Agreement; (f) Windstream represents and warrants that it will make no representations

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Chris Czekaj

E-signed 2018-04-11 12:04PM EDT

chris.czekaj@charter.com

Spectrum



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or warranties on behalf of Spectrum or; (g) grant any rights to Company beyond the scope of this Agreement.

3.1 Sublicensing to Distributors. Windstream may sublicense or distribute Spectrum Services to other distributors or resellers for sublicensing or distribution to Companies and End Users; provided that (a) such distributor and/or reseller agrees in writing to comply with the terms and conditions of this Agreement; and (b) Windstream shall remain liable for any act or omission of any such other distributor or reseller. Upon request from Spectrum, Windstream shall identify in writing to Spectrum such Windstream distributors and resellers.

3.2 Marketing Efforts. Subject to the terms and conditions of this Agreement, Windstream may market and distribute the Spectrum Services in conjunction with the Windstream Services. Windstream will ensure that the Spectrum Services it proposes to a prospective Company meet the prospective Company's requirements. Windstream covenants that it will: (a) conduct business in a manner that reflects favorably at all times on the Spectrum Services and the good name, goodwill and reputation of Spectrum; (b) avoid deceptive, misleading or unethical practices that are or might be detrimental to Spectrum, the Spectrum Services or the public; (c) make no false or misleading representations with regard to Spectrum or the Spectrum Services; (d) not publish or employ, or cooperate in the publication or employment of, any misleading or deceptive advertising material with regard to Spectrum or the Spectrum Services; and (e) make no representations, warranties or guarantees with respect to the specifications, features or capabilities of the Spectrum Services that are inconsistent with the literature distributed by Spectrum.

3.3 Advertising Materials. Spectrum may, in its sole discretion, furnish to Windstream, at no charge, reasonable quantities of Spectrum Services sales aids, brochures and similar literature and material normally made available to potential Spectrum Service end users, as needed for Windstream's marketing activities pursuant to this Agreement.

#### 4. PAYMENTS

4.1 Payments. Except as stated in Section 4.3 following, prices for the Spectrum Services shall be those specified in Spectrum's then-current Price List. All stated prices are exclusive of any taxes, fees and surcharges or other amounts, however designated, and including without limitation value added and withholding taxes which are levied or based upon such charges, or upon this Agreement. Any taxes (excluding any taxes on Spectrum's net income) related to Spectrum Services purchased pursuant to this Agreement shall be paid by Windstream or Windstream shall present an exemption certificate acceptable to the taxing authorities. Notwithstanding anything herein to the contrary, Windstream understands and agrees that additional charges for non-standard services, including without limitation non-standard installation services, may apply. In no event shall Windstream publish or otherwise disclose (whether orally or in writing) the fees charged by Spectrum to Windstream for Spectrum Services provided pursuant to this Agreement.

4.2 Payment Terms. During the Order Term for the applicable Order, Spectrum shall bill Windstream monthly in advance in accordance with Spectrum's regular billing cycle for all monthly recurring charges specific to the Spectrum Services ("MRCs") due under this Agreement; except that upon activation of a Company or an End User account for Spectrum Services, Spectrum shall bill Windstream monthly in arrears for the first month's prorated service fees applicable to such Company or End User. Spectrum invoices for non-recurring, one-time charges ("OTCs") for construction or installation charges after the billing start date or as specified in the Order. Windstream will make all payments to Spectrum for undisputed charges due under this Agreement within thirty (30) days after the date appearing on the applicable invoices. Payments made under this Agreement after their due date will incur interest at a rate equal to one and one half percent (1½%) per month or the highest rate permitted by applicable law, whichever is lower. Windstream must provide Spectrum with notice of any disputed charges within ninety (90) days of the invoice date on which the disputed charges appear for Windstream to receive any credit that may be due. Spectrum shall not invoice Windstream for MRCs more than twelve months after the charge for Spectrum Services would normally have been invoiced.

#### 4.3 Revisions.

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4.3.1 Spectrum may revise the Spectrum Services available pursuant to this Agreement and the pricing set forth in the Price List from time to time; provided, however, upon written notice from Windstream, Spectrum will, in relation to any firm quote provided by Spectrum for Spectrum Services submitted by Windstream to a Company prior to a revision to the Price List, honor the prices in place for the Spectrum Services for up to sixty (60) days from the date Windstream receives written notice of a price change; and further provided that any such revision to the pricing set forth in the Price List will not apply to the pricing under any outstanding Order or the pricing under the then current term under then existing Company agreements.

4.3.2 At the end of the Term, for any Spectrum Service that continues to be offered by Spectrum, such Spectrum Service will renew on a month-to-month basis at the then-current applicable rates, unless otherwise specified by the parties in writing.

4.3.3 Notwithstanding anything to the contrary in this Agreement, if any Order for Spectrum Services is terminated prior to the expiration of the Order Term (as defined in Section 11.1.2) (other than as a result of a material breach by Spectrum) then Windstream shall, at Spectrum's discretion: (a) promptly pay Spectrum for the full amount of the service fees that Windstream would have been charged for the remainder of the applicable Order Term or the then-current renewal term thereof; and (b) reimburse Spectrum for all volume, term or other discounts and credits **applicable to the specific Order** and provided in anticipation of full performance of Windstream's and/or the applicable Company's obligations and any unpaid portion of the installation fee set forth in the applicable Orders.

4.4 Pricing Freedom. Windstream is, and will remain, entirely free to determine its Company prices and fees unilaterally in its own discretion. Notwithstanding the foregoing, in no event shall Windstream line item or otherwise distinguish the fees charged by Windstream for Spectrum Services separately from the fees charged for Windstream Services.

## 5. ORDERS

5.1.1 Unless otherwise stated in Exhibit A, Windstream shall purchase Spectrum Services by issuing an Order indicating the specific Spectrum Services ordered, quantity, price, total purchase price, requested delivery dates, tax exemption certifications, if applicable, the intended Company, applicable End User information, and any other special instructions. The parties hereby agree that any contingencies contained on such Order are not binding upon Spectrum, unless expressly agreed to by Spectrum in writing on such Order. The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any Order or other correspondence submitted by Windstream, and any different or additional terms in any Order or correspondence shall have no force or effect.

5.1.2 All Orders are subject to approval and acceptance by Spectrum and will not be binding upon Spectrum until such acceptance has been granted. Acceptance shall be deemed to have occurred when Spectrum accepts an Order in writing or when Spectrum commences delivery of the Spectrum Services, whichever is earlier. Spectrum shall use commercially reasonable efforts to provide information regarding acceptance or rejection of such Orders.

5.1.3 By submitting an Order, Windstream represents that (a) Windstream has sufficient right and authority to submit an Order on behalf of Company; and (b) the applicable End User(s) shall have the equipment and software necessary for activation of Spectrum Services (other than the Equipment provided by Spectrum as part of the Spectrum Services).

5.2 Installation. The parties agree that if the End User is not present or does not have the minimum hardware and/or software requirements necessary for a Service installation at the time of a scheduled installation, Windstream shall pay Spectrum the installation fee set forth on the Price List for such unsuccessful installation in addition to standard installation fee upon successful installation. Otherwise, Spectrum shall perform its standard installation procedures, including verification of Internet connectivity. Spectrum shall not be responsible for configuring the End User's equipment including but not limited to

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computers or telephones or providing any other non-standard installation services, unless otherwise agreed in writing between the parties.

## 6. WINDSTREAM OBLIGATIONS

In a manner satisfactory to Spectrum and at Windstream's sole expense, Windstream shall:

6.1 Keep Spectrum promptly informed of any problems which involve the Spectrum Services and require Spectrum's support or impact Windstream's or Spectrum's ability to deliver service or solutions to Companies and their End Users; and

6.2 Appoint an account/relationship manager whose responsibility will be to work with the designated Spectrum account/relationship manager to manage the implementation of this Agreement, and act as the focal point for day-to-day account issues and problem escalation.

## 7. PROPRIETARY RIGHTS

### 7.1 Spectrum's Ownership.

7.1.1 The Spectrum Services are and will remain the sole and exclusive property of Spectrum and its suppliers, if any, whether the Spectrum Services are separate or integrated with any other services or products. Spectrum's rights under this Section 7.1.1 include, but are not limited to, all Intellectual Property Rights in the Spectrum Services.

7.1.2 Windstream will not delete or in any manner alter the Intellectual Property Rights notices of Spectrum and its suppliers, if any, appearing on the Spectrum Services or any Documentation or other materials provided in connection therewith. As a condition of the license rights granted to Windstream in this Agreement, Windstream will reproduce and display such notices on each copy it makes of any Spectrum Services or any such Documentation or other materials.

7.2 Windstream's Duties. Windstream shall use its reasonable efforts to protect Spectrum's Intellectual Property Rights in the Spectrum Services and promptly shall report to Spectrum any infringement of such rights of which Windstream becomes aware.

7.3 Third Party Infringement. Spectrum reserves the sole and exclusive right, exercisable at its discretion, to assert claims against third parties for infringement or misappropriation of its Intellectual Property Rights in the Spectrum Services.

### 7.4 Trademarks.

7.4.1 Subject to the terms and conditions of this Agreement, Spectrum grants Windstream a non-exclusive, non-transferable, limited license for the Term to use the Marks in Windstream's marketing of the Spectrum Services; provided that such use is in accordance with Spectrum's trademark usage guidelines then in effect, which guidelines Spectrum may amend at any time and in any manner. Spectrum will provide Windstream with such guidelines and as such guidelines are amended. Windstream agrees that the quality of all services rendered by Windstream in connection with the Marks shall be high and consistent with the quality control standards established by Spectrum. Windstream agrees to cooperate with Spectrum in facilitating Spectrum's review of its industry standard quality controls, and to supply Spectrum with specimens of all uses of the Marks upon request. Any use of the Marks by Windstream must reference the Marks as being owned by Spectrum. Nothing in this Agreement grants Windstream ownership or any rights in or to use the Marks, except as expressly set forth in this Section 7.4.1.

7.4.2 The rights granted to Windstream in this Section 7.4 will terminate upon any termination or expiration of this Agreement. Upon such termination or expiration, Windstream will no longer make any use of any Marks. Spectrum will have the exclusive right to own, use, hold, apply for

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registration for, and register the Marks during the Term of, and after the expiration or termination of, this Agreement; Windstream will neither take nor authorize any activity inconsistent with such exclusive right. The Marks, and the goodwill associated therewith, are the exclusive property of Spectrum, and the use of such Marks, and the goodwill arising therefrom, shall inure to the benefit of Spectrum.

#### 8. LIMITED WARRANTY

8.1 Limited Warranty. Spectrum warrants to Windstream that Spectrum has the corporate power and authority to enter into and perform its obligations under this Agreement. Windstream warrants to Spectrum that Windstream has the corporate power and authority to enter into and perform its obligations under this Agreement. Spectrum will use commercially reasonable efforts to provide the Spectrum Services to Company 24 hours per day, seven (7) days per week. It is possible, however, that there will be interruptions of the Spectrum Services.

8.2 DISCLAIMER OF WARRANTY. Windstream ACKNOWLEDGES AND AGREES THAT THE SPECTRUM SERVICES PROVIDED BY SPECTRUM HEREUNDER ARE PROVIDED "AS IS, AS AVAILABLE". EXCEPT AS SPECIFIED IN THIS SECTION 8, ALL EXPRESS OR IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, QUIET ENJOYMENT, DATA ACCURACY OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

#### 9. CONFIDENTIAL INFORMATION

9.1 Confidential Information. Each party acknowledges that, in connection with this Agreement, a party may obtain information from the other party that is of a confidential and proprietary nature ("Confidential Information"). Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, software source documents, data, customer lists, financial information, and sales and marketing plans or information which are marked as confidential and/or a party knows or has reason to know are confidential, proprietary or trade secret information of Spectrum. Each party shall at all times, both during and after the Term, keep in trust and confidence all such Confidential Information, and shall not use such Confidential Information other than as expressly authorized by this Agreement, and a party shall not disclose any such Confidential Information to third parties without the disclosing party's written consent unless such disclosure is necessary to fulfill a party's obligations under this Agreement and any such third party is bound in writing by obligations of confidentiality reasonably consistent with those set forth herein. Each party further agrees to, upon request, immediately return to the other party all Confidential Information (including copies thereof) in that party's possession, custody, or control upon termination of this Agreement at any time and for any reason. The obligations of confidentiality herein shall not apply to information which (a) has entered the public domain except where such entry is the result of a party's breach of this Agreement; (b) prior to disclosure hereunder was already rightfully in a party's possession; (c) subsequent to disclosure hereunder is obtained by a party on a non-confidential basis from a third party who has the right to disclose such information to the party; or (d) is required to be disclosed pursuant to law or government regulation; provided that a party gives the other party reasonable notice of such required disclosure and an opportunity to obtain an appropriate protective order, to the extent permitted by law.

9.2 Publicity. Neither party shall use the other party's or its affiliates' names or logos, or otherwise issue any publicity releases or make any public statement(s) (including without limitation in the form of news releases, advertising or solicitation materials, or blog or social media postings) relating to this Agreement or the services to be performed hereunder, without the prior written approval of the other party.

9.3 Terms of this Agreement. Neither party shall disclose, advertise, or publish the terms and conditions of this Agreement without the prior written consent of the other party.

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## 10. INDEMNIFICATION

10.1 Windstream agrees to defend, indemnify and hold Spectrum and its officers, directors, employees, contractors and affiliates harmless from and against any third party claims against Spectrum for losses, liabilities, damages and expenses, including the fees of attorneys and other professionals, arising out of (a) any acts or omissions of (i) Windstream, or its employees, agents, distributors or resellers, in connection with its activities under this Agreement or (ii) any Company or End User; (b) any representation or warranty made by Windstream, or its employees or agents, distributors or resellers, relating to the Windstream Services or Spectrum Services that is inconsistent with statements provided in writing by Spectrum; (c) breach of any representation, warranty, covenant or agreement of Windstream under this Agreement; or (d) physical damage to person or real property or bodily injury, including death, resulting (in whole or in part) from the acts or omissions, including but not limited to negligence, recklessness willful misconduct of Windstream, or its employees, agents, distributors or resellers.

10.2 Spectrum agrees to defend, indemnify and hold Windstream and its officers, directors, employees, contractors and affiliates harmless from and against any third party claims against Windstream for losses, liabilities, damages and expenses, including the fees of attorneys and other professionals, arising out of (a) any acts or omissions of (i) Spectrum, or its employees, agents, , in connection with its activities under this Agreement; (b) breach of any representation, warranty, covenant or agreement of Spectrum under this Agreement; or (c) physical damage to person or real property or bodily injury, including death, resulting (in whole or in part) from the acts or omissions, including but not limited to negligence, recklessness willful misconduct of Spectrum, or its employees, agents.

10.3 Spectrum shall indemnify, defend, protect and hold Windstream Indemnified Parties, harmless from any and all liabilities, judgments, claims, losses, obligations, damages, penalties, actions, or other proceedings, suits, costs, fees, expenses and disbursements, whether by judgment or settlement, (including without limitation reasonable attorneys' fees) to the extent that such arise directly from third party claims that any of the Equipment and/or Spectrum's network (collectively, the "Spectrum System") used to deliver the Spectrum Services infringes upon the intellectual property rights of such third party ("IP Claims"). Notwithstanding anything to the contrary herein, Spectrum shall have no indemnification obligation with respect to any IP Claim arising out of: (i) content, materials or data transmitted by via the Spectrum Services; (ii) use of the Spectrum System or Spectrum Services in combination with products, materials, applications, methods, or other items not furnished by Spectrum; (iii) a modification of the Spectrum System or Spectrum Services not required or directed by Spectrum; or (iv) use of the Spectrum System or Spectrum Services in an unauthorized manner or in breach of this Agreement. If an IP Claim for which Spectrum has an indemnification obligation under this Section is, or in Spectrum's reasonable opinion is likely to be made, then Spectrum will promptly notify Customer of such claim or proceeding and, at Spectrum's expense and sole discretion, take one or more of the following actions: (I) secure the right for Company to continue to use the Spectrum System consistent with this Agreement; (II) replace or modify the Spectrum System to make it non-infringing; or (III) if none of the foregoing alternatives are possible after Spectrum has used its commercially reasonable efforts, terminate the affected Spectrum Service. The foregoing Section states the sole and exclusive remedy of Windstream Indemnified Parties in connection with any IP Claim.

## 11. TERM AND TERMINATION

### 11.1 Agreement and Order Terms.

11.1.1 The initial term of this Agreement commences as of the Effective Date and remains in full force and effect for three (3) years thereafter, unless terminated earlier in accordance with its terms (the "Initial Term"); provided, that the terms of this Agreement remain in effect with respect to each Order until the expiration thereof. Thereafter, this Agreement shall renew automatically for subsequent annual renewal terms unless either party provides the other party with notice of termination at least thirty (30) days prior to the end of the initial term or then-current renewal term, as applicable. The Initial Term and any extension(s) thereof are referred to in this Agreement as the "Term".

11.1.2 The initial term of each Order under this Agreement shall begin on the date installation is completed and be for a period of one (1) month or such other period as specified in the applicable Order (the "Initial Order Term"), and, unless terminated earlier in accordance with this

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Agreement or the applicable Order, each Order Term shall automatically renew thereafter on a month-to-month basis at Spectrum's then-current applicable rates unless either party provides the other party with at least thirty (30) days' written notice of termination of such Order. The Initial Order Term and any extension(s) thereof are referred to in this Agreement as the "Order Term".

11.2 Termination. This Agreement (including all Orders) may be terminated immediately by either party through written notice under any of the following conditions:

11.2.1 The other party ceases to carry on business as a going concern, becomes the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets; or

11.2.2 The other party materially breaches any provision of this Agreement and fails to remedy such breach within thirty (30) days after written notification by the non-breaching party of such breach, or, except in the case of breach of payment obligations, such longer period as may be reasonably required to cure the breach, up to a maximum of forty-five (45) days; provided that the breaching party within thirty (30) days after receiving written notice of such breach commenced diligent efforts to cure the breach.

11.3 Additional Termination Rights. Spectrum may terminate this Agreement (including all Orders) immediately in the event of Windstream's breach of Section 7 or Section 9 above. In addition, Spectrum may terminate this Agreement for convenience upon ninety (90) days' written notice to Windstream; provided however, in the event of such a termination for convenience, Spectrum will continue to honor the terms of any Orders which were accepted by Spectrum prior to such termination.

11.4 Effect of Termination or Expiration. Upon termination or expiration of this Agreement, (a) Spectrum reserves the right to cease all further delivery of the Spectrum Services hereunder; (b) all outstanding invoices immediately become due and payable by certified or cashier's check; and (c) all rights and licenses of Windstream hereunder shall terminate. Additionally, upon termination or expiration of this Agreement, Windstream shall immediately return to Spectrum all Confidential Information and data (including all copies thereof) then in Windstream's possession or control including, without limitation: (x) all technical materials and business plans supplied by Spectrum; (y) all manuals covering Spectrum Services; and (z) any Spectrum Service customer or prospect lists provided by Spectrum.

11.5 No Damages for Termination. Each party agrees that in the event of termination of this Agreement for any reason, neither party shall have any rights to damages of any nature related to such termination, specifically including without limitation any rights to damages or indemnification for commercial severance pay, whether by way of loss of future profits, expenditures for promotion of the Spectrum Services, or other commitments in connection with the business and good will of Windstream. Notwithstanding anything to the contrary, the foregoing shall not be read to limit any claim for damages Windstream might have on account of Spectrum's breach of this Agreement, even if the breach gave rise to termination, such liability being governed by and subject to the limitations set forth elsewhere in this Agreement. Windstream expressly waives and renounces any claim to compensation or indemnities for any termination of a business relationship.

11.6 Suspension or Termination of Spectrum Service Accounts. Notwithstanding anything to the contrary herein, Spectrum may suspend or terminate the Spectrum Service account of any End User in the event that such End User is in material breach of any applicable Spectrum Terms of Use and/or Acceptable Use Policy, which shall have been passed through by Windstream to Company pursuant to Section 3.1. Whenever practicable and permitted by law, as determined in Spectrum's reasonable discretion, Spectrum shall provide Company and Windstream with advance written notice of such suspension or disconnection and shall provide the End User with a reasonable opportunity to cure such breach. Where such advance notice is not practicable or permitted by law, as determined in Spectrum's sole discretion, Spectrum shall provide the Company and Windstream with notice of such suspension or termination after such suspension or disconnection has occurred, to the extent such notice is permitted by law.

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## 12. SUPPORT

12.1 By Windstream. Windstream will be responsible for providing support to Companies and End Users, including without limitation, by training End Users and providing all direct first level technical support to Companies and End Users, including but not limited to diagnosing problems and using its reasonable efforts to provide solutions.

12.2 By Spectrum. Spectrum shall not be responsible for providing any technical support directly to Companies or End Users. Subject to receipt by Spectrum of payments as specified in Section 4, Spectrum will provide a telephone number and email address solely for Windstream inquiries and remote problem support for Spectrum Service disruption. All support provided by Spectrum to Windstream shall be tier two support, provided only to Windstream's help desk personnel and not to Companies or End Users. Hours of availability and the scope of inquiry and remote support services shall be as determined by Spectrum in its sole discretion from time to time.

## 13. RECORDS

During the Term and for two (2) years thereafter, Windstream shall make records available to Spectrum or its independent representative upon thirty (30) days' prior written notice, during regular business hours at Windstream's principal place of business to demonstrate its compliance with terms hereunder.

## 14. FORCE MAJEURE

Except for payment obligations hereunder, neither party shall be liable for any delay or failure in performance due to events outside such party's reasonable control, including, but not limited to acts of God, terrorism, earthquake, governmental acts, labor disputes, utility failures, fiber cuts, shortages of supplies, riots, war, fire, epidemics, or delays of common carriers. The obligations and rights of the excused party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.

## 15. COMPLIANCE WITH LAWS

Each party agrees to comply with all applicable laws, rules, and regulations in connection with its activities under this Agreement. Without limiting the foregoing, Windstream acknowledges that all Spectrum Services, including Documentation and other technical data, may be subject to export controls imposed by the U.S. Export Administration Act of 1979, as amended (the "Act"), and the regulations promulgated thereunder. Windstream will not export or re-export (directly or indirectly) any Spectrum Services or Documentation or other technical data therefor without complying with the Act and the regulations thereunder.

Windstream shall obtain and maintain throughout the Term all applicable licenses, permits and approvals necessary to perform its obligations and exercise its rights hereunder. Without limiting the foregoing, Windstream's business and activities under this Agreement may require Windstream to maintain or submit licenses, registrations or filings in accordance with the requirements of the Federal Communications Commission ("FCC") and/or other federal, state or local agencies. Windstream agrees that it is solely responsible to comply with all such requirements, and will indemnify, defend and hold harmless Spectrum for any failure to comply.

Windstream shall not discriminate against individuals based on their status as protected veterans or individuals with disabilities, or based on their age, race, color, religion, sex, or national origin. Moreover, to the extent applicable for this Agreement, Windstream shall comply with regulations requiring that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to age, race, color, religion, sex, national origin, protected veteran status or disability.

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#### 16. LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY OR SPECTRUM'S SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR ANTICIPATED PROFITS, OR LOST DATA, OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY OR SPECTRUM'S SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF. THE AGGREGATE LIABILITY OF SPECTRUM AND ITS SUPPLIERS UNDER THIS AGREEMENT OR OTHERWISE SHALL BE LIMITED TO THE MONEY PAID TO SPECTRUM UNDER THIS AGREEMENT DURING THE TWELVE(12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

#### 17. NOTICES

All notices required or permitted under this Agreement will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile (followed by the actual document in air mail/air courier); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid (or six (6) days for international mail); or (d) one (1) day after deposit with a commercial express courier specifying next day delivery (or two (2) days for international courier packages specifying 2-day delivery), with written verification of receipt. All notices to Spectrum shall be sent to the following address:

Charter Communications  
ATTN: Commercial Contracts Management  
Dept: Corporate – Legal Operations  
12405 Powerscourt Drive  
St. Louis, MO 63131

Windstream Services, LLC  
Attn: Carrier Relations  
4001 N Rodney Parham Road  
Little Rock, AR 72223

With a copy to:

Windstream Services, LLC  
Attn: Legal  
4001 N Rodney Parham Road  
Little Rock, AR 72223

Each party may change its address for receipt of notices by giving written notice to the other party pursuant to this paragraph.

#### 18. GENERAL

18.1 Choice of Law. The interpretation, validity and enforcement of this Agreement, and all legal actions brought under or in connection with the subject matter of this Agreement, shall be governed by the law of the State of New York (except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded). The parties specifically disclaim the UN Convention on Contracts for the International Sale of Goods.

18.2 Submission to Jurisdiction; Venue. Any legal action brought under or in connection with the subject matter of this Agreement shall be brought only in the United States District Court for the Southern District of New York or, if such court would not have jurisdiction over the matter, then only in a New York State court sitting in the Borough of Manhattan, City of New York. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the

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subject matter of this Agreement in any other court or forum. Each party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of this Agreement in the Federal or state courts sitting in the Borough of Manhattan, City of New York, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum.

18.3 No Waiver. No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of such right or any other right under this Agreement.

18.4 Assignment and Subcontracting. Neither Party will assign or transfer this Agreement without the other Party's prior written consent, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement upon notice and without the other Party's consent to a person or entity (i) that controls, is controlled by or is under common control with the assigning Party, (ii) which purchases all or substantially all of its assets or equity, or (iii) resulting from any merger, consolidation or other reorganization involving such Party. Windstream understands and agrees that regardless of any such assignment, Spectrum, at its option, may exercise any of its rights or remedies under this Agreement, and/or perform any of its duties or obligations hereunder, by itself and/or its subcontractors or through any Spectrum affiliated party in conformity with the terms and conditions of this Agreement. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties.

18.5 Severability. In the event that any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph becomes applicable and, as a result, the value of this Agreement is materially impaired for either party, as determined by such party in its sole discretion, then the affected party may terminate this Agreement by written notice to the other.

18.6 Attorneys' Fees. In any suit or proceeding relating to this Agreement, the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.

18.7 No Agency. This Agreement does not create any agency, partnership, joint venture, or franchise relationship. Neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.

18.8 No Third Party Beneficiary. Subject to Section 18.4, it is the intention of the parties that no person or entity other than Spectrum and Windstream or their permissible assigns is or shall be entitled to bring any action to enforce any provision of this Agreement against either of the parties, and the covenants, undertakings and agreements set forth herein shall be solely for the benefit of, and shall be enforceable only by, the parties hereto or their respective successors and assigns as permitted hereunder.

18.9 Press Releases. Neither party shall issue a press release regarding the relationship established by this Agreement without the prior written approval of the other party.

18.10 Survival. Sections 4, 7.1, 8.2, 9, 10, 11.3, 11.4, 11.5, 13, 16 and 18, and shall survive the termination of this Agreement.

18.11 Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties relating to Spectrum Services, supersedes all prior agreements, understandings and representations between the parties, oral or written, with respect to its Spectrum Services. No different or additional terms set forth in a purchase order or other communication will be binding on Spectrum. Notwithstanding the foregoing, pricing in any existing Orders will remain as set forth therein unless otherwise agreed in writing by the parties.

Page 11 of 15

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Chris Czekaj

E-signed 2018-04-11 12:04PM EDT

chris.czekaj@charter.com

Spectrum

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DocuSign Envelope ID: 7CF4EFDC-1B9B-4413-87E1-1152951581A5



AUTHORIZED  
RESELLER

18.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile or other electronic copy will have the same force and effect as execution of an original, and a facsimile or electronic signature will be deemed an original and valid signature.

18.13 Joint Preparation. Both parties had the opportunity to review and participate in the negotiation of the terms of this Agreement and the Order(s) and, accordingly, no court construing this Agreement and any Order(s) shall construe it more stringently against one party than against the other.

IN WITNESS WHEREOF, this Agreement has been executed by each party's duly authorized representative as of the dates set forth below.

Charter Communications Operating, LLC  
By: Charter Communications, Inc., its Manager:

Windstream Services, LLC

By: Chris Czekaj  
Name: Chris Czekaj  
Title: VP, Strategic Channels  
Date: Apr 11, 2018

DocuSigned by:  
By: Jeanne Dale  
Name: Jeanne Dale  
Title: VP Vendor Relations & Voice Management  
Date: 4/9/2018

DS PR DS SM

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Chris Czekaj  
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chris.czekaj@charter.com  
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AUTHORIZED  
RESELLER

## Exhibit A

### Spectrum Service Description

#### I. Spectrum Services include:

##### A. Business Internet Service

Business Internet Service is Internet access service implemented using a hybrid fiber/coax access network. The Company interface to the Spectrum data network is via Ethernet connection. Business Internet Service enables a variety of upstream and downstream rates. If a Company selects to receive Business Internet Service, Spectrum shall provide connectivity from the Company sites set forth in an Order to the Company's data network.

##### C. Business WiFi ("WiFi")

Spectrum Business WiFi is available to Companies via a Spectrum-provided wireless router and provides wireless access to the Spectrum-provided Internet service. Company must purchase a Spectrum Business Internet service.

##### E. Business Voice Services ("Voice Service")

Spectrum Business Voice Service consists of one or more lines or connections and a variety of features, as set forth in an Order and the applicable price guide available at <https://business.spectrum.com/newterms>.

Voice Service is not available for resale by Windstream in all Spectrum service areas. Windstream must contact its Spectrum representative to determine if Voice Service is available for resale in the Territory.

#### II. Spectrum Services are subject to additional terms and conditions:

Spectrum's provision of any Spectrum Service is subject to availability. Certain features of Spectrum Services, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion.

Company must agree to comply and ensure that their End Users comply with the terms and conditions in the Service Attachments, Spectrum's Acceptable Use Policy, Network Management Practices, applicable tariffs and price guides, and other policies or practices that are applicable to Company's use of the Spectrum Services.

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Page 13 of 15

Chris Czekaj

E-signed 2018-04-11 12:04PM EDT

[chris.czekaj@charter.com](mailto:chris.czekaj@charter.com)

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**Exhibit B**

**Price List**

**I. Pricing**

Standard installation fee - \$99.00 one-time, non-recurring installation fee per site for all coax services.

Services and pricing are subject to change from time to time as provided in Section 4.3 (Revisions) of this Agreement.

**II. Business Internet Service**

As of the Effective Date, the Business Internet Service is priced as follows:

**A. Monthly recurring charges ("MRC") per site for Business Internet Service is as follows:**

Service	Speed*		Volume Offer (50+ Sites per Company)		Standard Offer (fewer than 50 Sites per Company)	
	Standard Markets	Select Markets	New Sites	Existing Spectrum Sites	New Sites	Existing Spectrum Sites
Internet Plus	60 x 5M	100 x 10M	\$49.99	\$69.99	\$79.99	\$99.99
Internet Pro	100 x 10M	200 x 15M	\$69.99	\$89.99	\$119.99	\$199.99
Internet Max	300 x 20M		\$129.99	\$129.99	\$179.99	\$299.99

**\*Note:** Upload and download speeds may be different by Territory

"New Sites" are sites submitted by Windstream which do not, as of the Effective Date, have services within the Territory.

**Volume Offer Pricing**

**New Sites:**

The Volume Offer New Site MRCs set forth above will apply to Services delivered to a Company at a New Site. In order to retain the Volume Offer for New Sites, Windstream must achieve fifty (50) or more New Sites for a single Company ("Site Minimum") no later than one (1) year after the date of installation of the first New Site for the applicable Company. After the end of such one (1) year period, Spectrum may review and confirm Windstream's achievement of the Site Minimums for each Company. If a Site Minimum is not met for each such Company, then Spectrum may, in its sole discretion, adjust the respective MRC to the respective Standard Offer MRC for the respective Company.

"Existing Spectrum Sites" are sites that Windstream requests, and Spectrum agrees in writing, to migrate to Windstream. Windstream must request each site be migrated to Volume Offer pricing through Spectrum's then-approved migration process. Volume Offer pricing is available for such sites only where Windstream has achieved and continued attainment of the Site Minimum. Spectrum reserves the right, in its sole discretion, to apply this pricing to Existing Spectrum Sites.

Existing Spectrum Sites do not count toward achievement of the Site Minimum.

**B. Static IP Address**

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**Chris Czekaj**

E-signed 2018-04-11 12:04PM EDT

chris.czekaj@charter.com

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Static IP addresses are available with Business Internet Service in accordance with the following fees:

IP Address	
IP Addresses	Monthly Recurring Charge
1 Useable Static IP Address	\$14.99
5 Useable Static IP Addresses	\$24.99
13 Useable Static IP Addresses	\$39.99
29 Useable Static IP Addresses	\$59.99

III. Intentionally omitted

IV. Intentionally omitted

V. Intentionally omitted

VI. Business WiFi  
\$4.99 monthly recurring charge

VII. Voice Services (where available)

Standard MRC for Voice Service and Available Features, which vary by market and are subject to change from time to time, are below:

Unlimited local and long distance (voicemail not included)

**Business Voice**

Standard Offer		
New Sites		Existing Spectrum Sites
Month 1 - 12	Month 13+	
\$29.99	\$39.99	\$49.99

Business Voice Features Monthly Recurring Charge	
Directory Listing	\$5.00/month (after 1 <sup>st</sup> free)
Remote Number Forwarding Directory Listing	\$5.00/month (after 1 <sup>st</sup> free)
Remote Number Forwarding	\$15.00 each/month

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Chris Czekaj

E-signed 2018-04-11 12:04PM EDT

chris.czekaj@charter.com

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## Windstream Services, LLC - Spectrum Business Value Added Reseller Agreement - WIN Signed, 4.9.18

Adobe Sign Document History

04/11/2018

Created:	04/11/2018
By:	Cary Taylor (cary.taylor@charter.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAy6UqLaxEIn4iNXTqLdl-CX_2SJanTXXg

### "Windstream Services, LLC - Spectrum Business Value Added Reseller Agreement - WIN Signed, 4.9.18" History

-  Document digitally presigned by DocuSign\, Inc. (techops@docuSign.com)  
04/09/2018 - 8:29:13 AM EDT- IP address: 71.11.1.204
-  Document created by Cary Taylor (cary.taylor@charter.com)  
04/11/2018 - 11:27:23 AM EDT- IP address: 71.11.1.204
-  Document emailed to Chris Czekaj (chris.czekaj@charter.com) for signature  
04/11/2018 - 11:29:34 AM EDT
-  Document viewed by Chris Czekaj (chris.czekaj@charter.com)  
04/11/2018 - 12:03:52 PM EDT- IP address: 71.11.1.204
-  Document e-signed by Chris Czekaj (chris.czekaj@charter.com)  
Signature Date: 04/11/2018 - 12:04:21 PM EDT - Time Source: server- IP address: 71.11.1.204
-  Signed document emailed to margaret.rubino@windstream.com, Cary Taylor (cary.taylor@charter.com), Lynette Sharp (Lynette.Sharp@charter.com), Chris Czekaj (chris.czekaj@charter.com), and 1 more  
04/11/2018 - 12:04:21 PM EDT

Spectrum

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Adobe Sign



## Windstream Segment Results

updated 9/12

	Mail Qty	Calls	GRR%	Offer Calls	Offer%	Sales	Sales%	PSU's	PSU/Sal e	Mobile Sales	Video Sales	Internet Sales	Voice Sales	Sales/M mailed
3/26/2019 Incremental	819,241	3,721	0.45%	1,754	47.1%	663	37.8%	1,502	2.27	70	472	614	347	0.81
5/6/2019 NDM	783,137	6,017	0.77%	3,664	60.9%	1,243	33.9%	2,806	2.26	127	941	1,140	598	1.59
5/13/2019 NDM	743,000	3,949	0.53%	2,281	57.8%	772	33.8%	1,682	2.18	74	538	699	371	1.04
5/20/2019 NDM	782,501	5,926	0.76%	3,647	61.5%	1,320	36.2%	2,715	2.06	103	827	1,197	588	1.69
<b>Total - Windstream Segments NDM</b>	<b>2,387,065</b>	<b>17,176</b>	<b>0.72%</b>	<b>10,523</b>	<b>61.3%</b>	<b>3,628</b>	<b>34.5%</b>	<b>7,773</b>	<b>2.14</b>	<b>350</b>	<b>2,444</b>	<b>3,312</b>	<b>1,667</b>	<b>1.52</b>





Message

**From:** Blechner, Sarah [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=842882B083CA47FF9160D55122C10AEC-B]  
**Sent:** 3/25/2019 2:09:08 PM  
**To:** Jon Fast [jon@wearelift.com]; Smith, Jennifer L [jennifer.smith@charter.com]  
**CC:** Lauren McGarry [laurenm@wearelift.com]  
**Subject:** RE: April Email : Windstream  
**Attachments:** image001.png; image002.png; GA\_LC\_1D\_042219\_FLG\_30\_WS\_v9.pdf

Hey guys,

We never released this Friday, correct?

That's good, because either way, we need to revise it. We need to remove any "uncertainty" claims, i.e. "Don't risk losing your TV and Internet services" and "To ensure you are not left without vital Internet & TV..."

Let's soften it up and just make it more about "Windstream customer, have you heard? Windstream has filed for Chapter 11 bankruptcy. To ensure you get the best TV and Internet services, switch to Spectrum."

I'm attaching the revised DM as well, so you have for your records/info.

Thanks,  
S

**From:** Jon Fast <jon@wearelift.com>  
**Sent:** Wednesday, March 20, 2019 4:14 PM  
**To:** Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Cc:** Blechner, Sarah <Sarah.Blechner@charter.com>; Lauren McGarry <laurenm@wearelift.com>  
**Subject:** Re: April Email : Windstream

Hi Jen and Sarah,

Here is Windstream revised with a new CTA button at the top with a Switch to Spectrum message above the CTA, based on your suggestions below.

PDF attached and here's an [Invision link](#).

This is due to Pinpoint this coming Friday, but if we're approved, we'd love to deliver early!

--jon

**JON FAST**  
Account Director  
D 415.248.5089  
M 415.533.3278  
jon@wearelift.com

**LIFT Agency**  
[wearelift.com](http://wearelift.com)



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Page 1 of 7

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On Tue, Mar 19, 2019 at 6:00 PM Smith, Jennifer L <[Jennifer.Smith@charter.com](mailto:Jennifer.Smith@charter.com)> wrote:

Sounds good!

**From:** Blechner, Sarah

**Sent:** Tuesday, March 19, 2019 8:54 PM

**To:** Jon Fast <[jon@wearelift.com](mailto:jon@wearelift.com)>

**Cc:** Lauren McGarry <[laurenm@wearelift.com](mailto:laurenm@wearelift.com)>; Smith, Jennifer L <[Jennifer.Smith@charter.com](mailto:Jennifer.Smith@charter.com)>

**Subject:** RE: April Email : Windstream

I like changing the CTA to "See my exclusive offer", but then would still add "switch to spectrum" above the CTA. I think just in the header is fine.

But defer to Jen if she feels otherwise tomorrow.

**From:** Jon Fast <[jon@wearelift.com](mailto:jon@wearelift.com)>

**Sent:** Tuesday, March 19, 2019 8:47 PM

**To:** Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)>

**Cc:** Lauren McGarry <[laurenm@wearelift.com](mailto:laurenm@wearelift.com)>; Smith, Jennifer L <[Jennifer.Smith@charter.com](mailto:Jennifer.Smith@charter.com)>

**Subject:** Re: April Email : Windstream

Hi Sarah -- do you want to add that above both CTAs or just the hero? If we do, we may want to add a little padding to keep some air between the elements.

Another option might be to change the button text to: GET / CLAIM / SEE MY EXCLUSIVE OFFER or something similar so the button is doing the work for us? Thoughts?

Let us know, this is an easy change and we can get in updated in the morning.

Best,

--jon

**JON FAST**

Account Director

D 415.248.5089

M 415.533.3278

[jon@wearelift.com](mailto:jon@wearelift.com)

**LIFT Agency**

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**Page 2 of 7**

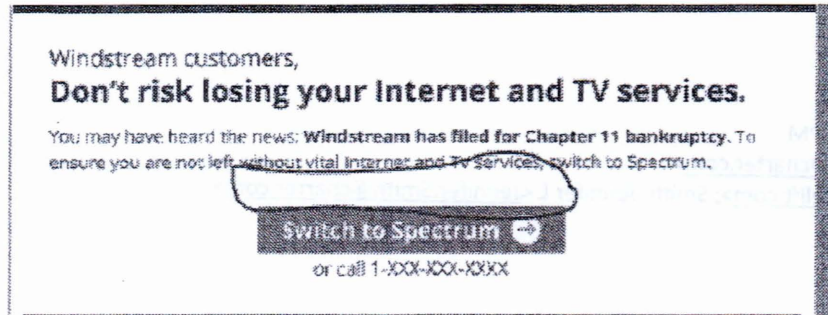
Charter\_006320

[wearelift.com](http://wearelift.com)

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On Tue, Mar 19, 2019 at 4:57 PM Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)> wrote:

Last comment – before the CTA, in the header, because we don't have a specific offer, can we add something like  
“click below to find your exclusive Internet offer”



From: Jon Fast <[jon@wearelift.com](mailto:jon@wearelift.com)>

Sent: Monday, March 18, 2019 2:26 PM

To: Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)>

Cc: Lauren McGarry <[laurenm@wearelift.com](mailto:laurenm@wearelift.com)>; Smith, Jennifer L <[Jennifer.Smith@charter.com](mailto:Jennifer.Smith@charter.com)>

Subject: Re: April Email : Windstream

Hi Sarah,

Here are revision to Windstream based on your feedback. See attached PDF and here is an [Invision link](#).

The email looks really clean. Please let us know if you have any questions or further feedback.

Thanks!

--jon

**JON FAST**

Account Director

D 415.248.5089

M 415.533.3278

[jon@wearelift.com](mailto:jon@wearelift.com)

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Charter\_006321



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On Fri, Mar 15, 2019 at 9:11 AM Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)> wrote:

Thanks Jon – we are going to move ahead with Option 1. My Adobe is acting up so see Invision line for comments – mostly looking to shorten copy, not sure everything from DM is as necessary here.

Thx!

**From:** Jon Fast <[jon@wearelift.com](mailto:jon@wearelift.com)>

**Sent:** Thursday, March 14, 2019 8:45 PM

**To:** Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)>

**Cc:** Lauren McGarry <[laurenm@wearelift.com](mailto:laurenm@wearelift.com)>; Smith, Jennifer L <[Jennifer.Smith@charter.com](mailto:Jennifer.Smith@charter.com)>

**Subject:** Re: April Email : Windstream

Hi Sarah and Jen,

Please find attached a PDF with two concepts for Windstream (4 total pages). We leveraged the DM for the copy to serve up hard-hitting messaging about switching.

Happy to have a quick conversation to talk this through -- just let us know. Here's the [Invision link](#) so you can see the emails in a browser.

Thanks!

--jon

**JON FAST**

Account Director

D 415.248.5089

M 415.533.3278

[jon@wearelift.com](mailto:jon@wearelift.com)

**LIFT Agency**

[wearelift.com](http://wearelift.com)

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On Fri, Mar 8, 2019 at 12:47 PM Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)> wrote:

I think something different is required, especially b/c we won't have a price point.

They should mention TV and Internet and the possible offers they would be eligible for would be a mix.

Thx!

**From:** Jon Fast <[jon@wearelift.com](mailto:jon@wearelift.com)>  
**Sent:** Friday, March 08, 2019 3:00 PM  
**To:** Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)>  
**Cc:** Lauren McGarry <[laurenm@wearelift.com](mailto:laurenm@wearelift.com)>; Smith, Jennifer L <[Jennifer.Smith@charter.com](mailto:Jennifer.Smith@charter.com)>  
**Subject:** Re: April Email : Windstream

Hi Sarah,

Thanks for sending over. The DM approach is very direct -- straight at Windstream and their bankruptcy with limited imagery. Should we place this offer in the same template as our April offer emails, or should we look at a different creative approach that is far more simple?

Also, wondering if these emails mention TV or just Internet? If both, which one is in the primary position? (The FLG letter has TV first and the ULT letters have Internet first.)

We'll get started on this right away and get you something early next week.

Best,

--jon

**JON FAST**  
Account Director  
D 415.248.5089  
M 415.533.3278  
[jon@wearelift.com](mailto:jon@wearelift.com)

**LIFT Agency**  
[wearelift.com](http://wearelift.com)

LIFT recognized among top experts by [Forbes](http://Forbes)

On Fri, Mar 8, 2019 at 11:19 AM Blechner, Sarah <[Sarah.Blechner@charter.com](mailto:Sarah.Blechner@charter.com)> wrote:

Lauren/Jon,

We are adding a new segment for the April emails, to go after the Windstream customers in anticipation of their bankruptcy.

Counts are pretty low for Email, so given that there are a few offers these customers could be eligible for, our thought in email is to use aggressive language/messaging, but not include the actual offer information. Then when they click and localize, they will get the offer appropriate to their location.

No speed mentions, just "Fast Internet" as we couldn't be consistent as far as FLG or ULT. And No Mobile Mention, just Home Phone, to be consistent with our other local competitive offers.

Incremental DM released last night is attached for reference.

Shout with any questions – these will be due 3/22 for the April Send 1 ACQ deployment.

Thanks,  
Sarah

**Charter**  
COMMUNICATIONS

Sarah Blechner | Sr Manager, Marketing & Creative Strategy | 203.428.0200  
400 Atlantic Street, 9th Floor | Stamford, CT 06901

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Message

**From:** Atkinson, Kelly C [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5BB668FF9B2A429DAEE656B4E5E2FF0F-A]  
**Sent:** 4/2/2019 12:39:30 PM  
**To:** Dardis, Keith [keith.dardis@charter.com]  
**CC:** Andreski, David [david.andreski@charter.com]  
**Subject:** Google Fiber & Windstream Incremental tactics/Spending recap  
**Attachments:** ATT00001.htm; ATT00002.htm

Keith- per your note here is a summary of what we have done. We got some pushback on the reference to "bankruptcy interrupting customer service" on windsream so we took this verbiage out for the following mail.

We do still state "they declared bankruptcy- now is a great time to switch" factual position with nothing about service interruption.

Let me know of any other questions

**Kelly Atkinson** | Head of Marketing, Consumer & SMB | [203.658.4477](tel:203.658.4477)  
[400 Atlantic Street, 9th Floor | Stamford, CT 06901](mailto:kelly.atkinson@charter.com)

Begin forwarded message:

**From:** "Atkinson, Kelly C" <[Kelly.Atkinson@charter.com](mailto:Kelly.Atkinson@charter.com)>  
**Date:** March 20, 2019 at 7:39:10 PM EDT  
**To:** "Atkinson, Kelly C" <[Kelly.Atkinson@charter.com](mailto:Kelly.Atkinson@charter.com)>  
**Subject:** Google Fiber & Windstream Incremental tactics/Spending recap

Jon – I wanted to give you a quick recap of the incremental spending that we have done to support the recent Google Fiber and Windstream activities.

DM – All Google creative 1M (creative used for non-sub mail in other mkts). Louisville 5k. (in home 3/18)

Digital - We are running paid search in Google and Windstream markets (bidding on their terms) from a conquest-ing perspective.

Windstream materials

A grid is attached showing the cadence for DP vs. Internet offers for Google/Allo. I have also attached results of the first incremental mailing which is strong at 0.66%.

Windstream will be in-home next week with a count of 833k. Google Fiber has an additional incremental mailing hitting now with a quantity of 504k featuring competitive messaging.



Let me know if you are looking for anything else or need more detail.

1. Geoff has provided the DM grid. There will be 3 offers (Allo/Google offer, AT&T offer, and regular GM offer (including Mi Plan and Lifestyle) in all other areas). Quantity 833K. In home 3/25
2. Allison has provided the letter and OE mock-ups. Please let us know thoughts on messaging.
3. Chris has reviewed all markets and, based on our restriction on using mass media for offers, as well as their limited penetrations in these markets, we are not recommending additional mass tactics (print radio). The majority of these markets currently are running the standard media plan. We could consider a targeted digital video campaign in shared markets and could create a digital video asset if we want to pursue.

For Google Fiber Louisville

- Print & Radio started the week of 2/11
- Out of Home started the week of 3/11
- Both are planned to run through the week of 4/22

Google Fiber Austin & Kansas City

- Print & Radio started this week (3/18)
- Out of Home planned to start the week of 4/1



## Reception, Stamford 7

---

**From:** Niles, Scott R <Scott.Niles@charter.com>  
**Sent:** Thursday, April 11, 2019 1:31 PM  
**To:** Field, Amanda; Miiller, Damon W; Purses, Nathaniel A; Gardner, Douglas; Filardo, Tom A; Auger, Brenda A; Kratz, Sharon  
**Cc:** Ruwe, Suzanne C; Kick, Kevin W; Montanez, Daymion M  
**Subject:** Windstream

All,

It has been brought to my attention that we may have reps making inappropriate, inaccurate and/or disparaging claims about Windstream. As you may already be aware, Windstream has filed suit against Charter accusing us of telling their customers that they will likely lost their service as a result of their recent Chapter 11 filing. This is a sensitive topic and should be handled carefully.

Simply put: yes – they are in Chapter 11 bankruptcy, no – we cannot tell prospects they are going to lose service.

Please make sure your teams are aware ASAP.

LMK if you have questions.

Thanks,  
SN

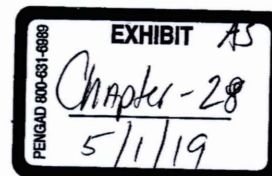
**Spectrum**

Scott Niles | GVP, Residential Direct Sales | 203.428.0712

400 Atlantic Street | Stamford, CT 06901

[Jobs.spectrum.com](https://jobs.spectrum.com)

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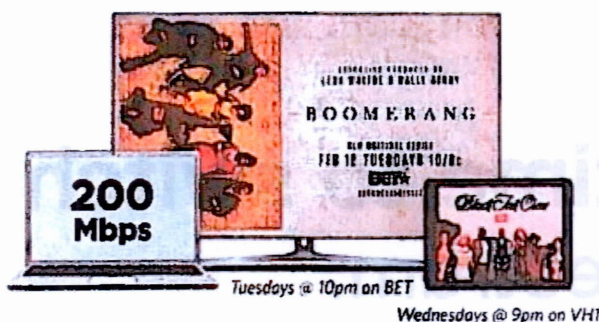
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**Spectrum**



## Windstream Customers, Don't Risk Losing Your Internet and TV Services.

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. Will they be able to provide the Internet and TV services you rely on in the future? To ensure you are not left without vital Internet and TV services, switch to Spectrum. With a network built for the future, Spectrum is here for the long haul—with our best deal for Internet and TV services from **\$59.98/month for 12 months.\***

- **Fast speeds up to 200 Mbps.<sup>™</sup>** Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top performing Internet provider,** delivering more speed, more consistently.<sup>1</sup>
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.<sup>1</sup>
- **FREE** HD<sup>+</sup> with instant access to a huge selection of On Demand titles.
- Download the **Spectrum TV<sup>®</sup> App<sup>®</sup>** to stream up to 50+ LIVE channels<sup>†</sup> including BET, OWN and VH1 on your devices, anywhere in your home and everywhere on-the-go.

Windstream has a 2-year contract. With Spectrum there are no contracts.  
**Plus, we will buy you out of your current contract up to \$500.\*\***

**BEST  
DEAL  
EVER!**

Goodbye, Windstream.  
**Hello, Spectrum.**

**Call 1-855-280-7152**  
or visit [Spectrum.com/lifestyle](http://Spectrum.com/lifestyle)

**Limited-time offer! Expires 04/25/19**

**SPECTRUM INTERNET 200 Mbps  
+ SPECTRUM LIFESTYLE TV**

**\$59.98**  
/mo. for  
12 mos.\*

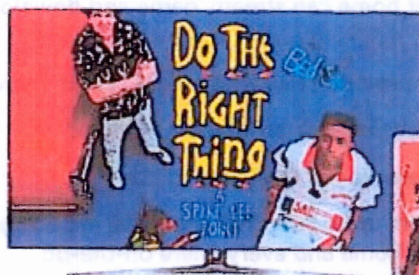
**NO CONTRACT**



# Now is the time to switch to Spectrum.

Windstream's future is unknown, but Spectrum is here to stay—delivering Internet and TV services you can count on. Enjoy super-reliable **200 Mbps** Internet speeds, plus a **FREE** modem and **FREE** Security Suite.

With Spectrum Lifestyle TV, watch LIVE TV, your favorite shows, sporting events and more in superior digital picture and sound quality. Get instant access to thousands of **FREE** On Demand movies, shows and Primetime favorites. Download the Spectrum TV<sup>®</sup> App<sup>®</sup> to stream LIVE TV and On Demand titles anywhere in your home and everywhere on-the-go.



Watch Do The Right Thing anytime  
on STARZ ENCORE Block



Tuesdays 8-9pm on BET

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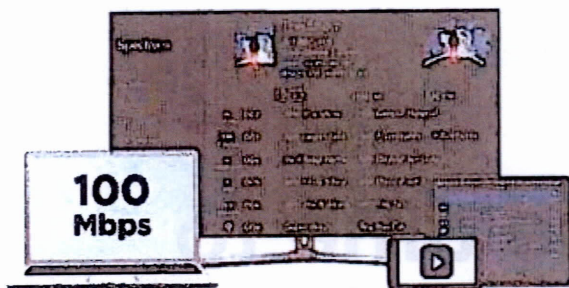
**NO CONTRACT**

Offer expires 04/25/19; valid to qualified residential customers who have not subscribed to any services within the previous 30 days and have no outstanding obligations to Charter. \*Bundle price for Spectrum Lifestyle TV and Internet is \$59.98/mo. from yr 1; standard rates apply after promotional period ends, additional services are extra. \*\*Restrictions apply. For contract buyout qualifications, go to [spectrum.com/buyout](http://spectrum.com/buyout). †Channel and HD programming availability based on level of service and may vary by area. It is possible that some channels are not available in certain areas. ‡TV App account log-in may be required to stream some TV content online. Apps are free with corresponding level of service. Apps and live streams available in the U.S. only and subject to additional restrictions. §Services compared to Kinetic Internet 200 and DirecTV packages per [windstream.com](http://windstream.com); 03/07/19. General Terms: TV: Install, other equipment, taxes, fees and surcharges extra (bcast. surcharge up to \$11.99/mo.). INTERNET: †Available Internet speeds may vary by address. ‡Based on the 2016 FCC Broadband Report. Services subject to all applicable service terms and conditions, subject to change. Services not available in all areas. Restrictions apply. To reduce Charter direct mail, visit [spectrum.com/dmoptout](http://spectrum.com/dmoptout), Viacom Media Networks, a division of Viacom International Inc. Starz<sup>®</sup> and Starz Encore<sup>™</sup> and related channels and service marks are the property of Starz Entertainment, LLC. Visit [starz.com](http://starz.com) for airdates/times. Do The Right Thing ©1989 Universal City Studios, Inc. All trademarks are the property of their respective owners. ©2019 Charter Communications.

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**Spectrum**

## Windstream Customers, Don't Risk Losing Your Internet and TV Services.

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. To ensure you are not left without vital Internet and TV services, switch to Spectrum Mi Plan Latino. With a network built for the future, Spectrum is here for the long haul—with our best deal for Internet and TV services from **\$59.98/mo. for 1 year.\***

- **Fastest speeds up to 100 Mbps.\*** Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top performing Internet provider**, delivering more speed, more consistently.<sup>1</sup>
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.<sup>1</sup>
- Enjoy over **130 channels**, including Univision, beIN SPORTS En Español, UniMás, Galavisión, El Rey, Univision Deportes and many more.
- **FREE HD<sup>1</sup>** with instant access to thousands of **FREE On Demand** titles.
- Download the **FREE Spectrum TV App<sup>2</sup>** and watch your **live TV** programming anywhere in your home on all your mobile devices.

Windstream has a 2-year contract. With Spectrum there are no contracts.  
Plus, we will buy you out of your current contract up to \$500.\*\*



Goodbye, Windstream.  
Hello, Spectrum.

Call 1-800-883-4350

Limited-time offer! Expires 04/25/19

**SPECTRUM  
MI PLAN LATINO**  
**100 Mbps Internet + TV**  
**\$59.98**  
/mo. for  
1 year\*  
**NO CONTRACTS**

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La oferta expira 04/25/19; válida para clientes residenciales elegibles que no se hayan suscrito a ningún servicio dentro de los 30 días anteriores y no tengan obligaciones pendientes con Charter. \*El precio del paquete para TV Mi Plan Latino e Internet es de \$59.98/mes, el primer año; se aplican tarifas estándar una vez que termine el período promocional. Para ver la programación se necesita un decodificador de cable digital para cada televisor que reciba Spectrum TV Latino por un cargo mensual adicional. \*\*Se aplican restricciones. Para ver los requisitos para la cancelación de contrato, visite espanol.spectrum.com/buyout. †Disponibilidad de canales y programación HD sujeta al nivel de servicio y pueden variar según el área. Es posible que algunos canales no estén disponibles en ciertas áreas. ‡Para usar la aplicación es posible que tenga que ingresar a la cuenta para poder reproducir ciertos contenidos de TV en línea. Las aplicaciones son gratis con el nivel de servicio correspondiente. Las aplicaciones y transmisiones en vivo están disponibles solamente en los EE.UU. y están sujetas a restricciones adicionales. §Servicios comparados con Kinetic Internet 200 y paquetes de DirecTV según windstream.com/03/07/19. Términos generales: TV: La instalación, otros equipos, los impuestos, los cargos y los recargos tienen un costo adicional (recargo de transmisión de hasta \$11.99/mes). INTERNET: †Las velocidades de Internet disponibles pueden variar según el domicilio. ‡Según el informe de la FCC de 2016 sobre banda ancha. Los servicios están sujetos a todos los términos y condiciones de servicio vigentes, que están sujetos a cambios. Los servicios no están disponibles en todas las áreas. Se aplican restricciones. Para reducir la cantidad de correos directos de Charter, visite espanol.spectrum.com/4moptout. Todas las marcas comerciales son propiedad de sus respectivos dueños. ©2019 Charter Communications.

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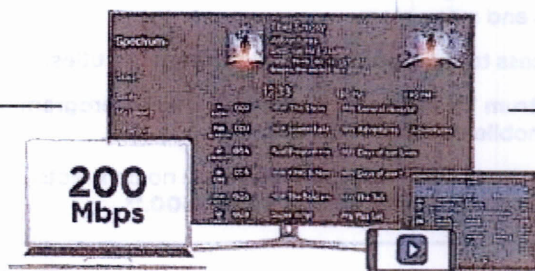




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**TV + Internet**

**\$44.99**  
/mo each  
for 12 mos\*

**NO CONTRACTS**

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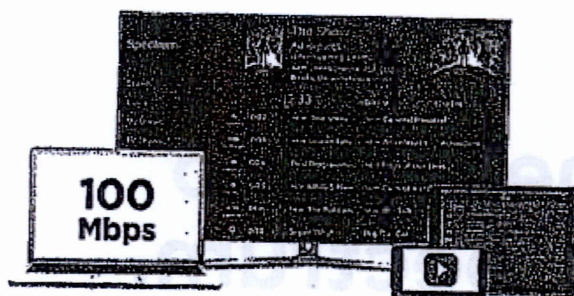
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**Spectrum**



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**\$44.99**  
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**NO CONTRACTS**

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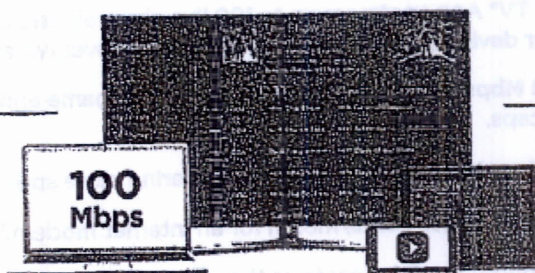




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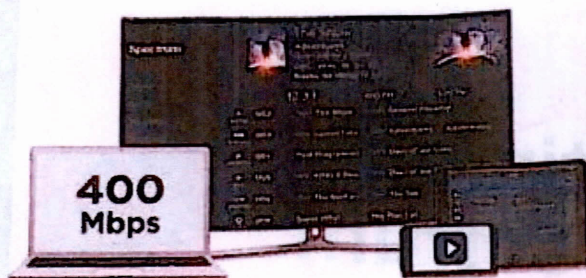
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Spectrum



SCAN

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- **Spectrum is the top-performing Internet provider,** delivering more speed, more consistently.\*\*
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Goodbye, Windstream.  
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**Call 1-855-655-2363**  
or visit [Spectrum.com](http://Spectrum.com)

**Limited-time offer! Expires 04/25/19**

**400 Mbps Internet + TV**

**\$59.98**  
/mo for 3 years\*

**NO CONTRACTS**

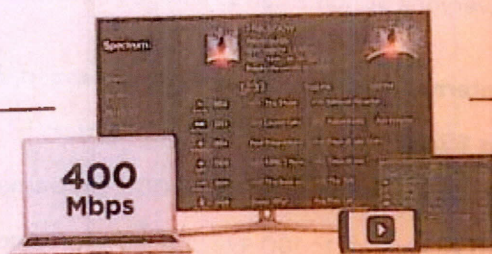




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Limited-time offer! Expires

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**NO CONTRACTS**



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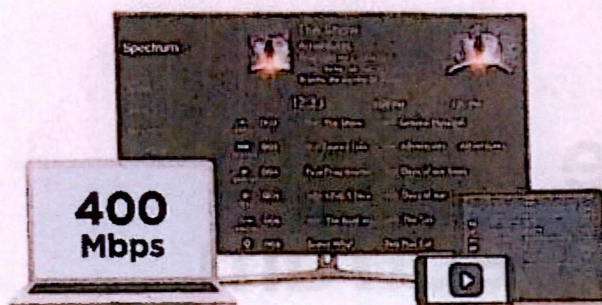
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Spectrum



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- **Spectrum is the top-performing Internet provider,** delivering more speed, more consistently.\*\*
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.<sup>†</sup>
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Goodbye, Windstream.  
**Hello, Spectrum.**

**Call 1-855-844-9553**  
or visit [Spectrum.com](http://Spectrum.com)

**Limited-time offer! Expires 04/25/19**

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**\$39.99**  
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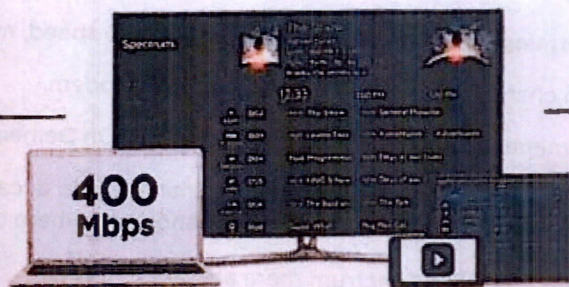




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**NO CONTRACTS**

**2 YR**  
Price  
Guarantee

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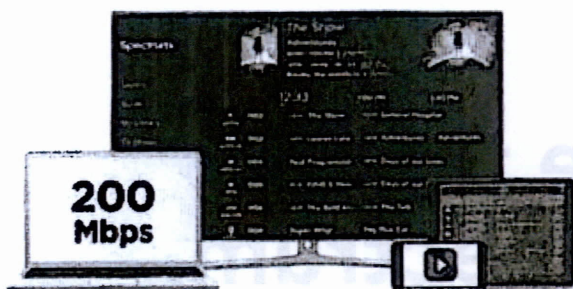
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**Spectrum**



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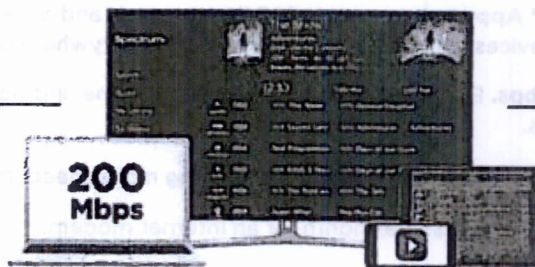




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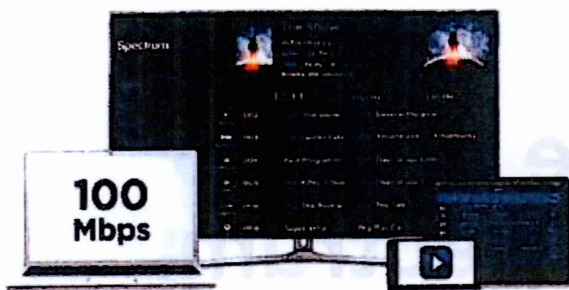
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- Download the **Spectrum TV® App** to stream up to 180 live channels and access up to 50,000 On Demand titles on your devices, anywhere in your home and everywhere on-the-go.
- **Fastest speeds up to 100 Mbps.** Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top-performing Internet provider**, delivering more speed, more consistently.\*\*\*
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.†

Windstream has a 2-year contract.‡ With Spectrum there are no contracts.  
**Plus, we will buy you out of your current contract up to \$500.\*\***

Goodbye, Windstream.  
**Hello, Spectrum.**

**Call 1-800-386-1578**  
or visit [Spectrum.com](http://Spectrum.com)

**Limited-time offer! Expires 04/25/19**

TV + Internet  
**\$44.99**  
/mo each  
for 12 mos\*  
**NO CONTRACTS**

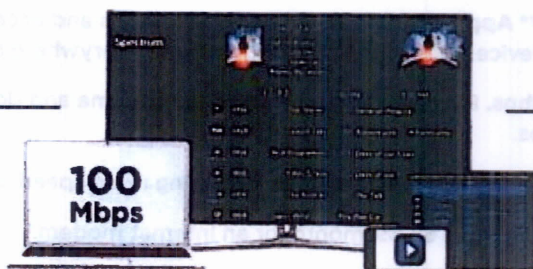




# Now is the time to switch to Spectrum.

Windstream's future is unknown, but Spectrum is here to stay—delivering TV and Internet services you can count on. With Spectrum TV\*, watch live TV, your favorite shows, sporting events and more in superior digital picture and sound quality. Get instant access to thousands of **FREE** On Demand movies, shows and Primetime favorites. Download the Spectrum TV App to stream live TV and On Demand titles anywhere in your home and everywhere on-the-go.

Enjoy super-fast **100 Mbps** Internet speeds, plus a **FREE** modem and **FREE** Security Suite.



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/mo each  
for 12 mos\*

**NO CONTRACTS**

Offer good through 04/25/19, subject to change; valid to qualified residential customers who have not subscribed to any services within the previous 30 days and have no outstanding obligation to Charter. \*Standard rates for TV Select and Internet apply after yr. 1. Installation, equipment, taxes, fees and surcharges (bdcst surcharge up to \$11.99/mo.) extra, additional services are extra. \*\*Restrictions apply. For contract buyout qualifications, go to [Spectrum.com/buyout](http://Spectrum.com/buyout). \*\*\*2016 FCC Broadband Report. \$Services compared to Kinetic Internet 200 and DirecTV packages per [windstream.com](http://windstream.com); 03/07/19. General Terms: TV: TV equipment required, charges may apply. Account credentials may be required to stream some TV content online. INTERNET: Available Internet speeds may vary by address. Services subject to all applicable service terms and conditions, subject to change. Services not available in all areas. Restrictions apply. ©2019 Charter Communications.

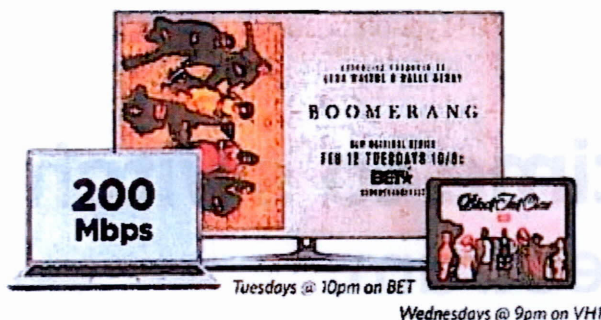
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33513001-A01-00150200-000405

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**Spectrum**



## Windstream Customers, Don't Risk Losing Your Internet and TV Services.

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. Will they be able to provide the Internet and TV services you rely on in the future? To ensure you are not left without vital Internet and TV services, switch to Spectrum. With a network built for the future, Spectrum is here for the long haul—with our best deal for Internet and TV services from **\$59.98/month for 12 months.\***

- **Fast speeds up to 200 Mbps.<sup>™</sup>** Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top performing Internet provider,** delivering more speed, more consistently.<sup>¹</sup>
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.<sup>²</sup>
- **FREE** HD<sup>+</sup> with instant access to a huge selection of On Demand titles.
- Download the **Spectrum TV<sup>®</sup> App<sup>®</sup>** to stream up to 50+ LIVE channels<sup>³</sup> including BET, OWN and VH1 on your devices, anywhere in your home and everywhere on-the-go.

Windstream has a 2-year contract. With Spectrum there are no contracts.  
**Plus, we will buy you out of your current contract up to \$500.\*\***

**BEST  
DEAL  
EVER!**

Goodbye, Windstream.  
**Hello, Spectrum.**

**Call 1-855-280-7152**  
or visit [Spectrum.com/lifestyle](http://Spectrum.com/lifestyle)

**Limited-time offer! Expires 04/25/19**

**SPECTRUM INTERNET 200 Mbps  
+ SPECTRUM LIFESTYLE TV**

**\$59.98**  
/mo. for  
12 mos.\*

**NO CONTRACT**





## Now is the time to switch to Spectrum.

Windstream's future is unknown, but Spectrum is here to stay—delivering Internet and TV services you can count on. Enjoy super-reliable **200 Mbps**<sup>®</sup> Internet speeds, plus a **FREE** modem and **FREE** Security Suite.

With Spectrum Lifestyle TV, watch LIVE TV, your favorite shows, sporting events and more in superior digital picture and sound quality. Get instant access to thousands of **FREE** On Demand movies, shows and Primetime favorites. Download the Spectrum TV<sup>®</sup> App<sup>®</sup> to stream LIVE TV and On Demand titles anywhere in your home and everywhere on-the-go.



Goodbye, Windstream.  
**Hello, Spectrum.**

Call 1-855-280-7152  
or visit [Spectrum.com/lifestyle](http://Spectrum.com/lifestyle)

Limited-time offer! Expires 04/25/19

**SPECTRUM INTERNET 200 Mbps  
+ SPECTRUM LIFESTYLE TV**

**\$59.98**  
/mo. for  
12 mos.\*

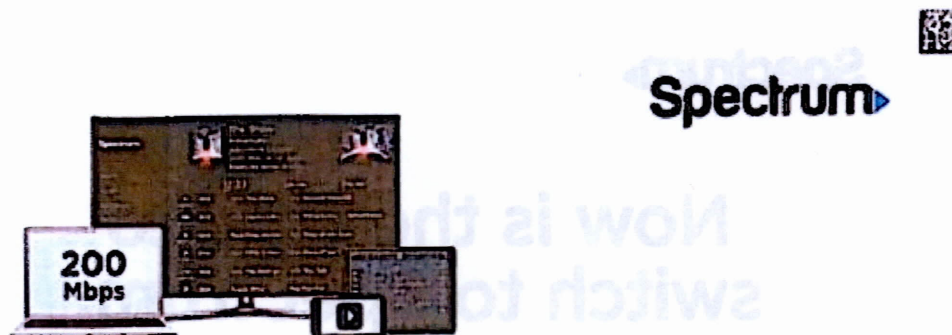
**BEST  
DEAL  
EVER!**

**NO CONTRACT**

Offer expires 04/25/19; valid to qualified residential customers who have not subscribed to any services within the previous 30 days and have no outstanding obligations to Charter. \*Bundle price for Spectrum Lifestyle TV and Internet is \$59.98/mo., from yr 1; standard rates apply after promotional period ends; additional services are extra. \*\*Restrictions apply. For contract buyout qualifications, go to [spectrum.com/buyout](http://spectrum.com/buyout). †Channel and HD programming availability based on level of service and may vary by area. It is possible that some channels are not available in certain areas. ‡TV App account log-in may be required to stream some TV content online. Apps are free with corresponding level of service. Apps and live streams available in the U.S. only and subject to additional restrictions. †Services compared to Kinetic Internet 200 and DirecTV packages per [windstream.com](http://windstream.com); 03/07/19. General Terms: TV: Install, other equipment, taxes, fees and surcharges extra (bdcst. surcharge up to \$11.99/mo.). INTERNET: †Available Internet speeds may vary by address. ‡Based on the 2016 FCC Broadband Report. Services subject to all applicable service terms and conditions, subject to change. Services not available in all areas. Restrictions apply. To reduce Charter direct mail, visit [spectrum.com/directmailout](http://spectrum.com/directmailout), Viacom Media Networks, a division of Viacom International Inc. Starz<sup>®</sup> and Starz Encore<sup>SM</sup> and related channels and service marks are the property of Starz Entertainment, LLC. Visit [starz.com](http://starz.com) for airdates/times. Do The Right Thing ©1989 Universal City Studios, Inc. All trademarks are the property of their respective owners. ©2019 Charter Communications.

0325-ALD-59 33513001-AD1-00595136-B01552

000020554



## Windstream Customers, Don't Risk Losing Your TV and Internet Services.

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- **FREE HD and FREE On Demand** with instant access up to 50,000 On Demand titles.
  - Download the **Spectrum TV® App** to stream up to 100 live channels and access up to 50,000 On Demand titles on your devices, anywhere in your home and everywhere on-the-go.
  - **Fastest speeds up to 200 Mbps.** Everyone at home can stream, game and download at the same time with no data caps.
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  - **FREE modem;** Windstream charges \$5.99/month for an Internet modem.<sup>1</sup>
- Windstream has a 2-year contract.<sup>1</sup> With Spectrum there are no contracts. **Plus, we will buy you out of your current contract up to \$500.\*\***

Goodbye, Windstream.  
Hello, Spectrum.

Call 1-800-386-1578  
or visit Spectrum.com

Limited-time offer! Expires 04/25/19

TV + Internet  
**\$44.99**  
/mo each  
for 12 mos.\*  
**NO CONTRACTS**

04-00-02719-FLB-1

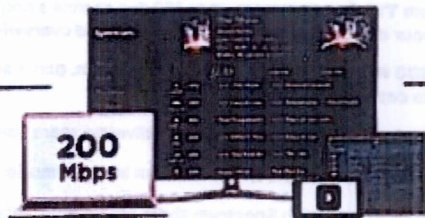
22632203-461-00107384-001677



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TV + Internet

**\$44<sup>99</sup>**  
/mo each  
for 12 mos\*

**NO CONTRACTS**

\*Offer good through 04/25/19. Subject to change, valid to qualified residential customers who have not subscribed to any services within the previous 30 days and have no outstanding obligation to Charter. †Standard rates for TV (base) and Internet apply after yr. 1 installation, equipment, taxes, fees and overage charges. ‡Restrictions apply. For current buyout conditions, go to Spectrum.com/buyout. \*\*\*\*2018 FCC Broadband Report. †††Services compared to Sprint Internet 200 and DSL TV packages per windstream.com, 03/05/19. General Terms: TV: TV equipment required, charges may apply. Account credentials may be required to stream some TV content online. ©2019 Charter Communications. Available Internet speeds may vary by address. Services subject to all applicable service terms and conditions, subject to change. Services not available in all areas. Restrictions apply. ©2019 Charter Communications.

GA-10-032179-F16-3

88163031-401-0564986-001677

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**Spectrum**

**400 Mbps**

**Windstream Customers,  
Don't Risk Losing Your Internet and TV Services.**

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. To ensure you are not left without vital Internet and TV services, switch to Spectrum. With a network built for the future, Spectrum is here for the long haul—with our best deal for Internet and TV services from **\$39.99/mo. each for 2 years when bundled.\***

- **Fastest speeds up to 400 Mbps.** Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top-performing Internet provider,** delivering more speed, more consistently.\*\*
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.<sup>1</sup>
- **FREE HD and FREE** On Demand with instant access up to 50,000 On Demand titles.
- Download the **Spectrum TV® App** to stream up to 180 live channels and access up to 50,000 On Demand titles on your devices, anywhere in your home and everywhere on-the-go.

Windstream has a 2-year contract.<sup>1</sup> With Spectrum there are no contracts.  
**Plus, we will buy you out of your current contract up to \$500.\*\***

**Goodbye, Windstream.  
Hello, Spectrum.**

**Call 1-855-844-9553  
or visit Spectrum.com**

**Limited-time offer! Expires 04/25/19**

**400 Mbps Internet + TV**

**\$39.99** /mo each for 2 years when bundled\*  
**NO CONTRACTS**

**2YR Price Guarantee**

GA-20-032519-ULT-2 33513001-AD1-00554767-001477



**Spectrum**

## Now is the time to switch to Spectrum.

Windstream's future is unknown, but Spectrum is here to stay—delivering Internet and TV services you can count on. Enjoy super-reliable **400 Mbps** Internet speeds, plus a **FREE** modem and **FREE** Security Suite.

With Spectrum TV<sup>®</sup>, watch live TV, your favorite shows, sporting events and more in superior digital picture and sound quality. Get instant access to thousands of **FREE** On Demand movies, shows and Primetime favorites. Download the Spectrum TV App to stream live TV and On Demand titles anywhere in your home and everywhere on-the-go.



**400 Mbps**

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CA-20-022109-ULT-2 33832001-AD1-00564767-001477 000020546





12405 Powerscourt Drive, St. Louis, Missouri 63131



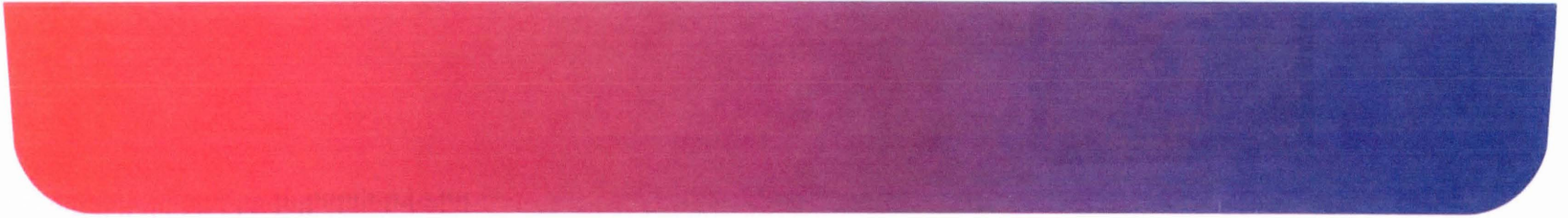
222222  
90000219

Sample A. Sample  
3/25/19 000020543  
123 Main Street  
Anytown, US 12345-6789



**Important Information Enclosed  
for Windstream Customers.**





for Minnesota customers

important information enclosed

WSOE1





Message

**From:** Brauchler, Shauna S [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=057455DF22AF488CB8654279F7E18621-B]  
**Sent:** 5/16/2019 9:18:10 AM  
**To:** Patterson, Kevin M [kevin.patterson1@charter.com]  
**Subject:** RE: 2125 VANCO DR IRVING TX 75061 7130838 (KMM7381126V13963L0KM)  
**Attachments:** image001.jpg; image002.png

This is resolved!

Error, this is being fixed

**From:** Brauchler, Shauna S  
**Sent:** Thursday, May 16, 2019 9:07 AM  
**To:** Patterson, Kevin M <Kevin.Patterson1@charter.com>  
**Cc:** Brauchler, Shauna S <Shauna.Brauchler@charter.com>  
**Subject:** FW: 2125 VANCO DR IRVING TX 75061 7130838 (KMM7381126V13963L0KM)

Hi Kevin,

This is the email we just talked about.

Windstream asked me why their order was cancelled.

I asked Cathy because she is the one that requested it be cancelled.

She responded with the below and first attached email.

Just now I got a second email where she is asking Matt Licameli why Granite would be cancelling a Windstream order.

That email is the second attachment here.

I believe this is an oversight by Cathy, but not sure why Granite would have the authorization to cancel Windstream orders.

This could get us into trouble with Windstream.

Thanks for your help.

**From:** Suchonic, Cathy J  
**Sent:** Thursday, May 16, 2019 8:49 AM  
**To:** Brauchler, Shauna S <Shauna.Brauchler@charter.com>  
**Subject:** RE: 2125 VANCO DR IRVING TX 75061 7130838 (KMM7381126V13963L0KM)

GM, see attached.

Thanks,

Cathy Suchonic | Client Services Manager-VAR Channels | 704.206.4155 or C:704-280-2946  
13840 Ballantyne Corp Place Suite 500 | Charlotte, NC, 28277





**From:** Brauchler, Shauna S  
**Sent:** Wednesday, May 15, 2019 5:56 PM  
**To:** Suchonic, Cathy J <Cathy.Suchonic@charter.com>  
**Subject:** FW: 2125 VANCO DR IRVING TX 75061 7130838 (KMM7381126V13963L0KM)

Hi Cathy,

How are you? Got this email from Windstream.

Hey, do you recall why this order was cancelled?

Windstream is asking, I don't either recall or know.

Appreciate your assistance.

See email below.

**From:** Malto, Mark V [mailto:Mark.Malto@windstream.com]  
**Sent:** Wednesday, May 15, 2019 4:22 PM  
**To:** Brauchler, Shauna S <Shauna.Brauchler@charter.com>  
**Cc:** Alamillo, Marjorie <Marjorie.Alamillo@windstream.com>; Alarcon, John Paul Jorge <John.Alarcon@windstream.com>  
**Subject:** RE: 2125 VANCO DR IRVING TX 75061 7130838 (KMM7381126V13963L0KM)

Hi Shauna,

Do you have more information why the order was cancel and rejected.

I created a case (Case Number: 06113478) and this was their reply.

**Created By: Jorge Zarazua - National (5/15/2019 3:25 PM)**

Good afternoon,

We received the following KANA Case to cancel the order.

**From:** "Suchonic, Cathy J" <Cathy.Suchonic@charter.com>  
**To:** "SAN.VAREscalations" <SAN.VAREscalations@charter.com>, Joshua Mather <JMather@granitenet.com>  
**Subject:** RE: Spectrum- Notify of Sched Install:Earthlink Business, LLC ( New Edge Networks) @ 2125 Vanco Dr-75061  
**Date:** May 8, 2019 9:49:16 AM CDT

TWC team, please cancel this order.

Service Request Number: 17509624

Thank you,  
VAR Order Management

Thank you,

Mark Vincent Malto  
Provisioning  
8003479027  
TN: 2136661120  
mark.malto@windstream.com  
**WINDSTREAM ENTERPRISE**

**From:** Malto, Mark V  
**Sent:** Wednesday, May 15, 2019 10:38 AM  
**To:** 'VAR Scheduling' <var.scheduling@charter.com>  
**Cc:** 'Brauchler, Shauna S' <Shauna.Brauchler@charter.com>  
**Subject:** RE: 2125 VANCO DR IRVING TX 75061 7130838 (KMM7381126V13963L0KM)

Hi,

Why this order is rejected, is there an issue?

PSR: 7130838  
EU NAME: KEY IMPACT - DALLAS  
LOC A: 2125 VANCO DR IRVING TX 75061

Service Request Number: 17509624  
Opportunity Number: 10757285

Thank you,

Mark Vincent Malto  
Provisioning  
8003479027  
TN: 2136661120  
mark.malto@windstream.com  
**WINDSTREAM ENTERPRISE**

**From:** VAR Scheduling [mailto:var.scheduling@charter.com]  
**Sent:** Thursday, May 09, 2019 11:00 AM  
**To:** Malto, Mark V <Mark.Malto@windstream.com>  
**Subject:** Re: 2125 VANCO DR IRVING TX 75061 7130838 (KMM7381126V13963L0KM)

Good Morning,



Your order will be processed in the portal within 24-48 business hours. please review for schedule date and time, and notify your customer.

Thank you,

A.Reese

Spectrum Business SMB Sales Support

Original Message Follows: -----

From: "Malto, Mark V" <[Mark.Malto@windstream.com](mailto:Mark.Malto@windstream.com)>

To: "var.scheduling" <[var.scheduling@charter.com](mailto:var.scheduling@charter.com)>

Subject: 2125 VANCO DR IRVING TX 75061 7130838

Date: May 7, 2019 12:15:13 PM CDT

Hi,

Can we please schedule this order.

SRO: 17509624

Opportunity Number: 10757285

PSR:

EU NAME: KEY IMPACT - DALLAS

LOC A: 2125 VANCO DR IRVING TX 75061

Thank you,

Mark Vincent Malto

Provisioning

8003479027

TN: 2136661120

[mark.malto@windstream.com](mailto:mark.malto@windstream.com)

WINDSTREAM ENTERPRISE

This email message and any attachments are for the sole use of the intended recipient(s). Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message and any attachments.

The contents of this e-mail message and any attachments are intended solely for the addressee(s) and may contain confidential and/or legally privileged information. If you are not the intended recipient of this message or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message

and any attachments. If you are not the intended recipient, you are notified that any use, dissemination, distribution, copying, or storage of this message or any attachment is strictly prohibited.





Message

**From:** Brauchler, Shauna S [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=057455DF22AF488CB8654279F7E18621-B]  
**Sent:** 5/8/2019 1:46:52 PM  
**To:** 'Manzano, Stacey R' [Stacey.Manzano@windstream.com]; Rubino, Margaret D [Margaret.Rubino@windstream.com]  
**CC:** Patterson, Kevin M [kevin.patterson1@charter.com]; Brauchler, Shauna S [shauna.brauchler@charter.com]  
**Subject:** RE: notes from RPR000008886633 Spectrum disconnect 3 times in error  
**Attachments:** image005.gif; image006.png; image001.png

Stacey,  
I am checking on this with the billing department. Will let you know as soon as I hear back.  
Thank you  
Regards,

**Charter**  
COMMUNICATIONS

Shauna Brauchler | Channel Manager, VAR/Integrator National Development  
(214 ) 422-8737 [m]  
750 Canyon Drive, 5<sup>th</sup> Floor | Coppel, TX 75019  
[shauna.brauchler@charter.com](mailto:shauna.brauchler@charter.com)

**DISPATCH / DAY OF JOB / TECH SUPPORT**

- ☐ For Failed Installs due to construction required.  
Please escalate to your VAR Channel Manager to verify if an SRO was entered in the biller by dispatch. If not, your VCM will engage Sales Operations to request the SRO.
- ☐ For failed installs due to Pre-Bury or Drop-Bury work  
Please call CARE so they can submit an escalation to dispatch via the ETD Tool.

**TWC/BHN:** 1-877-892-4662 | **CHTR:** 1-844-780-6145

**From:** Manzano, Stacey R [mailto:Stacey.Manzano@windstream.com]  
**Sent:** Wednesday, May 08, 2019 1:39 PM  
**To:** Brauchler, Shauna S <Shauna.Brauchler@charter.com>; Rubino, Margaret D <Margaret.Rubino@windstream.com>  
**Subject:** Fwd: notes from RPR000008886633 Spectrum disconnect 3 times in error

Hi Shauna,

How do we ensure this site doesn't go down again? Can you tell me if the invoice is coming to WIN or being sent to the customer address, which would be incorrect and causing the disco for nonpayment.

Thank you,  
Stacey



From: Kinney, Diane <[diane.kinney@windstream.com](mailto:diane.kinney@windstream.com)>

Sent: Wednesday, May 8, 2019 11:33 AM

To: Manzano, Stacey R

Subject: FW: notes from RPR000008886633 Spectrum disconnect 3 times in error

--

**Diane Kinney**

Manager – Repair

360.906.9872 office

[Diane.Kinney@Windstream.com](mailto:Diane.Kinney@Windstream.com)

## WINDSTREAM ENTERPRISE

3000 Columbia House Blvd. #106

Vancouver, WA 98661

[windstreamenterprise.com](http://windstreamenterprise.com)

From: Bandy, Shonne K

Sent: Wednesday, May 8, 2019 11:20 AM

To: Kinney, Diane <[Diane.Kinney@windstream.com](mailto:Diane.Kinney@windstream.com)>

Subject: notes from RPR000008886633 Spectrum disconnect 3 times in error

from 5/7

Account: 8260141456449867

Spectrum: 877-892-4662

ATN: 17928333

SW: Jen

She told me the service is suspended due to non-payment

Explained this should be resolved, we just got this restored today for the same issue

She found the account was coded incorrectly, and removed the disconnect for non-payment

She advised there is still a balance on the local account which she applied the credit.

She said the credit should go through before the system tried to disconnect it.

Once the credit goes through the issue should be resolved.

5/8 spoke with Willette; she said reseller accounts need to be addressed to different phone number and contact; notations on case from 4/16 showing she may be able to resolve without transferring me; she is reaching out to credit services department to put in the credits to cover; she has reconnected line-continued conversation with Willette at Spectrum; yesterday an escalation was put into their credit department, but system keeps putting in nonpayer code; she coded an extended credit code to give the escalation team time to credit the account 5-7 days, by 14th is when the credits should go through and extension covers the days up to the 17th; she recommends calling again on the 16th to ensure the credits have posted by then; she coded this as critical; filing info was put on the account on March 19th and should have therefore auto credited the account but was missed; call this same contact number, and reference escalation number 29031167

Cheers!

*Shonne K. Bandy* MNOM GWCWC

Trouble Resolution Spec II - ES Care and Repair

Office: 877-610-2905 EXT X48105

Public Callback: 1-877-717-6486

[Shonne.Bandy@windstream.com](mailto:Shonne.Bandy@windstream.com)

**WINDSTREAM ENTERPRISE**

3000 Columbia House Blvd. 106

Vancouver, Wa 98661

[windstreamenterprise.com](http://windstreamenterprise.com)



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Message

**From:** Nangia, Vikram S [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D4292CAC8DA5468CA53F7BB0AA431AD4-N]  
**Sent:** 5/16/2019 8:52:22 AM  
**To:** Laughlin, Tim W [tim.laughlin@charter.com]  
**CC:** Bonnes-yates, Tasha [tasha.bonnes-yates@charter.com]; Richards, Enza S [enza.richards@charter.com]; Hoffmann, Rose [rose.hoffmann@charter.com]  
**Subject:** Re: SVP Approval Needed - Bankruptcy Protection for SMB Accounts  
**Attachments:** image001.png

Approved

Vikram

On May 16, 2019, at 9:51 AM, Laughlin, Tim W <Tim.Laughlin@charter.com> wrote:

Vikram, this one is pretty straightforward given our Windstream exposure that we do not want to ever repeat. Please approve.

Tim

**From:** Bonnes-yates, Tasha <Tasha.Bonnes-yates@charter.com>  
**Sent:** Thursday, May 09, 2019 3:09 PM  
**To:** Laughlin, Tim W <Tim.Laughlin@charter.com>  
**Subject:** SVP Approval Needed - Bankruptcy Protection for SMB Accounts

**NEW APPROVAL REQUEST:**

Please reply with your approval to move forward with **Quarantined Bankruptcy Protections for SMB Accounts**.

**Summary:**

Due to the recent Windstream Bankruptcy, there have been some inefficiencies identified in our Bankruptcy process to properly protect accounts from further collection actions during Bankruptcy Automatic Stays.

This project will create Bankruptcy Schemes/Dunning Groups that only the SMB Team will be allowed to add/remove accounts from these timelines.

This implementation is necessary to avoid in the future the chance of litigation being brought against the company due to not following an automatic collection stay put in place by a Bankruptcy Court.

Thanks

<image001.png>

Tasha Bonnes-Yates | Sr. Manager, Credit Services – Onboarding & SMB | 614-255-6281  
1015 Olentangy River Rd | Columbus, OH 43212







## **ATTACHMENT A**

### ***Curriculum Vitae***

**Robert Borders**

908 N. Monroe St.

Ridgewood, NJ 07450

rborders@optonline.net 201-665-1905

### **Summary:**

I have more than 40 years of experience in all aspects of direct marketing and direct mail; database marketing and lists; call center operations and telephone marketing.

As either an employee or consultant, I have developed and/or managed over 200 direct marketing or sales programs, ranging in size from \$10,000 to over \$25 million. As a consultant I have managed, reviewed, audited, or toured operations in more than 120 call centers in the United States, Canada, and Asia, involving more than 1,000 campaigns.

I have been retained as an Expert Witness in 12 matters. This included Direct Marketing (best practices, deceptive/misleading direct mail and catalog marketing); Telemarketing and Call Centers (best practices, TCPA and TSR); and Database Marketing (maintain list, list rentals and privacy issues).

As a consultant, I have been engaged to develop, review and/or manage both Consumer and BTB direct marketing campaigns or operations for such companies as AT&T (multiple divisions and assignments), Commonwealth Edison, Thomas Publishing (The Thomas's Register), Ricoh Office Products, Olympia Business Machines, The Economics Press, Accenture Consulting, GTE, USSB, Motorola, Doyle Publishing, General Electric Information Services, Automatic Data Processing, Cisco Systems and the American Marketing Association. Other consulting clients include KPR Healthcare Advertising, Chase Bank, DirecTV, Sirius Satellite Radio, Chemical Bank, NovaMed Eyecare, NOVO-Nordisk Pharmaceuticals, Hackensack University Medical Center, and the Albert Einstein Healthcare Network.

As an employee, I have personally developed, managed, or both, three direct mail catalog operations; five in-house call centers and two BTB direct marketing fulfillment operations. I have worked as a manager or officer in three direct marketing and catalog companies, and have been employed as an officer for divisions of the Gillette Company, Young & Rubicam, and Wometco Industries (a pay television provider).

I have direct industry experience relating to consumer and BTB direct marketing; database marketing; and call center and telephone marketing tactics and strategy, including such media as direct mail, catalog, inserts, direct response television, telephone, radio, print, and banner advertising; catalog marketing operations and management; call center management and operations, including management of inbound and outbound telephone marketing; the use of the internet as a primary or secondary sales channel; customer service and care; operations and fulfillment; and results and performance analysis.



I have been a member of the Direct Marketing Association's (DMA) Business Marketing Council. I have given presentations at five of the DMA's Annual Conferences (two of which were "Featured Presentations"), and on six occasions, I have been a finalist judge for DMA's "Echo" Awards—the direct marketing industry's excellence awards. I am a charter member of the DMA's Telephone Marketing Council, have served on its Operating Committee for six years, and as its Chairman for two years.

The focus of my engagements has been to assist in developing strategies and tactics for my clients to "make it easier for your customers to do business with you". This involves improving costs and results for such efforts as acquiring and retaining customers/subscribers; lead generation and qualification; reviewing marketing operations, proposals and processes; identifying and qualifying external vendors; all sales processes, including contacting, resolving customer issues and improving the overall customer experience.

I have presented at numerous industry functions. I have been on the Board of Advisers to the Business to Business Direct Marketing Institute. And I have been a member of the faculty of the BTB Database Marketing Conference. I have not authored any publications in the past ten years.

**Areas of specific background and experience:**

- Development of direct marketing and mail strategic plans; results analysis; operational assessments; program, cost and process improvement.
- Direct Marketing customer acquisition and lead generation programs for clients. Sales and marketing process improvement. Integrating processes for multiple marketing and sales channels including mail, phone, catalog, field sales, electronic media, print, and internet.
- Strategic direct marketing operations development, implementation and improvement.
- CRM: segmentation, targeting, contact management, results analysis, customer retention.
- Call centers: All aspects of center management and operational improvement; analysis and assessments; use of BPM practices to ensure needs of all stakeholders are met; establishment of performance standards and benchmarks; initiatives in cycle time and cost improvement; improvement of the overall customer experience; integration of multiple call centers.
- Development and management of large scale (20 million+ calls/year) RFPs for such companies as AT&T, Sirius XM Radio and DirecTv both BtoB and consumer. Work involved requirements gathering, development of quantitative and qualitative selection criteria, including coordination/management of on-site visits and proof of concept demonstrations.

**Industry Experience :**

*Entertainment, Subscription Cable TV and Radio, Publishing:*

- Results analysis of marketing offers led to modification of business plans and processes for a national satellite television subscription services, and enabled reduced customer acquisition costs.
- Vendor Selection: Developed and managed large scale (20 million+ calls/year) RFPs for a major Satellite TV company and a similar effort for a major Satellite radio company.
- Developed strategic plan for negotiation of a \$232 million contract with an outsourced teleservices vendor.
- Development of business plan for expansion into new vertical market for a major consumer



advertising oriented publication.

- Development/delivery of training seminars for a publisher of customer service periodicals.

Financial Services:

- For a Fortune 200 financial services firm, increased sales by 9% by developing a “closed loop” lead tracking and contact management system. The system integrated direct mail, telephone and field sales data.
- Obtained 6% sales increase of Long Term Disability insurance to cardholders at two major US banks by modifying offerings based upon daily monitoring of customer comments.

Telecommunications:

- Improved Customer Satisfaction scores by 12% within 40 days, resulting in 5% increase in annual retention within 6 months, by developing a methodology to measure and report Customer Satisfaction ratings, simultaneously, by program, for over 20 programs.
- Development and implementation of direct marketing customer acquisition/retention campaigns.
- Call Center analysis, selection, integration, performance management work (1989 – 1996) involving over 16 of the largest BtoB and consumer call centers in the U.S.
- Mapped existing fulfillment and call center processes to improve efficiency and effectiveness calling card strategies and measurement tools.
- Evaluation and analysis of direct mail/print offers, campaigns and communications, resulting in:
  - Re-engineering of existing business processes
  - Development of improved forecasting and projection tools
  - Cost reductions

Healthcare:

- Identified operational savings in excess of \$800,000 annually by consolidation of appointment scheduling functions.
- Developed series of automated reports that increased inter-departmental and Patient and Satisfaction by quickly identifying potential “bottlenecks”

Pharmaceutical:

- Implementation of direct marketing programs for ethical pharmaceuticals.
- Development of direct marketing Business Plan, budgets, performance standards, response volume projection models, manpower requirements
- Modernization and expansion of internal call center
- Assessment of existing call center
- Integration of marketing programs with new and existing systems, vendors and technology.

BTB Office Equipment Manufacturing Catalogers and Sales Forces:

- Developed a unified Sales Process for a newly formed BtoB division of a major copier and printer manufacturer
- Managed planning, development and implementation of an internal Customer Service operation or a major international manufacturer of office printing equipment
- Development of a new catalog format and delivery of National Sales training program for a major office equipment manufacturer.

**Conference Presentations, Seminars and Lectures :**

Business Direct Marketing Conference 1990 - 1998:

- Topics:
- *Improving Customer Lifetime Value*
  - *Integrating Multiple Marketing Channels*
  - *Effective Magazine Offers and Advertisements*
  - *Database Marketing Software*
  - *Working with Dealers and Distributors*

Business to Business Database Marketing Conference 1994 - 1997:

- Topics:
- *Point - Counterpoint: Database Marketing Implementation*
  - *Charting your Sales Processes – The Rewards and Pitfalls*
  - *Effective Call Center Management of Leads and Inquiries*

Direct Marketing Association; 1982 - 2006:

Annual Conference :

- Topics:
- 1986: *Business-to-Business vs. Consumer Telephone Selling*
  - 1987:1989: *Results of an Industry-wide Call Center Salary Survey*
  - 1992: *Effective Marketing & Advertising Cost Management*  
(in conjunction with AT&T)
  - 2006: *Direct Marketing and Telephone Marketing Legislative Update*

Other DMA Conferences :

- Topics:
- "Growing" Telemarketing Managers from within Your Call Center*
  - The Mathematics of Outbound Telephone Marketing*
  - Effective Utilization of Lists*

EP Seminars:

- Topics:
- *Quality Customer Service*
  - *Working Together as a Team*

American Management Association Seminars: - Integrated Direct Marketing

Contracted Seminars:

<u>Organization</u>	<u>Topic</u>
AT&T: Marketing Management Div.	Improving the Client-Agency Relationship
AT&T: Direct Marketing/Communications Mgmt Div.	Selecting/Managing Vendors & Agencies
Olympia Office Products, Inc.	Integrating Direct Marketing Efforts with Sales Needs
Accenture Consulting	Integrated Marketing Techniques; Telephone Selling
Accenture Consulting National Kick-Off Meeting:	Integrating Database Marketing & Sales
Chava Manufacturing, Inc.	Customer Service/Sales: Call Center Improvement
Youth Consultation Services	Working Together as a Team



General Electric; GE Supply Div. Building Service, Sales and Teams  
General Electric; Info Services Div. Telephone Sales Expertise

**Committees and Panels:**

New Jersey Supreme Court, Attorney Ethics: Fee Arbitration Panel:1996 - 2000; 2009 - 2013

**Expert Witness Experience:**

- 1) West Loop vs North American Bancard, LLC (2019 – present). Retained by Plaintiff in this class action matter in which the Plaintiff alleges that Defendant and/or others acting on its behalf, made unsolicited calls and/or sent unsolicited facsimile advertisements or “junk faxes” to Plaintiffs and others similarly situated, in violation of the Federal Communications Commission’s Telephone Consumer Protection Act (“TCPA”). **Was deposed.**
- 2) ATD-American vs Krueger International (2012-2014). Retained by defendant in this breach of contract matter involving direct marketing, direct mail and catalog marketing sales of office furniture. Provided expert testimony with regard to direct marketing and catalog marketing. Prepared a Report of Findings, **was deposed**, and prepared to provide expert testimony at trial in the U.S. District Court for the Eastern District of Pennsylvania.
- 3) Donaca vs Dish Network (2012-2014). Retained by defendant in this class action, brought in U.S. District Court for the District of Colorado, in which plaintiff(s) sought damages against Dish network for alleged violations of the Federal Telephone Consumers Protection Act (TCPA). Prepared a Report of Findings and was prepared to testify.
- 4) U. S. Department of Justice, Southern District of Illinois. U.S. Vs Kyle Kimoto Retained by the U.S. Attorney in 2008, I **provided expert trial testimony** in a criminal matter involving deceptive direct mail and telephone marketing practices involving debit/credit cards.
- 5) State of Florida, Div. of Law and Public Safety (2008). Provided expert opinion on direct marketing and database marketing practices related to the sale of motor vehicle data in this class action. Developed Report of Findings based upon review of deposition testimony and discovery documents.
- 6) New York Civil case (2006 – 2008). Represented plaintiff, a major financial services company, in a breach of contract dispute with an outsourced marketing services provider. Provided expert testimony on credit advertising operations and practices; call center industry standards; the use of deceptive language and the Federal Trade Commission’s “Telephone Sales Rule” as it relates to the sale of credit cards and credit products. Developed Report of Findings based upon review of deposition testimony and discovery documents. Assisted in the determination of damages. **Was deposed.**
- 7) Florida Civil case (2001 – 2003). Provided consultation relative to direct marketing promotions, data sharing, and deceptive practices in two class actions against a Fortune 500 company. Identified items to be requested in discovery; provided assistance with regard to analysis of discovery results, industry practices, and trial preparation with contemplation and expectation of trial testimony.



- 8) Pennsylvania Civil case(1998 – 2001). Working for defendants, provided consultation on direct marketing, database and call center operations and practices in a breach of contract direct mail matter. Provided assistance with regard to analysis of discovery results, damage estimates, and preparation of graphical presentations for use at trial. **Was deposited** with contemplation and expectation of trial testimony.
- 9) State of Colorado, Attorney General's Office vs Publisher's Clearing House (2001). Provided consultation on deceptive direct marketing subject matter as it related to deceptive sweepstakes tactics. Provided assistance with regard to discovery, analysis of discovery results, and preparation for trial. **Was deposited** with contemplation and expectation of trial testimony.
- 10) State of Wisconsin, Attorney General's Office (1999 – 2000)). Provided expert opinion and consultation on direct marketing subject matter relative to the targeting of senior citizens; and deceptive/misleading direct marketing and sales tactics, as employed by Publishers Clearing House. Assisted in case/trial preparation, specifically with regard to discovery, analysis of discovery results, and identification of contradictory testimony. **Was deposited and testified for two days at trial.**
- 11) State of Florida Attorney General's Office(1997 – 1999). Provided expert opinion and consultation on direct marketing, and deceptive marketing promotions as it related to the sale of magazine subscriptions by a major magazine sweepstakes company. Provided assistance in the preparation of the case, with contemplation and expectation of testimony.
- 12) New Jersey Civil case (1995). Provided expert opinion and consultation on behalf of class action plaintiffs in a matter involving deceptive direct marketing and practices, promotions and operations by a major magazine sweepstakes company. Prepared a report of findings and **was deposited.**

**Additional Experience:**

- Supreme Court of New Jersey; Office of Attorney Ethics, Fee Arbitration Panelist: 1996 – 2000; 2010 – 2013.
- Direct Marketing Association Annual Awards, Finalist Judge: Direct Marketing Awards

**Work Experience :**

1989 - Present President, The TM Group, Ridgewood, NJ; Partner, Optimal Business Solutions Consulting companies focusing on call center operations, sales and marketing improvement

1996 – 1999 General Manager, Direct Marketing Div., The Janus Group, Bridgewater, NJ Consulting company integrating marketing, management and technology for marketing-oriented companies

1985 - 1989 Direct of Marketing & Sales Support, Automatic Data Processing, Roseland, NJ

1984 - 1985 Vice President of Marketing, The Gillette Co., MISCO Catalog Div., Holmdel, NJ

1983 - 1984 Vice President, Young & Rubicam, Stone & Adler Direct Response Div.

1981 - 1983 Vice President, Marketing, Wometco Enterprises, Inc., Home Theatre Div. Previous Marketing Management positions at two B-to-B catalog marketing companies (Myron Mfg. Corp. and U.S.Pencil and Stationery Corp.)

**Education and Affiliations :**

University of Michigan, Graduate School of Business, MBA Executive Course 1980

Fairleigh Dickinson University, 1968 -1972, Business Administration (Did not graduate)

Arizona State University, 1966 -1968 Business Administration (Did not graduate)

**Direct Marketing Association:** Telephone Marketing Council (served as Council Chair)  
Chairman: 2nd Annual Telephone Marketing Conference  
Business Marketing Council

**Center for Database Marketing:** Board of Advisors

**Direct Marketing to Business Conference:** Faculty

**Database Marketing Conference:** Faculty

**American College of Healthcare Executives (ACHE):** Member

**National History Bowl** Board of Advisors

**Ridgewood Historical Society** Board of Trustees





## Windstream Segment Results

updated 9/12

	Mail Qty	Calls	GRR%	Offer Calls	Offer%	Sales	Sales%	PSU's	PSU/Sale	Mobile Sales	Video Sales	Internet Sales	Voice Sales	Sales/M mailed
3/26/2019 Incremental	819,241	3,721	0.45%	1,754	47.1%	663	37.8%	1,502	2.27	70	472	614	347	0.81
5/6/2019 NDM	783,137	6,017	0.77%	3,664	60.9%	1,243	33.9%	2,806	2.26	127	941	1,140	598	1.59
5/13/2019 NDM	743,000	3,949	0.53%	2,281	57.8%	772	33.8%	1,682	2.18	74	538	699	371	1.04
5/20/2019 NDM	782,501	5,926	0.76%	3,647	61.5%	1,320	36.2%	2,715	2.06	103	827	1,197	588	1.69
<b>Total - Windstream Segments NDM</b>	<b>2,387,065</b>	<b>17,176</b>	<b>0.72%</b>	<b>10,523</b>	<b>61.3%</b>	<b>3,628</b>	<b>34.5%</b>	<b>7,773</b>	<b>2.14</b>	<b>350</b>	<b>2,444</b>	<b>3,312</b>	<b>1,667</b>	<b>1.52</b>

AEO - Subject to Protective Order

**JOINT Ex. 17**

**Page 1 of 3**



### Windstream Segment Results

continued 5/12

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## Windstream Segment Results

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5/20/2019 NDM	782,501	5,926	0.76%	3,647	61.5%	1,320	36.2%	2,715	2.06	103	827	1,197	588	1.69
<b>Total - NDM</b>	<b>2,308,638</b>	<b>15,892</b>	<b>0.69%</b>	<b>9,592</b>	<b>60.4%</b>	<b>3,335</b>	<b>34.8%</b>	<b>7,203</b>	<b>2.16</b>	<b>304</b>	<b>2,306</b>	<b>3,036</b>	<b>1,557</b>	<b>1.44</b>
<b>Total Windstream</b>	<b>3,127,879</b>	<b>19,613</b>	<b>0.63%</b>	<b>11,346</b>	<b>57.8%</b>	<b>3,998</b>	<b>35.2%</b>	<b>8,705</b>	<b>2.18</b>	<b>374</b>	<b>2,778</b>	<b>3,650</b>	<b>1,904</b>	<b>1.28</b>



Steven J. Reisman  
Tami Kameda Sims (*pro hac vice pending*)  
Shaya Rochester  
Cindi M. Giglio  
**KATTEN MUCHIN ROSENMAN LLP**  
575 Madison Avenue  
New York, NY 10022  
Telephone: (212) 940-8800  
Facsimile: (212) 940-8776

*Proposed Conflicts Counsel to the Debtors and Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
	)	
WINDSTREAM HOLDINGS, INC., et al., <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
	)	
WINDSTREAM HOLDINGS, INC., et al.,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. _____
	)	
vs.	)	
	)	
CHARTER COMMUNICATIONS, INC. and	)	
CHARTER COMMUNICATIONS OPERATING, LLC,	)	
	)	
Defendants.	)	
	)	

**COMPLAINT**

<sup>1</sup> The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of debtor entities in these Chapter 11 cases, for which the Debtors have requested joint administration, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' proposed claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

Windstream Holdings, Inc. and its debtor affiliates as debtors and debtors in possession in the above-captioned Chapter 11 cases (collectively, the “Debtors” or “Windstream”), by and through their undersigned attorneys, allege for this Complaint and claims for relief against defendants Charter Communications, Inc. and Charter Communications Operating, LLC (collectively, “Charter”) as follows:

### **NATURE OF THE ACTION**

1. As was publicly disclosed by Windstream in its First Day filings in these Chapter 11 cases, Windstream did not arrive in Chapter 11 due to operational failures, and does not expect or plan to liquidate. Instead, the Debtors have every expectation that their operations will continue uninterrupted and their approximately 11,600 employees will be able to continue to focus on providing best-in-class service to all of Windstream’s valued customers. The primary aim of these Chapter 11 cases is to serve as a foundation for a financial restructuring.

2. Despite these facts, one of Windstream’s direct competitors, Charter through its brand Spectrum, commenced a scare-tactic campaign to mislead, deceive, and confuse consumers regarding the reason, status, and consequences of Windstream’s Chapter 11 cases. Charter disseminated false advertisements, directly targeting Windstream’s strongest customer bases in Alabama, Georgia, Kentucky, Ohio, Nebraska, and North Carolina. With a clear intent to deceive, Charter’s advertisements were sent to Windstream’s customers in a manner designed to make customers believe that the communication was from Windstream. On the envelopes, Charter used Windstream’s trademark and copied the same distinct color pattern from Windstream’s current advertising campaign. Charter deceitfully used this bait-and-switch tactic to lure Windstream customers into opening the advertisement. Instead of a Windstream communication as consumers would have expected, the envelopes contained false and

misleading statements about Windstream's Chapter 11 cases. The advertisements falsely implied that due to its bankruptcy, Windstream would not be able to continue services and was going to liquidate. The advertisements urged customers to switch to Charter because Windstream was in imminent danger of going out of business.

3. Charter is intentionally deceiving Windstream's customers. The Chapter 11 filing has not disrupted the Debtors' operations nor created any "uncertainty" about Windstream's ability to continue serving its customers. To the contrary, the Debtors have secured \$1 billion of DIP financing and have every expectation that they will emerge from Chapter 11 as a going concern and as a strong and viable company for years to come. Charter's tactics damage Windstream's efforts to emerge from Chapter 11 as a successful going concern, thereby threatening Windstream's ability to protect its customers, employees, creditors, and vendors. Charter's conduct is despicable and must be stopped immediately, before causing any further harm to the Debtors' restructuring efforts. The only so-called "uncertainty" surrounding the Debtors' Chapter 11 cases is the result of Charter's *own* actions. Specifically, at the same time that Charter sent false and deceptive advertisements to Windstream's customers, Charter intentionally disconnected service to some of Windstream's customers, in breach of its VAR Contract (defined below) with the Debtors, thereby creating the "uncertainty" falsely alleged in Charter's advertisements. Accordingly, to the extent there is any "uncertainty" created by the Debtors' Chapter 11 filing, it is entirely manufactured by Charter.

4. The great irony to Charter's tactics, and which makes them particularly offensive, is that Charter is engaging in virtually the same bad acts for which Charter sought—and obtained—a TRO in its own Chapter 11 cases ten years ago. Specifically, in 2009, Charter sought a TRO claiming that DirecTV, one of its biggest competitors, falsely stated and



deceptively implied that Charter's Chapter 11 bankruptcy filing would adversely affect Charter's customers and cause it to cease operations. As Charter itself recognized, this type of manipulative campaign to distort the truth behind a Chapter 11 filing in order to cause consumer confusion and deceit, violates multiple federal and state statutes, causes irreparable injury, and is properly subject to immediate injunctive relief

5. As set forth in detail below, Charter's false and misleading statements about Windstream's products and services violate the Lanham Act and other similar state statutes, entitling Windstream to both injunctive relief and monetary damages. Charter's strategic choice to then lend credence to its false statements by intentionally interrupting service to certain Windstream's customers without giving Windstream notice violates the VAR Contract.

6. Through its actions, Charter has blatantly and willfully disregarded the Bankruptcy Code's automatic stay in multiple ways. First, Charter's systematic and widespread campaign of sending false and deceptive advertisements to Windstream's customers impairs the Debtors' goodwill, which constitutes property of the Debtors' estate. Second, Charter breached the VAR Agreement by disconnecting service to Windstream's customers because Windstream has not paid certain prepetition amounts allegedly due to Charter. Charter's attempt to collect prepetition debt constitutes a clear-cut violation of the automatic stay. For these reasons, as set forth in more detail herein, Windstream is entitled to damages, including attorneys' fees.

7. In sum, Charter has contravened numerous federal and state statutes, breached its contractual obligations to Windstream, and violated the Bankruptcy Code's automatic stay. The Debtors respectfully request that the Court immediately enjoin Charter from engaging further in such tactics to prevent irreparable injury to the Debtors and their estates, order Charter to pay damages and attorneys' fees, and order such other relief as the Court deems appropriate.

**JURISDICTION AND VENUE**

8. The Bankruptcy Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the Southern District of New York, dated February 1, 2012. The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Bankruptcy Court in connection with this Adversary Proceeding to the extent that it is later determined that the Bankruptcy Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

**THE PARTIES ARE DIRECT COMPETITORS**

10. Windstream is a FORTUNE 500 company organized under the laws of Delaware.

11. Windstream is a leading provider of advanced network communications, technology, broadband, entertainment, and core transport solutions to consumer and business customers across the United States, with a national footprint spanning approximately 150,000 fiber miles. Windstream offers broadband and entertainment solutions to consumers and small businesses, primarily in rural areas, in eighteen states. Central to Windstream’s growth is a focused operational strategy for each of its business segments with the overall objective of generating strong financial returns for its stakeholders. Windstream’s operational performance is on an upward trajectory—throughout 2018, Windstream added over 14,000 new broadband subscribers and improved strategic sales revenue.

12. Defendant Charter is a publicly traded telecommunications company incorporated in the State of Delaware and headquartered in Connecticut. Charter and its affiliates and

subsidiaries provide cable and internet services to residential and commercial customers in forty-one states. Through its brand Spectrum, introduced in 2013, Charter has expanded its business to over twenty-eight million customers.

13. Windstream and Charter compete directly with one another to provide telecommunications service to customers throughout the United States. Charter is available in both urban and rural areas, including in every state Windstream is available. Specifically, Charter has a strong presence, through coverage and customers, in some of Windstream's top states including Kentucky, Georgia, and North Carolina. The two companies also have competing retail stores in several areas, including Lexington, KY, a key market for Windstream.

### **BACKGROUND**

#### **Windstream's Chapter 11 Filing Will Not Disrupt Its Operations Or Its Ability To Serve Its Customers**

14. On February 25, 2019 (the "Petition Date"), each of the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Chapter 11 filing was not the result of any failures in the Debtors' operations nor caused by concerns with the overall financial health of the Debtors' businesses. Rather, the Chapter 11 filing was precipitated by an adverse decision issued by the United States District Court for the Southern District of New York, holding that Windstream had defaulted on an indenture with certain of Windstream's unsecured notes. The Debtors will address and resolve the claims arising from this decision pursuant to a plan of reorganization under which Windstream expects to emerge from Chapter 11 as a going concern and as a strong and viable company for years to come.

15. Indeed, in the months prior to the Chapter 11 filing, Windstream's operations and businesses experienced a particularly strong period of growth. For example:



- Windstream ended the fourth quarter with three consecutive quarters of strategic sales in excess of total enterprise sales.
- The fourth quarter of 2018 represented the third consecutive quarter of consumer broadband growth, with Windstream adding over 14,000 subscribers in 2018.
- February 2019 represented the 12th consecutive month of consumer broadband growth.
- The growth was driven by both stronger sales and lower churn as Windstream benefited from recent investments in its network.
- Windstream has steadily increased the percentage of its footprint with access to higher-speed internet.
- For the foregoing reasons, the year prior to the Chapter 11 filing was a “transformational year,” including consumer broadband subscriber growth.

16. This strong operational momentum is not expected to be disrupted by the Chapter 11 filing. The Bankruptcy Court has already granted the relief requested in all of the Debtors’ “first day” motions, to help ensure that the Debtors’ businesses will continue operating in the ordinary course and that the Debtors will be able to pay employees, maintain relationships with vendors and business partners and, most importantly, serve customers as usual without disruption. Moreover, and in a testament to the strength of Windstream’s business operations and reorganizational prospects, the Debtors were able to secure \$1 billion in DIP financing within one week of the Petition Date. This DIP financing will provide the Debtors with sufficient capital and liquidity to pay vendors, employees, business partners and other counterparties in the ordinary course throughout the pendency of the Chapter 11 cases.

17. For the foregoing reasons, it is expected that the Chapter 11 filing will not disrupt the Debtors’ operations nor Windstream’s ability to continue serving its customers. Contrary to the misleading advertisements published and mailed by Charter to Windstream’s customers, the Debtors did not file for Chapter 11 to liquidate or downsize operations, and there has been no interruption to Windstream’s operations or services. Rather, Windstream filed for Chapter 11 simply to restructure the company’s balance sheet. This is not a matter of opinion, but of fact.

### **Charter Launches A False And Misleading Advertising Campaign**

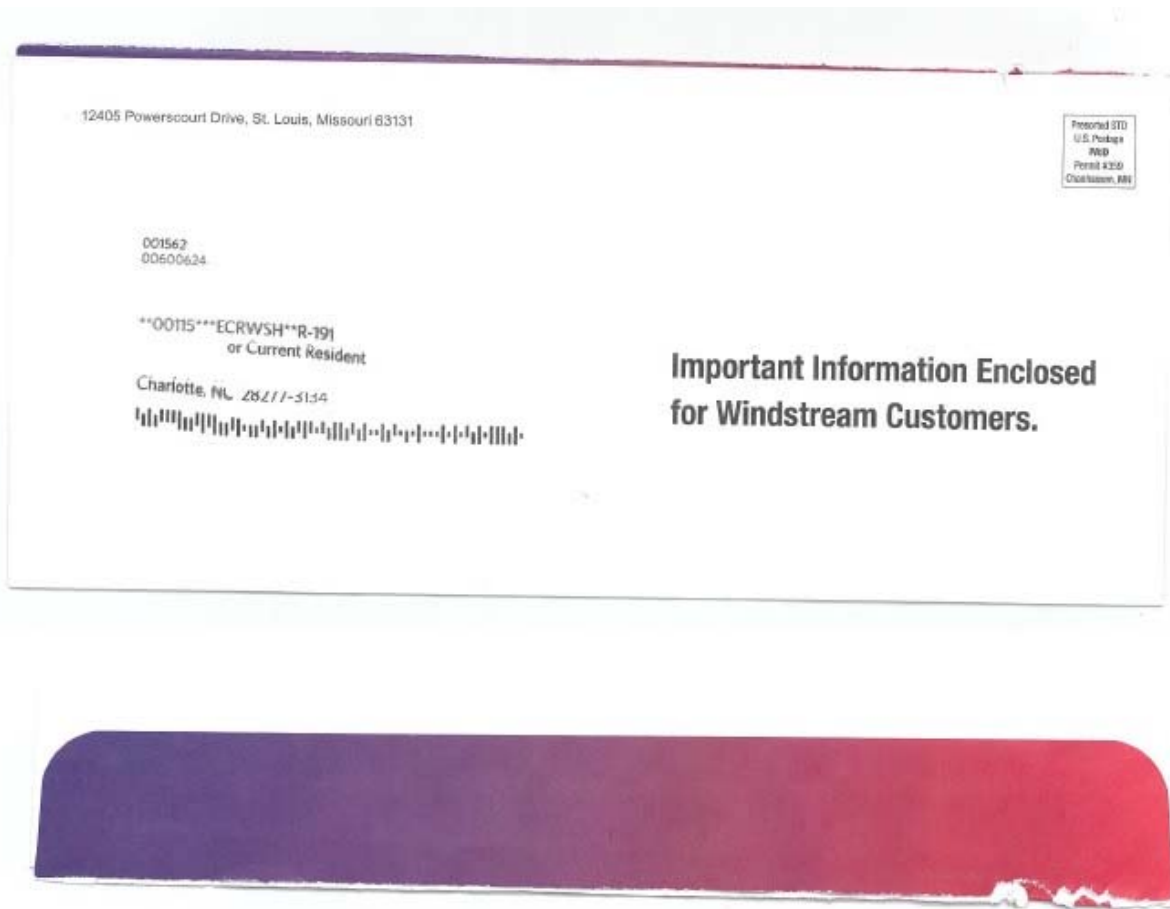
18. Shortly after Windstream filed for Chapter 11 protection, Charter commenced a false and misleading advertising campaign designed to cause irreparable injury and damage to Windstream's reputation and business. Charter targeted Windstream customers in Alabama, Georgia, Kentucky, Ohio, Nebraska, and North Carolina, which are several of Windstream's top performing states.

19. Charter disseminated a direct mail campaign containing a letter advertisement to Windstream's customers. On the envelopes for the advertisement, Charter intentionally utilized Windstream's trademark<sup>2</sup> and signature color pattern to mislead Windstream customers into believing that the advertisement came directly from Windstream. Indeed, Charter's advertisement stated that it was "**Important Information Enclosed for Windstream Customers.**" The envelope contained a highly visible color strip that copied the same distinct and eye-catching color pattern of dark purple gradually blending to a bright pink that Windstream is using in a current, pervasive marketing campaign. The envelope did not contain Charter's trademark, logos, or any other indicia that would otherwise suggest that the contents of the envelope were from Charter. Set forth below is an image of the envelope that Windstream customers received from Charter:

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<sup>2</sup> Windstream Services, LLC, who is among the debtors, owns several federal trademark registrations covering the word WINDSTREAM for various services, such as communication services that provide network access to multiple users. See, e.g., U.S. Trademark Registration No. 3390047 (filed on March 10, 2006).

**CHARTER ENVELOPE**



20. Windstream's current advertising campaign for Kinetic Internet has been running since September 2017 in all of Windstream's markets, including in Alabama, Georgia, Kentucky, Ohio, Nebraska, and North Carolina, where Charter's false advertisements were sent. Windstream's advertising campaign has consistently showcased the distinct and eye-catching color pattern of dark purple gradually blending to a bright pink for at least the past 12 months. Charter deliberately used Windstream's distinct color pattern on the envelopes to cause consumer confusion.



21. Below are copies of Windstream advertisements and its webpage:

**WINDSTREAM ADVERTISEMENT**



The advertisement features a blue and purple background. On the left, the text "SUPERFAST EXTREMELY AFFORDABLE" is written in large, bold, white and blue letters. Below this, a large orange circle contains the text "SPEEDS UP TO 100 MBPS \$36 /MO FOR 12 MONTHS". To the right of the circle, the text "Kinetic Internet by Windstream has the power to connect the entire family on multiple devices at the same time with superfast speeds. Thanks to our enhanced fiber-backed network, you'll have enough bandwidth to stream, game, download and enjoy a fully connected smart home." is displayed. Below this text, four key features are listed: "Unlimited" (Unlimited Internet with no data caps), "Locked Rate" (Locked rate for 12 months), "No Contract" (No term contract and no bundle required), and "Money-Back" (30-day money-back guarantee). At the bottom, two red buttons are present: "Call us at 555-555-5555" and "Sign Up Today For Faster Speeds!". The Kinetic by Windstream logo is at the bottom right.

**SUPERFAST  
EXTREMELY  
AFFORDABLE**

Kinetic Internet by Windstream has the power to connect the entire family on multiple devices at the same time with superfast speeds. Thanks to our enhanced fiber-backed network, you'll have enough bandwidth to stream, game, download and enjoy a fully connected smart home.

**Unlimited** Unlimited Internet with no data caps

**Locked Rate** Locked rate for 12 months

**No Contract** No term contract and no bundle required

**Money-Back** 30-day money-back guarantee

Call us at 555-555-5555

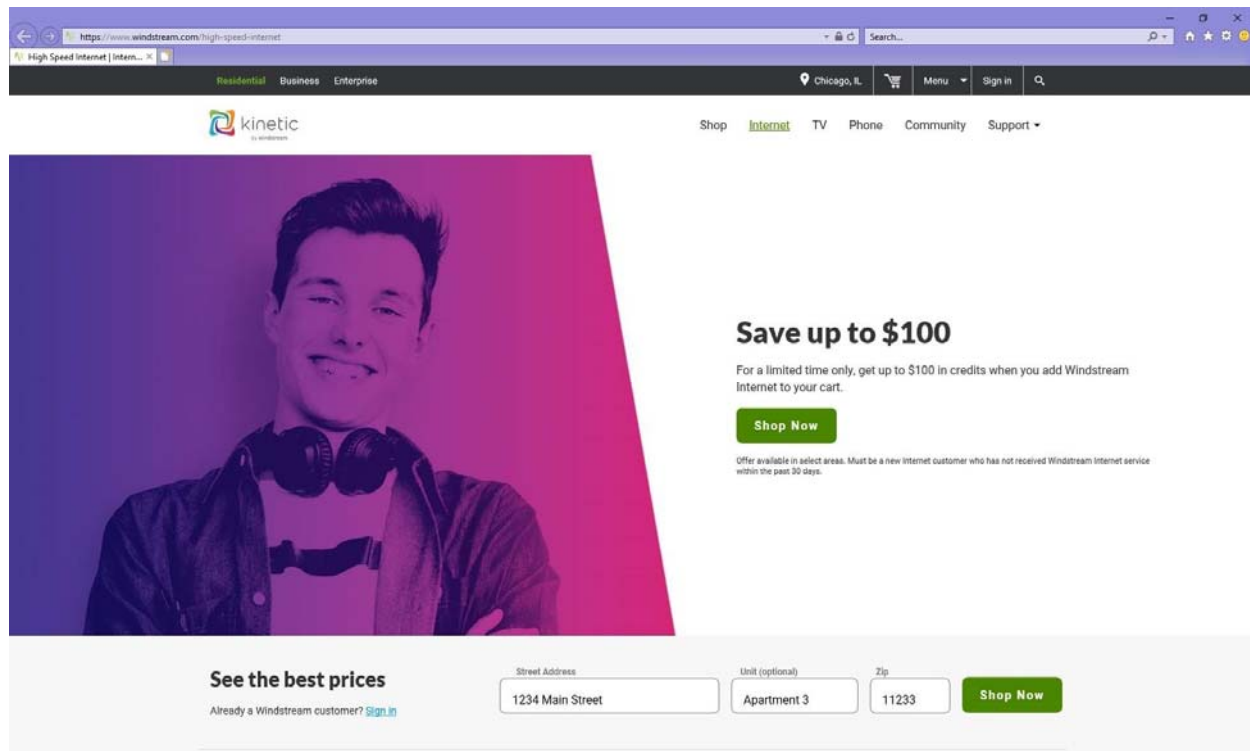
Sign Up Today For Faster Speeds!

**kinetic.**  
by windstream.

**Kinetic by Windstream:** Limited time, non-transferable offer for residential customers that may not be combined with other promotions. Credit restrictions may apply. Subject to availability, Windstream Terms and Conditions (windstream.com/terms), and Windstream Acceptable Use Policy (www2.windstream.net/customer-support/acceptable-usage-policy/). **Details:** Must be a new Internet customer who has not received Windstream Internet service within the past 30 days. Must subscribe to select plans to qualify. After 12 months, the standard Kinetic Internet rate applies. Taxes, fees, and surcharges are extra and not included in introductory or standard rate. Additional restrictions may apply. **Kinetic Internet:** Windstream cannot guarantee speeds or uninterrupted, error-free service. Speed availability, capabilities and provisioning vary depending on network and terrain conditions, Internet, website, or network congestion, and customer geographical location. Windstream makes no representations related to download or upload speeds. Windstream assumes no responsibility or liability for information of services or service performance differences actual and advertised performance. In select areas, includes Internet transport, Internet access, and unlimited incoming calls. Outbound calls, except for toll free and 911, will be charged at 10 cents/minute. **Equipment:** Monthly equipment fee may apply. **Money-Back Guarantee:** If customer cancels new Internet service within 30 days after start of service, all service charges and any modem equipment and install charges, if applicable, related to Internet services only, will be refunded. Modem equipment must be returned upon termination and if not, Windstream reserves the right to charge for the modem or a \$100 fee. © 2018 Windstream Services, LLC. All rights reserved. Kinetic and Windstream are registered service marks or trademarks of Windstream Intellectual Property Services, Inc. and/or its affiliates. All other marks are the property of their respective owners.

022852 TIER 1 1/2/18

## WINDSTREAM WEBSITE



22. The envelopes were thus designed with Windstream's mark and distinct color pattern to make Windstream's customers believe that the letters came from Windstream, and thus, more likely to open the letters. The envelopes, however, were not from Windstream and did not contain legitimate information concerning Windstream's business. Instead, they contained a Charter advertisement, which contained false and misleading statements about Windstream. In particular, the advertisements state:

**Windstream Customers,**

**Don't Risk Losing Your Internet and TV Services.**

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. Will they be able to provide the Internet and TV services you rely on in the future? To ensure you are not left without vital Internet and TV services, switch to Spectrum. With a network built for the future, Spectrum is here for the long haul . . . .

Goodbye, Windstream.

Hello, Spectrum.

...

Windstream's future is unknown, but Spectrum is here to stay—delivering internet and TV services you can count on. . . .<sup>3</sup>

23. Charter's advertisements falsely state and imply that Windstream's bankruptcy means that Windstream will not be able to provide services. It further falsely states that Windstream's bankruptcy necessarily means "uncertainty," even though Windstream's Chapter 11 filing has not disrupted its operations and there is no expectation that Windstream will be forced to liquidate or even downsize operations. Indeed, the Bankruptcy Court has already granted relief to help ensure that Windstream's operations will continue in the ordinary course. Further, the use of the phrase "Goodbye, Windstream," falsely implies that Windstream is going out of business altogether, when there are no plans for liquidation or downsizing. A true and accurate copy of Charter's advertisement is copied below.

---

<sup>3</sup> The advertising campaign states that the offers therein will last through April 25, 2019.



CHARTER ADVERTISEMENT



Spectrum



## Windstream Customers, Don't Risk Losing Your Internet and TV Services.

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. Will they be able to provide the Internet and TV services you rely on in the future? To ensure you are not left without vital Internet and TV services, switch to Spectrum. With a network built for the future, Spectrum is here for the long haul—with our best deal for Internet and TV services from **\$59.98/month for 12 months.\***

- **Fast speeds up to 200 Mbps.<sup>®</sup>** Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top performing Internet provider,** delivering more speed, more consistently.<sup>11</sup>
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.<sup>‡</sup>
- **FREE** HD<sup>†</sup> with instant access to a huge selection of On Demand titles.
- Download the **Spectrum TV<sup>®</sup> App<sup>®</sup>** to stream up to 50+ LIVE channels<sup>†</sup> including BET, OWN and VH1 on your devices, anywhere in your home and everywhere on-the-go.

Windstream has a 2-year contract. With Spectrum there are no contracts.  
**Plus, we will buy you out of your current contract up to \$500.\*\***

BEST  
DEAL  
EVER!

Goodbye, Windstream.  
**Hello, Spectrum.**

Call 1-855-280-7152  
or visit [Spectrum.com/lifestyle](http://Spectrum.com/lifestyle)

Limited-time offer! Expires 04/25/19

SPECTRUM INTERNET 200 Mbps  
+ SPECTRUM LIFESTYLE TV

**\$59<sup>98</sup>**  
/mo. for  
12 mos.\*

**NO CONTRACT**

0325-ALD-59 33513001-A01-00595136-001552

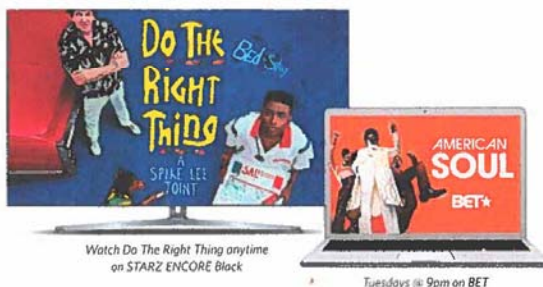
CHARTER ADVERTISEMENT



## Now is the time to switch to Spectrum.

Windstream's future is unknown, but Spectrum is here to stay—delivering Internet and TV services you can count on. Enjoy super-reliable **200 Mbps<sup>™</sup>** Internet speeds, plus a **FREE** modem and **FREE** Security Suite.

With Spectrum Lifestyle TV, watch LIVE TV, your favorite shows, sporting events and more in superior digital picture and sound quality. Get instant access to thousands of **FREE** On Demand movies, shows and Primetime favorites. Download the Spectrum TV<sup>®</sup> App<sup>®</sup> to stream LIVE TV and On Demand titles anywhere in your home and everywhere on-the-go.



Goodbye, Windstream.  
**Hello, Spectrum.**

Call 1-855-280-7152  
or visit [Spectrum.com/lifestyle](http://Spectrum.com/lifestyle)

**Limited-time offer! Expires 04/25/19**

**SPECTRUM INTERNET 200 Mbps  
+ SPECTRUM LIFESTYLE TV**

**\$59.98** /mo. for 12 mos.\*

**BEST  
DEAL  
EVER!**

**NO CONTRACT**

Offer expires 04/25/19; valid to qualified residential customers who have not subscribed to any services within the previous 30 days and have no outstanding obligations to Charter. \*Bundle price for Spectrum Lifestyle TV and Internet is \$59.98/mo., from yr 1; standard rates apply after promotional period ends, additional services are extra. \*\*Restrictions apply. For contract buyout qualifications, go to [spectrum.com/buyout](http://spectrum.com/buyout). †Channel and HD programming availability based on level of service and may vary by area. It is possible that some channels are not available in certain areas. ‡TV App account log-in may be required to stream some TV content online. Apps are free with corresponding level of service. Apps and live streams available in the U.S. only and subject to additional restrictions. †Services compared to Kinetic Internet 200 and DirecTV packages per [windstream.com](http://windstream.com) 03/07/19. General Terms: TV install, other equipment, taxes, fees and surcharges extra (odcst, surcharge up to \$11.99/mo.). INTERNET: †Available Internet speeds may vary by address. ‡Based on the 2016 FCC Broadband Report. Services subject to all applicable service terms and conditions, subject to change. Services not available in all areas. Restrictions apply. To reduce Charter direct mail, visit [spectrum.com/dmoptout](http://spectrum.com/dmoptout). Viacom Media Networks, a division of Viacom International Inc. Starz<sup>®</sup> and Starz Encore<sup>™</sup> and related channels and service marks are the property of Starz Entertainment, LLC. Visit [starz.com](http://starz.com) for airdates/times. Do The Right Thing ©1989 Universal City Studios, Inc. All trademarks are the property of their respective owners. ©2019 Charter Communications.

0325-ALD-59

33513001-A01-00595136-001552

000020554

**Windstream's Customers Are Confused And Misled By Charter's Advertisements**

24. Charter's advertising has caused consumer confusion and consumer deception among Windstream's customers. On information and belief, Windstream customers were misled into opening the envelopes because they believed that the communications came from Windstream. Upon opening the envelopes, customers were then confused and misled by the false statements contained in the advertisements.

25. As one example, a Windstream customer called Windstream to say that she was disconnecting service because she had switched to Spectrum just as the letter from *Windstream* had instructed her to do:

.... I got a letter in the mail saying that ya'll were going bankrupt and for me to go with Spectrum so I have gone to Spectrum and I have just called to have the services of Windstream disconnected.

...

I've got Spectrum over here so they go everything hooked up and so they told me not to call you until they got everything going like it's supposed to be but I got that letter in the mail *from Windstream* and told me to get with you guys – to get with Spectrum so that's what I did.

...

... I'm getting services disconnected with Windstream because of the letter that I got in the mail.

...

[Customer care associate] . . . We haven't gone bankrupt where you would need to leave our services. So I definitely apologize for any misunderstanding with that.

Yea, I got a very much misunderstanding on that. I thought ya'll cause it said had gone uh...I got the letter right here and I thought ya'll were going bankrupt and ahh..get going out of service.

...

Oh, well I was just going there because it says hello I mean goodbye Windstream and uh..to got to Spectrum.

...

Oh lord, well I've been [Inaudible] on 'em honey. I thought the letter was from you cause it *said Windstream Corporation*.

...

I thought that I had a certain time to discontinue your service. You know.

...



The way the letter was written honey I mean. . .

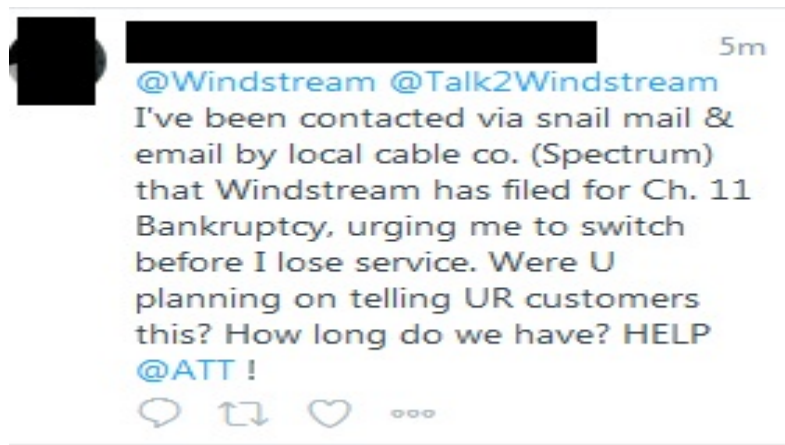
...

Because I mean uh I got the letter and I mean you know I've never got a letter like that.

...

From anyone and then I get a letter from you and I didn't know what and it was telling me and I was just doing what the letter and it say *from Windstream*.

26. As another example, the following Windstream customer took to posting on social media to express his obvious distress of learning from Charter's advertisements that he would be losing services due to Windstream's bankruptcy:



27. Additionally, as a direct result of Charter's false advertising, many of Windstream's customers called in or visited local stores, upset and concerned about the status of Windstream's services. The following are just a few examples of Windstream customer care associates' contemporaneous notes of Windstream customers who called in on March 22, 2019, and March 27, 2019, because they were confused and concerned after receiving Charter's advertisements:<sup>4</sup>

[Redacted customer name, account information, and address]

LINCOLN, NE, United States, 68516  
FLYER IN MAIL SAID SPECTRUM SAID THEY ARE LOSING THE WS  
SERVICE THEY NEED TO CALL THEM

<sup>4</sup> When Windstream's customer care associates take customer calls, they make contemporaneous notes, taking down the customer's information and describing the customer's concerns.

...

Customer [Redacted] received a letter from Spectrum [redacted account information] stating that Windstream has filed for Bankruptcy and will soon be discontinuing service to his area in Morehead, KY. Account noted, customer reassured and thanked for the heads up

...

[Redacted customer name, account information, and address]  
Tollesboro, KY 41189

Customer called in upset that spectrum called her and sent letter in mail saying we filed bankruptcy and they needed to switch over.

...

[Redacted customer name, account information, and address]  
[Redacted name] CI<sup>5</sup> WNATED TO KNOW IF WE WERE CLOSING DUE TO CHAPTER 11 BANKRUPCY/ SAID THAT SHE RECEIVED A LETTER FROM SPECTRUM TELLING THEM THAT WE ARE [CLOSING]/ ADVISED IT WAS NOT TRUE AND GAVE INFO OF CHAPTER 11 TO BETTER UNDERSTAND/ ALSO WENT OVER SERVICES AND REMOVED SHIELD PRODUCT/ NO OTHER CHANGES

...

[Redacted customer name, account information, and address]  
[Redacted name] called re Spectrum Letter re Windstream going away, has kinetic TV; she will mail letter to my attention; emailed info to [Redacted]

...

[Redacted customer name, account information, and address]  
[Redacted name] ci to go over letter he received from spectrum and chapter 11/ advised we are not closing and no changes

...

[Redacted customer name, account information, and address]  
[Redacted name] ci about receiving letter from Spectrum about Windstream going out of business/ sent email to [Redacted]/ reassured customer that she has no worries about her service going anywhere

...

[Redacted customer name, account information, and address]  
[Redacted name] ci to adv she got letter from spectrum stating we were going out of business/ reassured her we are not/ upgraded to 50mg

28. In addition to the foregoing, other Windstream customers called in to express concerns or to ask questions as a direct result of receiving Charter's false advertisements. In

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<sup>5</sup> Windstream customer care associates often use short-hand in taking notes. "CI" means "called in" and "adv" means "advised."

total, Windstream received at least 160 calls in the course of ten days. Moreover, some customers who received the targeted advertising called Charter to inquire and were told by Charter that they “have a contract with Windstream to buy us out.” This is outright false.

29. Windstream is informed and believes that the above-referenced advertisements were sent to Windstream’s customers in Alabama, Georgia, Kentucky, Ohio, Nebraska, North Carolina, and elsewhere.

30. As a direct result of Charter’s advertising campaign, Windstream has been forced to expend substantial time, money, and resources to combat these false claims. When distressed customers have called in, Windstream has offered upgrades, which many customers have taken. Windstream has also incurred costs and resources to educate its customer care associates on how to provide a comprehensive response to Charter’s false claims, which includes an explanation of the true effects of the Chapter 11 proceedings. In addition, as a direct result of Charter’s advertising campaign, Windstream has undertaken an extensive mailing and advertising campaign, at significant cost and expense, to counter Charter’s false and misleading advertising campaign. Windstream’s Legal department has also expended extensive time and effort in researching and responding to this matter.

**Charter Improperly Disconnected Service To Windstream Customers To Fabricate  
“Uncertain” Service**

31. At the same time Charter engaged in its false advertising campaign, Charter undertook actions that created the false appearance that Windstream’s services were, in fact, in a state of “uncertainty.” Windstream has a contractual relationship with Charter whereby Windstream uses Charter for “last mile” connectivity to provide access for certain customers in Windstream’s network. Windstream provides service to these customers over Charter’s affiliate Spectrum’s network. A true and correct copy of the “Spectrum Business Value Added Reseller



Agreement” (“VAR Contract”) entered between Windstream and Charter on or about April 11, 2018, with certain confidential terms redacted, is attached hereto as **Exhibit A**.

32. On or about March 14, 2019, Charter disconnected service to approximately 350 such Windstream customers, without notice to Windstream, in violation of Sections 2.3, 8.1, and 11.2 of the VAR Contract. When Windstream customers contacted Charter to have their services reinstated, they were told by Charter that service was not being reinstated because of Windstream’s failure to pay certain amounts due to Charter. Windstream, however, is not currently authorized to make any payments to Charter on account of prepetition debt as a result of the Chapter 11 filing. Charter’s attempt to thus collect prepetition is a willful violation of the Bankruptcy Code’s automatic stay and was a deliberate attempt to manufacture a problem with Windstream’s services. Thus, the only “uncertainty” in Windstream’s services since the Chapter 11 Cases have been deceitfully caused by Charter in violation of the automatic stay.

**Charter Claims It Is Entitled To Mislead Customers About Windstream’s Bankruptcy Even Though It Previously Filed A Lawsuit Against DirectTV For Engaging In The Same Type Of Advertising Campaign During Charter’s Bankruptcy**

33. Windstream sought to confer with Charter about these issues prior to filing the Complaint. On March 20, 2019, representatives of the parties convened a call to discuss certain false and inaccurate statements made by Charter’s employees and agents regarding Windstream’s bankruptcy. On March 21, 2019, Windstream sent a follow-up letter enclosing a copy of one of the false advertisements at issue and demanding that Charter immediately cease and desist from all further use of the advertisements. A true and correct copy of Windstream’s March 21, 2019, letter is attached hereto as **Exhibit B**. When Charter did not respond in a meaningful way, Windstream sent a follow-up letter on March 26, 2019. A true and correct copy of Windstream’s March 26, 2019, letter is attached hereto as **Exhibit C**.

34. On March 26, 2019, Charter responded to Windstream’s letters, contending that its advertisements were not false or misleading, and that it was proper to describe Windstream’s bankruptcy as creating an “uncertainty.” According to Charter, a Chapter 11 bankruptcy filing “creates ‘uncertainty’ regarding Windstream’s future until the bankruptcy is resolved.” A true and correct copy of Charter’s March 26, 2019, letter is attached hereto as **Exhibit D**.

35. In 2009, however, when Charter was undergoing its own Chapter 11 bankruptcy, Charter took the *exact opposite position*. Specifically, Charter denounced an advertising campaign targeting its own bankruptcy as uncertain, as a false, misleading, and deceitful campaign orchestrated to cause consumer confusion and irreparable harm.

36. Indeed, on April 11, 2009, Charter filed a complaint in the Eastern District of Missouri entitled *Charter Communications Holding Company, LLC v. DirecTV, Inc.*, Case No. 4:09-cv-00730-RWS, seeking a temporary restraining order and preliminary injunction under the Lanham Act to enjoin DirecTV from engaging in a false and misleading advertising campaign that was virtually identical to the campaign in which Charter is currently engaged. Charter’s complaint alleged that while it was in Chapter 11 bankruptcy, DirecTV launched a national advertising campaign specifically targeting Charter’s customers and prospective customers “to exploit the fact that Charter filed for bankruptcy to create a misimpression among Charter’s actual and potential customers that Charter is liquidating and that Charter’s services will end or be substantially impaired.” Charter further alleged that because its “relief . . . to continue business as usual [was] granted . . . DirecTV’s ads [were] literally false, grossly misleading, cause consumer confusion, and are likely to deceive Charter’s current and prospective customers.” *Id.* at 3. Charter also claimed that because “DirecTVs direct mail ads [were]

enclosed in envelopes that do not readily identify DirecTV as the sender,” this exacerbated the consumer confusion and deception. *Id.* at 10.

37. Charter asserted causes of action against DirecTV for false advertising under the Lanham Act and various other state consumer fraud and deceptive business practice claims. A true and correct copy of Charter’s complaint is attached hereto as **Exhibit E**. After Charter obtained an order temporarily restraining DirecTV from engaging in the advertising campaign, the matter was resolved via a settlement and DirecTV agreed to cease its advertising campaign.

38. Moreover, Charter has filed at least two other lawsuits accusing competitors of false advertising. In *CC Michigan, LLC (d/b/a Charter Communications) v. SBC Communications, Inc.*, 4:02-cv-00031-RHB (W.D. Mich.), Charter accused its competitor of making false and misleading statements about its cable modern Internet service. In *Charter Communications, Inc. v. Central Wisconsin, Communications, LLC*, 3:15-cv-00615-jdp (W.D. Wisc.), Charter accused its competitor of making false statements that it offered higher internet speeds thereby enticing customers to choose it over Charter. And in *Charter Communications Holding Company, LLC v. Macrae*, 2:18-cv-00577-JFW-KS, Charter accused its competitors of trademark infringement because the competitors copied Charter’s design mark and used it in their marketing campaign and products. Charter apparently recognizes the harm in making false statements and improperly using one’s trademark when it comes to its competitors’ conduct, but believes that it is above the law when it comes to its *own efforts* to unlawfully gain an unfair competitive advantage.

**Count I – Violation of the Lanham Act, 15 U.S.C. § 1125(a)**

39. Windstream incorporates by reference paragraphs 1 through 38 as though fully set forth herein.

40. Charter has made and continues to make false and misleading statements about Windstream's products and services, in written and oral communications to Windstream's customers, in violation of 15 U.S.C. § 1125(a).

41. Individually and collectively, the advertisements described above are false or misleading and deceive, confuse, or are likely to deceive or confuse a substantial segment of their intended audience in that they falsely portray Windstream's bankruptcy as having a detrimental effect on Windstream's customers, including, without limitation, by stating that there is "risk" that Windstream will no longer be providing service in the future.

42. Charter's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements deceive, or are likely to deceive, a substantial segment of their intended audience as to the nature, qualities, and characteristics of Charter's products and services.

43. Charter's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions cause confusion, or are likely to cause confusion or mistake, as to a substantial segment of their intended audience as to the nature, qualities, and characteristics of Windstream's products and services.

44. Charter's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions misrepresent the nature, characteristics, and qualities of Windstream's goods, services, or commercial activities.



45. Charter's false and misleading statements in its commercial advertising and promotion have been disseminated to the public at large, which includes customers and potential customers of both Windstream and Charter.

46. Windstream's customers have been actually deceived or confused by Charter's false and misleading statements.

47. Charter's false and misleading statements were material in that they are likely to influence the purchasing decision of Windstream's current or prospective customers.

48. Charter's false and misleading statements were, are, and continue to be made in interstate commerce.

49. Charter's false and misleading statements were, are, and continue to be made in bad faith. Charter intentionally set out to deceive the public with its advertisements including by using Windstream's mark and copying Windstream's distinct color pattern to lure customers into opening its advertisement containing false and misleading statements.

50. Charter's false and misleading statements were, are, and continue to be made intentionally and willfully and with a reckless disregard for the rights of Windstream.

51. Charter's false and misleading statements have resulted and will continue to result in actual or probable injury to Windstream.

52. Charter's false and misleading statements have damaged and will continue to damage Windstream's business reputation and goodwill.

53. Charter's false and misleading statements have and are likely to continue to injure Windstream by causing Windstream to lose subscribers and sales, resulting in monetary damages that are presently unknown to Windstream, in an amount to be determined at trial.

54. Charter's false and misleading statements were, are, and continue to be disseminated knowingly and willfully by Charter. Accordingly, Windstream is entitled to recover 1) Charter's profits, 2) monetary damages sustained by Windstream, 3) treble damages as provided under 15 U.S.C. § 1117(a), 4) costs as provided under 15 U.S.C. § 1117(a), and 5) attorneys' fees under 15 U.S.C. § 1117(a).

**Count II – Violation of Georgia Uniform Deceptive Trade Practices Act, O.C.G.A. §§ 10-1-370, et. seq.**

55. Windstream incorporates by reference paragraphs 1 through 54 as though fully set forth herein.

56. By engaging in the acts alleged above, Charter has engaged in deceptive trade practices in violation of O.C.G.A. §§ 10-1-370, et. seq. by, among other things:

- a) Using deceptive representations in connection with describing Windstream's goods and services (10-1-372(a)(4));
- b) Representing that Windstream's goods and services have characteristics that they do not have (10-1-372(a)(5));
- c) Disparaging Windstream's goods and services by false or misleading representations of fact (10-1-372(a)(8)); and
- d) Engaging in other conduct which similarly creates a likelihood of confusion or misunderstanding (10-1-372(a)(12)).

57. These acts of Charter described above have been, and continue to be, knowing and willful.

58. As a direct and proximate result of Charter's acts described above, Windstream has been irreparably harmed and damaged, and will continue to be irreparably harmed and damaged. Windstream has no adequate remedy at law that will compensate it for the continuing and irreparable harm it will suffer if the wrongful conduct of Charter is not enjoined.

59. Windstream is further entitled to costs and attorneys' fees pursuant to O.C.G.A. § 10-1-373(b).

**Count III – Violation of North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen Stat. § 75-1.1, et. seq.**

60. Windstream incorporates by reference paragraphs 1 through 59 as though fully set forth herein.

61. The North Carolina Unfair and Deceptive Trade Practice Act provides that “Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are declared unlawful.” N.C. Gen. Stat. § 75-1.1(b).

62. Charter's acts described herein constitute an unfair or deceptive act or practice, in or affecting commerce, and proximately caused injury to Windstream.

63. Charter's acts described herein were willful.

64. Windstream is entitled to damages, treble damages, and attorneys' fees pursuant to N.C. Gen. Stat. § 75-16 and § 75-16.1.

**Count IV – Violation of Nebraska Uniform and Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-302, et. seq.**

65. Windstream incorporates by reference paragraphs 1 through 64 as though fully set forth herein.

66. By engaging in the acts alleged above, Charter has engaged in deceptive trade practices in violation of Neb. Rev. Stat. § 87-302 by, among other things:

- a) Using deceptive representations in connections with goods and services (87-302(a)(4));
- b) Representing that goods or services have characteristics that they do not have (87-302(a)(5)); and
- c) Disparaging the goods, services, or business of Windstream by false or misleading representation of facts (87-302(a)(9)).

67. Charter's acts described herein were willful.

68. Windstream is entitled to injunctive relief, costs, and attorneys' fees pursuant to Neb. Rev. Stat. § 87-303(a)-(c).

**Count V – Breach of Written Contract**

69. Windstream incorporates by reference paragraphs 1 through 68 as though fully set forth herein.

70. The VAR Contract constitutes a valid and binding contract between Windstream and Charter Communications Operating, LLC.

71. The contract provides that Windstream shall have the right to utilize Spectrum's business internet access, via coax cable, to distribute Windstream's services in certain designated areas.

72. Section 2.3 of the contract states that if Charter chooses to discontinue offering this service to Windstream, then it "shall give Windstream thirty (30) days' notice prior to such discontinuance and shall continue to provide the Spectrum Services to Windstream's customer Companies for the Term of the Spectrum Services ordered."

73. Section 8.1 of the contract provides that Charter "will use commercially reasonable efforts to provide the Spectrum Services to [Windstream] 24 hours per day, seven (7) days per week."

74. Section 11.2 of the contract provides that the initial order term of the contract shall be one month, and shall automatically renew on a month to month basis thereafter unless either party provides the other party "with at least thirty (30) days' written notice of termination of such Order."



75. As set forth above, on or about March 14, 2019, Charter disconnected service to approximately 300 Windstream customers, without notice to Windstream, in violation of sections 2.3, 8.1, and 11.2 of the contract.

76. Windstream has performed all promises, conditions, and covenants required on its part to be performed in accordance with the terms and conditions of the contract, except for those excused by Charter's conduct or by operation of law.

77. As a direct and proximate result of Charter's breaches, Windstream has been damaged in an amount to be proved at trial.

78. Windstream is also entitled to its attorneys' fees in accordance with section 18.6 of the contract.

**Count VI – Violation Of Automatic Stay, 11 U.S.C. § 362**

79. Windstream incorporates by reference paragraphs 1 through 78 as though fully set forth herein.

80. The automatic stay prohibits, among other things, acts to exercise control over the property of a debtor's estate and any act to collect, assess, or recover a claim against a debtor that arose before the petition date. *See* 11 U.S.C. §§ 362(a)(3), (6).

81. Charter violated the automatic stay and section 362(a)(6) of the Bankruptcy Code when it unilaterally and unlawfully interfered with Windstream's contractual rights in the VAR Contract by ceasing to provide service to Windstream's customers, without permission of the Court.

82. Charter also violated the automatic stay and section 362(a)(2) of the Bankruptcy Code when it sent false and deceptive advertisements to Windstream's customers, thereby impairing Windstream's goodwill.

83. Finally, Charter violated the automatic stay and section 362(a)(3) of the Bankruptcy Code when it disconnected customers' service in an attempt to collect its prepetition debts.

84. Pursuant to 28 U.S.C. § 2201 and Bankruptcy Rule 7001, Windstream is therefore entitled to a judgment that Charter has willfully violated the automatic stay, damages according to proof, and attorneys' fees.

**Count VII – Equitable Subordination, 11 U.S.C. § 510(c)**

85. Windstream incorporates by reference paragraphs 1 through 84 as though fully set forth herein.

86. Windstream seeks the equitable subordination of all the claims of Charter Communications, Inc. and its subsidiaries and affiliates (collectively, the "Charter Claimants") against the Debtors to the claims of all other creditors pursuant to 11 U.S.C. § 510(c). Equitable subordination is appropriate for violations under the automatic stay 11 U.S.C. § 362. *See In re Fletcher Int'l, Ltd.*, No. 12-12796 (REG), 2014 WL 2619690 (Bankr. S.D.N.Y. June 11, 2014). Any and all claims asserted by the Charter Claimants against the Debtors should be equitably subordinated for purposes of distribution pursuant to 11 U.S.C. § 510(c), and the Charter Claimants should not be permitted to receive any distributions on any claims asserted or to be asserted by the Charter Claimants in these Chapter 11 cases until payment in full with interest is made to all non-defendant creditors of Windstream.

**PRAYER FOR RELIEF**

Wherefore, Windstream respectfully prays for relief as follows:

1. Preliminary and permanent injunctive relief enjoining Charter, its affiliates, officers, agents, employees, and all others in active concert or participation with them from: (a)

disseminating the advertisements described in the Complaint, and any other advertisements similar thereto; and (b) claiming, whether directly or by implication, in any advertisement, telephone campaign, email campaign, media campaign, or any other type of promotional communication (including as part of any “door to door” campaign), that Windstream’s bankruptcy will impair or otherwise adversely impact Windstream’s ability to continue to provide service to its customers;

2. Preliminary and permanent injunctive relief requiring Charter, its affiliates, officers, agents, employees, and all others in active concert or participation with them to (a) provide Windstream a complete list of all customers to whom the advertisements were disseminated and/or who were otherwise contacted; and (b) disseminate corrective advertisements, approved by the Court, that inform customers of the falsity of Charter’s prior statements.

3. Equitable subordination and/or equitable disallowance of any and all claims asserted by the Charter Claimants against the Debtors;

4. Damages according to proof, including but not limited to an amount no less than (a) Charter’s profits, (b) Windstream’s lost profits, and (c) Windstream’s damages;

5. Treble damages pursuant to 15 U.S.C. § 1117(a) and N.C. Gen. Stat. § 75-16;

6. Punitive damages;

7. Attorneys’ fees pursuant to 15 U.S.C. § 1117(a), N.C. Ge. Stat. § 75-16, Neb. Rev. Stat. § 87-303(a)-(c), the parties’ contract, or as otherwise provided by law;

8. Costs of suit;

9. Pre-judgment and post-judgment interest as permitted by law; and
10. Such other and further relief as the Court may deem just and proper.

Dated: April 5, 2019  
New York, NY

/s/ Steven J. Reisman  
Steven J. Reisman  
Tami Kameda Sims (*pro hac vice pending*)  
Shaya Rochester  
Cindi M. Giglio  
**KATTEN MUCHIN ROSENMAN LLP**  
575 Madison Avenue  
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*Proposed Conflicts Counsel to the Debtors and Debtors in Possession*



# **EXHIBIT A**



**SPECTRUM BUSINESS  
VALUE ADDED RESELLER AGREEMENT**

This **Spectrum Business Value Added Reseller Agreement**, including the Exhibits hereto (this "Agreement") is entered into as of the date of last signature below ("Effective Date") by and between Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum") and **Windstream Services, LLC, on behalf of itself and its Affiliates** ("Windstream"), a Delaware Limited Liability Company having a principal place of business at 4001 Rodney Parham Rd, Little Rock, AR 72212.

**RECITALS**

**WHEREAS**, Spectrum is in the business of providing Spectrum Services (defined below); and

**WHEREAS**, Windstream wishes to have non-exclusive rights to market and distribute the Spectrum Services to Companies (defined below), with added value in the form of Windstream Services (defined below), and Spectrum desires to grant Windstream such rights, all as set forth in this Agreement

**NOW, THEREFORE**, in consideration of the above premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Spectrum and Windstream agree as follows:

**1. DEFINITIONS**

1.1 "Affinity Company" means a Company that gathers independent end-users sharing the same interests or membership.

1.2 "Company" or "Companies" means a customer(s) of Windstream that purchases Spectrum Services with added value in the form of additional Windstream Services.

1.3 "Documentation" means the Spectrum documentation made available in hard copy or in electronic form with the Spectrum Services or otherwise under this Agreement.

1.4 "End User" means an end user accessing or using the Spectrum Services.

1.5 "Equipment" means the equipment, software and other tangible products made available to Windstream hereunder.

1.6 "Intellectual Property Rights" means Spectrum patent rights, copyright rights, trade secret rights, and any other intellectual property rights recognized by the law of each applicable jurisdiction.

1.7 "Marks" means the Spectrum trademarks, trade names, service marks, and/or service names specified by Spectrum and provided to Windstream in writing.

1.8 "Order" means a written or electronic order submitted by an authorized representative of Windstream (or, in the case of an Order submitted via email, submitted from an authorized e-mail address of Windstream) to Spectrum for Spectrum Services pursuant to this Agreement.

1.9 "Order Term" has the meaning ascribed to it in Section 11.1, below.

1.10 "Price List" means Spectrum's standard wholesale price list for the Spectrum Services on Exhibit B, attached hereto and incorporated herein by reference, which price list Spectrum may revise from time to time.

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1.11 "Spectrum Services" means any one or more of a number of services including but not limited to: business Internet access (via coax), and Voice, as described on Exhibit A, attached hereto and incorporated herein by reference, which Spectrum may revise from time to time.

1.12 "Term" has the meaning ascribed to it in Section 11.1, below.

1.13 "Terms of Use" means all rules, terms and conditions set forth in this Agreement or now or hereafter otherwise established by Spectrum for the Spectrum Services, as may be modified from time to time at Spectrum's sole discretion.

1.14 "Territory" means, with respect to each Spectrum Service, all geographic areas where such Spectrum Service is made available by Spectrum.

1.15 "Windstream Services" means the services offered by Windstream, which provide substantial added value when combined with the Spectrum Services including the use of the Spectrum Services to obtain connectivity between Windstream's customer Companies and Windstream's network to access Windstream's finished products and services.

## 2. LICENSE

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Spectrum grants to Windstream, a non-exclusive, non-transferable license to (a) market and distribute in the Territory the Spectrum Services to Companies solely in conjunction with the provision of the Windstream Services; (b) use the Spectrum Services as reasonably required in connection with such marketing and distribution; and (c) sublicense Companies and End Users to use the Spectrum Services in conjunction with the Windstream Services in accordance with the provisions of Section 3.1.

2.2 Added Value. In the exercise of Windstream's rights under this Agreement, Windstream will market and distribute the Spectrum Services solely in combination with the Windstream Services.

2.3 Restrictions. Windstream will not (a) disassemble, decompile or reverse engineer any Spectrum Services, or portions thereof; or (b) modify the Spectrum Services in any manner, except as expressly directed by Spectrum in writing; or (c) sell Windstream Services to an Affinity Company. Spectrum expressly reserves the right to market and solicit Spectrum Services sales through any channels of distribution at any time, as Spectrum deems desirable, and to promote, market and sell the Spectrum Services in any manner that Spectrum deems advisable. In addition, Spectrum reserves the right to modify or discontinue the Spectrum Services at any time in Spectrum's sole discretion, provided however, to the extent that Spectrum has provisioned such Spectrum Services that it chooses to discontinue to Windstream and/or Windstream's customer Companies, Spectrum shall give Windstream thirty (30) days' notice prior to such discontinuance and shall continue to provide the Spectrum Services to Windstream's customer Companies for the Term of the Spectrum Services ordered.

## 3. OTHER AGREEMENTS AND MARKETING

Distribution of Spectrum Services. Windstream may only distribute Spectrum Services to any Company or to such Company's End Users under the following conditions : (a) Windstream shall defend, indemnify and hold Spectrum and its officers, directors, employees, contractors and affiliates harmless from and against any third party claims by any of Windstream's end user customers or against Spectrum for losses, liabilities, damages and expenses, including the fees of attorneys and other professionals, arising out of Windstream's ordering and Spectrum's provisioning and Windstream's end user and Company's use of Spectrum's Services.; (b) Windstream shall insure that its end user customers are contractually obligated to Windstream to use the Spectrum services only for lawful purposes and to comply with the AUP and all applicable laws and regulations governing use of the Spectrum Services; (c) Windstream represents and warrants that its retail customer end users will not resell the Spectrum Services and that Windstream will not resell the Spectrum Services in the wholesale market.; (d); (e) Windstream agrees that it will protect Spectrum's proprietary rights in the Spectrum Services to at least the same degree as the terms and conditions of this Agreement; (f) Windstream represents and warrants that it will make no representations

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or warranties on behalf of Spectrum or; (g) grant any rights to Company beyond the scope of this Agreement.

3.1 Sublicensing to Distributors. Windstream may sublicense or distribute Spectrum Services to other distributors or resellers for sublicensing or distribution to Companies and End Users; provided that (a) such distributor and/or reseller agrees in writing to comply with the terms and conditions of this Agreement; and (b) Windstream shall remain liable for any act or omission of any such other distributor or reseller. Upon request from Spectrum, Windstream shall identify in writing to Spectrum such Windstream distributors and resellers.

3.2 Marketing Efforts. Subject to the terms and conditions of this Agreement, Windstream may market and distribute the Spectrum Services in conjunction with the Windstream Services. Windstream will ensure that the Spectrum Services it proposes to a prospective Company meet the prospective Company's requirements. Windstream covenants that it will: (a) conduct business in a manner that reflects favorably at all times on the Spectrum Services and the good name, goodwill and reputation of Spectrum; (b) avoid deceptive, misleading or unethical practices that are or might be detrimental to Spectrum, the Spectrum Services or the public; (c) make no false or misleading representations with regard to Spectrum or the Spectrum Services; (d) not publish or employ, or cooperate in the publication or employment of, any misleading or deceptive advertising material with regard to Spectrum or the Spectrum Services; and (e) make no representations, warranties or guarantees with respect to the specifications, features or capabilities of the Spectrum Services that are inconsistent with the literature distributed by Spectrum.

3.3 Advertising Materials. Spectrum may, in its sole discretion, furnish to Windstream, at no charge, reasonable quantities of Spectrum Services sales aids, brochures and similar literature and material normally made available to potential Spectrum Service end users, as needed for Windstream's marketing activities pursuant to this Agreement.

#### 4. PAYMENTS

4.1 Payments. Except as stated in Section 4.3 following, prices for the Spectrum Services shall be those specified in Spectrum's then-current Price List. All stated prices are exclusive of any taxes, fees and surcharges or other amounts, however designated, and including without limitation value added and withholding taxes which are levied or based upon such charges, or upon this Agreement. Any taxes (excluding any taxes on Spectrum's net income) related to Spectrum Services purchased pursuant to this Agreement shall be paid by Windstream or Windstream shall present an exemption certificate acceptable to the taxing authorities. Notwithstanding anything herein to the contrary, Windstream understands and agrees that additional charges for non-standard services, including without limitation non-standard installation services, may apply. In no event shall Windstream publish or otherwise disclose (whether orally or in writing) the fees charged by Spectrum to Windstream for Spectrum Services provided pursuant to this Agreement.

4.2 Payment Terms. During the Order Term for the applicable Order, Spectrum shall bill Windstream monthly in advance in accordance with Spectrum's regular billing cycle for all monthly recurring charges specific to the Spectrum Services ("MRCs") due under this Agreement; except that upon activation of a Company or an End User account for Spectrum Services, Spectrum shall bill Windstream monthly in arrears for the first month's prorated service fees applicable to such Company or End User. Spectrum invoices for non-recurring, one-time charges ("OTCs") for construction or installation charges after the billing start date or as specified in the Order. Windstream will make all payments to Spectrum for undisputed charges due under this Agreement within thirty (30) days after the date appearing on the applicable invoices. Payments made under this Agreement after their due date will incur interest at a rate equal to one and one half percent (1½%) per month or the highest rate permitted by applicable law, whichever is lower. Windstream must provide Spectrum with notice of any disputed charges within ninety (90) days of the invoice date on which the disputed charges appear for Windstream to receive any credit that may be due. Spectrum shall not invoice Windstream for MRCs more than twelve months after the charge for Spectrum Services would normally have been invoiced.

#### 4.3 Revisions.

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Document Integrity Verified

Adobe Sign Transaction Number: CBJCHBCAABAAy6UqLaxEln4iNXtQldi-CX\_2SJanTXxg

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4.3.1 Spectrum may revise the Spectrum Services available pursuant to this Agreement and the pricing set forth in the Price List from time to time; provided, however, upon written notice from Windstream, Spectrum will, in relation to any firm quote provided by Spectrum for Spectrum Services submitted by Windstream to a Company prior to a revision to the Price List, honor the prices in place for the Spectrum Services for up to sixty (60) days from the date Windstream receives written notice of a price change; and further provided that any such revision to the pricing set forth in the Price List will not apply to the pricing under any outstanding Order or the pricing under the then current term under then existing Company agreements.

4.3.2 At the end of the Term, for any Spectrum Service that continues to be offered by Spectrum, such Spectrum Service will renew on a month-to-month basis at the then-current applicable rates, unless otherwise specified by the parties in writing.

4.3.3 Notwithstanding anything to the contrary in this Agreement, if any Order for Spectrum Services is terminated prior to the expiration of the Order Term (as defined in Section 11.1.2) (other than as a result of a material breach by Spectrum) then Windstream shall, at Spectrum's discretion: (a) promptly pay Spectrum for the full amount of the service fees that Windstream would have been charged for the remainder of the applicable Order Term or the then-current renewal term thereof; and (b) reimburse Spectrum for all volume, term or other discounts and credits **applicable to the specific Order and** provided in anticipation of full performance of Windstream's and/or the applicable Company's obligations and any unpaid portion of the installation fee set forth in the applicable Orders.

4.4 Pricing Freedom. Windstream is, and will remain, entirely free to determine its Company prices and fees unilaterally in its own discretion. Notwithstanding the foregoing, in no event shall Windstream line item or otherwise distinguish the fees charged by Windstream for Spectrum Services separately from the fees charged for Windstream Services.

## 5. ORDERS

5.1.1 Unless otherwise stated in Exhibit A, Windstream shall purchase Spectrum Services by issuing an Order indicating the specific Spectrum Services ordered, quantity, price, total purchase price, requested delivery dates, tax exemption certifications, if applicable, the intended Company, applicable End User information, and any other special instructions. The parties hereby agree that any contingencies contained on such Order are not binding upon Spectrum, unless expressly agreed to by Spectrum in writing on such Order. The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any Order or other correspondence submitted by Windstream, and any different or additional terms in any Order or correspondence shall have no force or effect.

5.1.2 All Orders are subject to approval and acceptance by Spectrum and will not be binding upon Spectrum until such acceptance has been granted. Acceptance shall be deemed to have occurred when Spectrum accepts an Order in writing or when Spectrum commences delivery of the Spectrum Services, whichever is earlier. Spectrum shall use commercially reasonable efforts to provide information regarding acceptance or rejection of such Orders.

5.1.3 By submitting an Order, Windstream represents that (a) Windstream has sufficient right and authority to submit an Order on behalf of Company; and (b) the applicable End User(s) shall have the equipment and software necessary for activation of Spectrum Services (other than the Equipment provided by Spectrum as part of the Spectrum Services).

5.2 Installation. The parties agree that if the End User is not present or does not have the minimum hardware and/or software requirements necessary for a Service installation at the time of a scheduled installation, Windstream shall pay Spectrum the installation fee set forth on the Price List for such unsuccessful installation in addition to standard installation fee upon successful installation. Otherwise, Spectrum shall perform its standard installation procedures, including verification of Internet connectivity. Spectrum shall not be responsible for configuring the End User's equipment including but not limited to

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computers or telephones or providing any other non-standard installation services, unless otherwise agreed in writing between the parties

## 6. WINDSTREAM OBLIGATIONS

In a manner satisfactory to Spectrum and at Windstream's sole expense, Windstream shall:

6.1 Keep Spectrum promptly informed of any problems which involve the Spectrum Services and require Spectrum's support or impact Windstream's or Spectrum's ability to deliver service or solutions to Companies and their End Users; and

6.2 Appoint an account/relationship manager whose responsibility will be to work with the designated Spectrum account/relationship manager to manage the implementation of this Agreement, and act as the focal point for day-to-day account issues and problem escalation.

## 7. PROPRIETARY RIGHTS

### 7.1 Spectrum's Ownership.

7.1.1 The Spectrum Services are and will remain the sole and exclusive property of Spectrum and its suppliers, if any, whether the Spectrum Services are separate or integrated with any other services or products. Spectrum's rights under this Section 7.1.1 include, but are not limited to, all Intellectual Property Rights in the Spectrum Services.

7.1.2 Windstream will not delete or in any manner alter the Intellectual Property Rights notices of Spectrum and its suppliers, if any, appearing on the Spectrum Services or any Documentation or other materials provided in connection therewith. As a condition of the license rights granted to Windstream in this Agreement, Windstream will reproduce and display such notices on each copy it makes of any Spectrum Services or any such Documentation or other materials.

7.2 Windstream's Duties. Windstream shall use its reasonable efforts to protect Spectrum's Intellectual Property Rights in the Spectrum Services and promptly shall report to Spectrum any infringement of such rights of which Windstream becomes aware.

7.3 Third Party Infringement. Spectrum reserves the sole and exclusive right, exercisable at its discretion, to assert claims against third parties for infringement or misappropriation of its Intellectual Property Rights in the Spectrum Services.

### 7.4 Trademarks.

7.4.1 Subject to the terms and conditions of this Agreement, Spectrum grants Windstream a non-exclusive, non-transferable, limited license for the Term to use the Marks in Windstream's marketing of the Spectrum Services; provided that such use is in accordance with Spectrum's trademark usage guidelines then in effect, which guidelines Spectrum may amend at any time and in any manner. Spectrum will provide Windstream with such guidelines and as such guidelines are amended. Windstream agrees that the quality of all services rendered by Windstream in connection with the Marks shall be high and consistent with the quality control standards established by Spectrum. Windstream agrees to cooperate with Spectrum in facilitating Spectrum's review of its industry standard quality controls, and to supply Spectrum with specimens of all uses of the Marks upon request. Any use of the Marks by Windstream must reference the Marks as being owned by Spectrum. Nothing in this Agreement grants Windstream ownership or any rights in or to use the Marks, except as expressly set forth in this Section 7.4.1.

7.4.2 The rights granted to Windstream in this Section 7.4 will terminate upon any termination or expiration of this Agreement. Upon such termination or expiration, Windstream will no longer make any use of any Marks. Spectrum will have the exclusive right to own, use, hold, apply for

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registration for, and register the Marks during the Term of, and after the expiration or termination of, this Agreement; Windstream will neither take nor authorize any activity inconsistent with such exclusive right. The Marks, and the goodwill associated therewith, are the exclusive property of Spectrum, and the use of such Marks, and the goodwill arising therefrom, shall inure to the benefit of Spectrum.

#### 8. LIMITED WARRANTY

8.1 Limited Warranty. Spectrum warrants to Windstream that Spectrum has the corporate power and authority to enter into and perform its obligations under this Agreement. Windstream warrants to Spectrum that Windstream has the corporate power and authority to enter into and perform its obligations under this Agreement. Spectrum will use commercially reasonable efforts to provide the Spectrum Services to Company 24 hours per day, seven (7) days per week. It is possible, however, that there will be interruptions of the Spectrum Services.

8.2 DISCLAIMER OF WARRANTY. Windstream ACKNOWLEDGES AND AGREES THAT THE SPECTRUM SERVICES PROVIDED BY SPECTRUM HEREUNDER ARE PROVIDED "AS IS, AS AVAILABLE". EXCEPT AS SPECIFIED IN THIS SECTION 8, ALL EXPRESS OR IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, QUIET ENJOYMENT, DATA ACCURACY OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

#### 9. CONFIDENTIAL INFORMATION

9.1 Confidential Information. Each party acknowledges that, in connection with this Agreement, a party may obtain information from the other party that is of a confidential and proprietary nature ("Confidential Information"). Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, software source documents, data, customer lists, financial information, and sales and marketing plans or information which are marked as confidential and/or a party knows or has reason to know are confidential, proprietary or trade secret information of Spectrum. Each party shall at all times, both during and after the Term, keep in trust and confidence all such Confidential Information, and shall not use such Confidential Information other than as expressly authorized by this Agreement, and a party shall not disclose any such Confidential Information to third parties without the disclosing party's written consent unless such disclosure is necessary to fulfill a party's obligations under this Agreement and any such third party is bound in writing by obligations of confidentiality reasonably consistent with those set forth herein. Each party further agrees to, upon request, immediately return to the other party all Confidential Information (including copies thereof) in that party's possession, custody, or control upon termination of this Agreement at any time and for any reason. The obligations of confidentiality herein shall not apply to information which (a) has entered the public domain except where such entry is the result of a party's breach of this Agreement; (b) prior to disclosure hereunder was already rightfully in a party's possession; (c) subsequent to disclosure hereunder is obtained by a party on a non-confidential basis from a third party who has the right to disclose such information to the party; or (d) is required to be disclosed pursuant to law or government regulation; provided that a party gives the other party reasonable notice of such required disclosure and an opportunity to obtain an appropriate protective order, to the extent permitted by law.

9.2 Publicity. Neither party shall use the other party's or its affiliates' names or logos, or otherwise issue any publicity releases or make any public statement(s) (including without limitation in the form of news releases, advertising or solicitation materials, or blog or social media postings) relating to this Agreement or the services to be performed hereunder, without the prior written approval of the other party.

9.3 Terms of this Agreement. Neither party shall disclose, advertise, or publish the terms and conditions of this Agreement without the prior written consent of the other party.

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Spectrum





## 10. INDEMNIFICATION

10.1 Windstream agrees to defend, indemnify and hold Spectrum and its officers, directors, employees, contractors and affiliates harmless from and against any third party claims against Spectrum for losses, liabilities, damages and expenses, including the fees of attorneys and other professionals, arising out of (a) any acts or omissions of (i) Windstream, or its employees, agents, distributors or resellers, in connection with its activities under this Agreement or (ii) any Company or End User; (b) any representation or warranty made by Windstream, or its employees or agents, distributors or resellers, relating to the Windstream Services or Spectrum Services that is inconsistent with statements provided in writing by Spectrum; (c) breach of any representation, warranty, covenant or agreement of Windstream under this Agreement; or (d) physical damage to person or real property or bodily injury, including death, resulting (in whole or in part) from the acts or omissions, including but not limited to negligence, recklessness willful misconduct of Windstream, or its employees, agents, distributors or resellers.

10.2 Spectrum agrees to defend, indemnify and hold Windstream and its officers, directors, employees, contractors and affiliates harmless from and against any third party claims against Windstream for losses, liabilities, damages and expenses, including the fees of attorneys and other professionals, arising out of (a) any acts or omissions of (i) Spectrum, or its employees, agents, , in connection with its activities under this Agreement; (b) breach of any representation, warranty, covenant or agreement of Spectrum under this Agreement; or (c) physical damage to person or real property or bodily injury, including death, resulting (in whole or in part) from the acts or omissions, including but not limited to negligence, recklessness willful misconduct of Spectrum, or its employees, agents.

10.3 Spectrum shall indemnify, defend, protect and hold Windstream Indemnified Parties, harmless from any and all liabilities, judgments, claims, losses, obligations, damages, penalties, actions, or other proceedings, suits, costs, fees, expenses and disbursements, whether by judgment or settlement, (including without limitation reasonable attorneys' fees) to the extent that such arise directly from third party claims that any of the Equipment and/or Spectrum's network (collectively, the "Spectrum System") used to deliver the Spectrum Services infringes upon the intellectual property rights of such third party ("IP Claims"). Notwithstanding anything to the contrary herein, Spectrum shall have no indemnification obligation with respect to any IP Claim arising out of: (i) content, materials or data transmitted by via the Spectrum Services; (ii) use of the Spectrum System or Spectrum Services in combination with products, materials, applications, methods, or other items not furnished by Spectrum; (iii) a modification of the Spectrum System or Spectrum Services not required or directed by Spectrum; or (iv) use of the Spectrum System or Spectrum Services in an unauthorized manner or in breach of this Agreement. If an IP Claim for which Spectrum has an indemnification obligation under this Section is, or in Spectrum's reasonable opinion is likely to be made, then Spectrum will promptly notify Customer of such claim or proceeding and, at Spectrum's expense and sole discretion, take one or more of the following actions: (I) secure the right for Company to continue to use the Spectrum System consistent with this Agreement; (II) replace or modify the Spectrum System to make it non-infringing; or (III) if none of the foregoing alternatives are possible after Spectrum has used its commercially reasonable efforts, terminate the affected Spectrum Service. The foregoing Section states the sole and exclusive remedy of Windstream Indemnified Parties in connection with any IP Claim.

## 11. TERM AND TERMINATION

### 11.1 Agreement and Order Terms.

11.1.1 The initial term of this Agreement commences as of the Effective Date and remains in full force and effect for three (3) years thereafter, unless terminated earlier in accordance with its terms (the "Initial Term"); provided, that the terms of this Agreement remain in effect with respect to each Order until the expiration thereof. Thereafter, this Agreement shall renew automatically for subsequent annual renewal terms unless either party provides the other party with notice of termination at least thirty (30) days prior to the end of the initial term or then-current renewal term, as applicable. The Initial Term and any extension(s) thereof are referred to in this Agreement as the "Term".

11.1.2 The initial term of each Order under this Agreement shall begin on the date installation is completed and be for a period of one (1) month or such other period as specified in the applicable Order (the "Initial Order Term"), and, unless terminated earlier in accordance with this

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Chris Czeka

E-signed 2018-04-11 12:04PM EDT

chris.czeka@charter.com

Spectrum





Agreement or the applicable Order, each Order Term shall automatically renew thereafter on a month-to-month basis at Spectrum's then-current applicable rates unless either party provides the other party with at least thirty (30) days' written notice of termination of such Order. The Initial Order Term and any extension(s) thereof are referred to in this Agreement as the "Order Term".

11.2 Termination. This Agreement (including all Orders) may be terminated immediately by either party through written notice under any of the following conditions:

11.2.1 The other party ceases to carry on business as a going concern, becomes the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets; or

11.2.2 The other party materially breaches any provision of this Agreement and fails to remedy such breach within thirty (30) days after written notification by the non-breaching party of such breach, or, except in the case of breach of payment obligations, such longer period as may be reasonably required to cure the breach, up to a maximum of forty-five (45) days; provided that the breaching party within thirty (30) days after receiving written notice of such breach commenced diligent efforts to cure the breach.

11.3 Additional Termination Rights. Spectrum may terminate this Agreement (including all Orders) immediately in the event of Windstream's breach of Section 7 or Section 9 above. In addition, Spectrum may terminate this Agreement for convenience upon ninety (90) days' written notice to Windstream; provided however, in the event of such a termination for convenience, Spectrum will continue to honor the terms of any Orders which were accepted by Spectrum prior to such termination.

11.4 Effect of Termination or Expiration. Upon termination or expiration of this Agreement, (a) Spectrum reserves the right to cease all further delivery of the Spectrum Services hereunder; (b) all outstanding invoices immediately become due and payable by certified or cashier's check; and (c) all rights and licenses of Windstream hereunder shall terminate. Additionally, upon termination or expiration of this Agreement, Windstream shall immediately return to Spectrum all Confidential Information and data (including all copies thereof) then in Windstream's possession or control including, without limitation: (x) all technical materials and business plans supplied by Spectrum; (y) all manuals covering Spectrum Services; and (z) any Spectrum Service customer or prospect lists provided by Spectrum.

11.5 No Damages for Termination. Each party agrees that in the event of termination of this Agreement for any reason, neither party shall have any rights to damages of any nature related to such termination, specifically including without limitation any rights to damages or indemnification for commercial severance pay, whether by way of loss of future profits, expenditures for promotion of the Spectrum Services, or other commitments in connection with the business and good will of Windstream. Notwithstanding anything to the contrary, the foregoing shall not be read to limit any claim for damages Windstream might have on account of Spectrum's breach of this Agreement, even if the breach gave rise to termination, such liability being governed by and subject to the limitations set forth elsewhere in this Agreement. Windstream expressly waives and renounces any claim to compensation or indemnities for any termination of a business relationship.

11.6 Suspension or Termination of Spectrum Service Accounts. Notwithstanding anything to the contrary herein, Spectrum may suspend or terminate the Spectrum Service account of any End User in the event that such End User is in material breach of any applicable Spectrum Terms of Use and/or Acceptable Use Policy, which shall have been passed through by Windstream to Company pursuant to Section 3.1. Whenever practicable and permitted by law, as determined in Spectrum's reasonable discretion, Spectrum shall provide Company and Windstream with advance written notice of such suspension or disconnection and shall provide the End User with a reasonable opportunity to cure such breach. Where such advance notice is not practicable or permitted by law, as determined in Spectrum's sole discretion, Spectrum shall provide the Company and Windstream with notice of such suspension or termination after such suspension or disconnection has occurred, to the extent such notice is permitted by law.

Chris Czekaj

E-signed 2018-04-11 12:04PM EDT

chris.czekaj@charter.com

Spectrum





## 12. SUPPORT

12.1 By Windstream. Windstream will be responsible for providing support to Companies and End Users, including without limitation, by training End Users and providing all direct first level technical support to Companies and End Users, including but not limited to diagnosing problems and using its reasonable efforts to provide solutions.

12.2 By Spectrum. Spectrum shall not be responsible for providing any technical support directly to Companies or End Users. Subject to receipt by Spectrum of payments as specified in Section 4, Spectrum will provide a telephone number and email address solely for Windstream inquiries and remote problem support for Spectrum Service disruption. All support provided by Spectrum to Windstream shall be tier two support, provided only to Windstream's help desk personnel and not to Companies or End Users. Hours of availability and the scope of inquiry and remote support services shall be as determined by Spectrum in its sole discretion from time to time.

## 13. RECORDS

During the Term and for two (2) years thereafter, Windstream shall make records available to Spectrum or its independent representative upon thirty (30) days' prior written notice, during regular business hours at Windstream's principal place of business to demonstrate its compliance with terms hereunder.

## 14. FORCE MAJEURE

Except for payment obligations hereunder, neither party shall be liable for any delay or failure in performance due to events outside such party's reasonable control, including, but not limited to acts of God, terrorism, earthquake, governmental acts, labor disputes, utility failures, fiber cuts, shortages of supplies, riots, war, fire, epidemics, or delays of common carriers. The obligations and rights of the excused party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.

## 15. COMPLIANCE WITH LAWS

Each party agrees to comply with all applicable laws, rules, and regulations in connection with its activities under this Agreement. Without limiting the foregoing, Windstream acknowledges that all Spectrum Services, including Documentation and other technical data, may be subject to export controls imposed by the U.S. Export Administration Act of 1979, as amended (the "Act"), and the regulations promulgated thereunder. Windstream will not export or re-export (directly or indirectly) any Spectrum Services or Documentation or other technical data therefor without complying with the Act and the regulations thereunder.

Windstream shall obtain and maintain throughout the Term all applicable licenses, permits and approvals necessary to perform its obligations and exercise its rights hereunder. Without limiting the foregoing, Windstream's business and activities under this Agreement may require Windstream to maintain or submit licenses, registrations or filings in accordance with the requirements of the Federal Communications Commission ("FCC") and/or other federal, state or local agencies. Windstream agrees that it is solely responsible to comply with all such requirements, and will indemnify, defend and hold harmless Spectrum for any failure to comply.

Windstream shall not discriminate against individuals based on their status as protected veterans or individuals with disabilities, or based on their age, race, color, religion, sex, or national origin. Moreover, to the extent applicable for this Agreement, Windstream shall comply with regulations requiring that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to age, race, color, religion, sex, national origin, protected veteran status or disability.

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**Chris Czekaj**

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chris.czekaj@charter.com

Spectrum



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## 16. LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY OR SPECTRUM'S SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR ANTICIPATED PROFITS, OR LOST DATA, OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY OR SPECTRUM'S SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF. THE AGGREGATE LIABILITY OF SPECTRUM AND ITS SUPPLIERS UNDER THIS AGREEMENT OR OTHERWISE SHALL BE LIMITED TO THE MONEY PAID TO SPECTRUM UNDER THIS AGREEMENT DURING THE TWELVE(12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

## 17. NOTICES

All notices required or permitted under this Agreement will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile (followed by the actual document in air mail/air courier); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid (or six (6) days for international mail); or (d) one (1) day after deposit with a commercial express courier specifying next day delivery (or two (2) days for international courier packages specifying 2-day delivery), with written verification of receipt. All notices to Spectrum shall be sent to the following address:

Charter Communications  
ATTN: Commercial Contracts Management  
Dept: Corporate – Legal Operations  
12405 Powerscourt Drive  
St. Louis, MO 63131

Windstream Services, LLC  
Attn: Carrier Relations  
4001 N Rodney Parham Road  
Little Rock, AR 72223

With a copy to:

Windstream Services, LLC  
Attn: Legal  
4001 N Rodney Parham Road  
Little Rock, AR 72223

Each party may change its address for receipt of notices by giving written notice to the other party pursuant to this paragraph.

## 18. GENERAL

**18.1 Choice of Law.** The interpretation, validity and enforcement of this Agreement, and all legal actions brought under or in connection with the subject matter of this Agreement, shall be governed by the law of the State of New York (except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded). The parties specifically disclaim the UN Convention on Contracts for the International Sale of Goods.

**18.2 Submission to Jurisdiction; Venue.** Any legal action brought under or in connection with the subject matter of this Agreement shall be brought only in the United States District Court for the Southern District of New York or, if such court would not have jurisdiction over the matter, then only in a New York State court sitting in the Borough of Manhattan, City of New York. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the

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chris.czekaj@charter.com

Spectrum



subject matter of this Agreement in any other court or forum. Each party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of this Agreement in the Federal or state courts sitting in the Borough of Manhattan, City of New York, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum.

18.3 No Waiver. No waiver of rights under this Agreement by either party shall constitute a subsequent waiver of such right or any other right under this Agreement.

18.4 Assignment and Subcontracting. Neither Party will assign or transfer this Agreement without the other Party's prior written consent, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement upon notice and without the other Party's consent to a person or entity (i) that controls, is controlled by or is under common control with the assigning Party, (ii) which purchases all or substantially all of its assets or equity, or (iii) resulting from any merger, consolidation or other reorganization involving such Party. Windstream understands and agrees that regardless of any such assignment, Spectrum, at its option, may exercise any of its rights or remedies under this Agreement, and/or perform any of its duties or obligations hereunder, by itself and/or its subcontractors or through any Spectrum affiliated party in conformity with the terms and conditions of this Agreement. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties.

18.5 Severability. In the event that any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph becomes applicable and, as a result, the value of this Agreement is materially impaired for either party, as determined by such party in its sole discretion, then the affected party may terminate this Agreement by written notice to the other.

18.6 Attorneys' Fees. In any suit or proceeding relating to this Agreement, the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.

18.7 No Agency. This Agreement does not create any agency, partnership, joint venture, or franchise relationship. Neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever.

18.8 No Third Party Beneficiary. Subject to Section 18.4, it is the intention of the parties that no person or entity other than Spectrum and Windstream or their permissible assigns is or shall be entitled to bring any action to enforce any provision of this Agreement against either of the parties, and the covenants, undertakings and agreements set forth herein shall be solely for the benefit of, and shall be enforceable only by, the parties hereto or their respective successors and assigns as permitted hereunder.

18.9 Press Releases. Neither party shall issue a press release regarding the relationship established by this Agreement without the prior written approval of the other party.

18.10 Survival. Sections 4, 7.1, 8.2, 9, 10, 11.3, 11.4, 11.5, 13, 16 and 18, and shall survive the termination of this Agreement.

18.11 Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties relating to Spectrum Services, supersedes all prior agreements, understandings and representations between the parties, oral or written, with respect to its Spectrum Services. No different or additional terms set forth in a purchase order or other communication will be binding on Spectrum. Notwithstanding the foregoing, pricing in any existing Orders will remain as set forth therein unless otherwise agreed in writing by the parties.

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Chris Czeka

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chris.czeka@charter.com

Spectrum





18.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile or other electronic copy will have the same force and effect as execution of an original, and a facsimile or electronic signature will be deemed an original and valid signature.

18.13 Joint Preparation. Both parties had the opportunity to review and participate in the negotiation of the terms of this Agreement and the Order(s) and, accordingly, no court construing this Agreement and any Order(s) shall construe it more stringently against one party than against the other.

IN WITNESS WHEREOF, this Agreement has been executed by each party's duly authorized representative as of the dates set forth below.

**Charter Communications Operating, LLC**  
By: **Charter Communications, Inc., its Manager:**

By: Chris Czekaj  
Chris Czekaj - 11, 2018  
Name: Chris Czekaj  
Title: VP, Strategic Channels  
Date: Apr 11, 2018

**Windstream Services, LLC**

By: Jeanne Dale  
DocuSigned by: 81795704D0824D9...  
Name: Jeanne Dale  
Title: VP Vendor Relations & Voice Management  
Date: 4/9/2018



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Page 12 of 15

**Chris Czekaj**

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chris.czekaj@charter.com  
Spectrum



**Exhibit A****Spectrum Service Description****I. Spectrum Services include:****A. Business Internet Service**

Business Internet Service is Internet access service implemented using a hybrid fiber/coax access network. The Company interface to the Spectrum data network is via Ethernet connection. Business Internet Service enables a variety of upstream and downstream rates. If a Company selects to receive Business Internet Service, Spectrum shall provide connectivity from the Company sites set forth in an Order to the Company's data network.

**C. Business WiFi ("WiFi")**

Spectrum Business WiFi is available to Companies via a Spectrum-provided wireless router and provides wireless access to the Spectrum-provided Internet service. Company must purchase a Spectrum Business Internet service.

**E. Business Voice Services ("Voice Service")**

Spectrum Business Voice Service consists of one or more lines or connections and a variety of features, as set forth in an Order and the applicable price guide available at <https://business.spectrum.com/newterms>.

Voice Service is not available for resale by Windstream in all Spectrum service areas. Windstream must contact its Spectrum representative to determine if Voice Service is available for resale in the Territory.

**II. Spectrum Services are subject to additional terms and conditions:**

Spectrum's provision of any Spectrum Service is subject to availability. Certain features of Spectrum Services, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion.

Company must agree to comply and ensure that their End Users comply with the terms and conditions in the Service Attachments, Spectrum's Acceptable Use Policy, Network Management Practices, applicable tariffs and price guides, and other policies or practices that are applicable to Company's use of the Spectrum Services.

**Chris Czekaj**

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chris.czekaj@charter.com

Spectrum

**Exhibit B****Price List****I. Pricing**

Standard installation fee - \$99.00 one-time, non-recurring installation fee per site for all coax services.

Services and pricing are subject to change from time to time as provided in Section 4.3 (Revisions) of this Agreement.

**II. Business Internet Service**

As of the Effective Date, the Business Internet Service is priced as follows:

- A. Monthly recurring charges ("MRC") per site for Business Internet Service is as follows:

Service	Speed*		Volume Offer (50+ Sites per Company)		Standard Offer (fewer than 50 Sites per Company)	
	Standard Markets	Select Markets	New Sites	Existing Spectrum Sites	New Sites	Existing Spectrum Sites
Internet Plus	60 x 5M	100 x 10M	\$49.99	\$69.99	\$79.99	\$99.99
Internet Pro	100 x 10M	200 x 15M	\$69.99	\$89.99	\$119.99	\$199.99
Internet Max	300 x 20M		\$129.99	\$129.99	\$179.99	\$299.99

\*Note: Upload and download speeds may be different by Territory

"New Sites" are sites submitted by Windstream which do not, as of the Effective Date, have services within the Territory.

**Volume Offer Pricing****New Sites:**

The Volume Offer New Site MRCs set forth above will apply to Services delivered to a Company at a New Site. In order to retain the Volume Offer for New Sites, Windstream must achieve fifty (50) or more New Sites for a single Company ("Site Minimum") no later than one (1) year after the date of installation of the first New Site for the applicable Company. After the end of such one (1) year period, Spectrum may review and confirm Windstream's achievement of the Site Minimums for each Company. If a Site Minimum is not met for each such Company, then Spectrum may, in its sole discretion, adjust the respective MRC to the respective Standard Offer MRC for the respective Company.

"Existing Spectrum Sites" are sites that Windstream requests, and Spectrum agrees in writing, to migrate to Windstream. Windstream must request each site be migrated to Volume Offer pricing through Spectrum's then-approved migration process. Volume Offer pricing is available for such sites only where Windstream has achieved and continued attainment of the Site Minimum. Spectrum reserves the right, in its sole discretion, to apply this pricing to Existing Spectrum Sites.

Existing Spectrum Sites do not count toward achievement of the Site Minimum.

**B. Static IP Address****Chris Czekaj**

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chris.czekaj@charter.com

Spectrum

Static IP addresses are available with Business Internet Service in accordance with the following fees:

IP Address	
IP Addresses	Monthly Recurring Charge
1 Useable Static IP Address	\$14.99
5 Useable Static IP Addresses	\$24.99
13 Useable Static IP Addresses	\$39.99
29 Useable Static IP Addresses	\$59.99

III. Intentionally omitted

IV. Intentionally omitted

V. Intentionally omitted

VI. Business WiFi

\$4.99 monthly recurring charge

VII. Voice Services (where available)

Standard MRC for Voice Service and Available Features, which vary by market and are subject to change from time to time, are below:

Unlimited local and long distance (voicemail not included)

**Business Voice**

Standard Offer		
New Sites		Existing Spectrum Sites
Month 1 - 12	Month 13+	\$49.99
\$29.99	\$39.99	

Business Voice Features Monthly Recurring Charge	
Directory Listing	\$5.00/month (after 1 <sup>st</sup> free)
Remote Number Forwarding Directory Listing	\$5.00/month (after 1 <sup>st</sup> free)
Remote Number Forwarding	\$15.00 each/month

**Chris Czekaj**

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chris.czekaj@charter.com

Spectrum







# Windstream Services, LLC - Spectrum Business Value Added Reseller Agreement - WIN Signed, 4.9.18

Adobe Sign Document History

04/11/2018

Created:	04/11/2018
By:	Cary Taylor (cary.taylor@charter.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAy6UqLaxEIn4iNXTqLdI-CX_2SJanTXXg

## "Windstream Services, LLC - Spectrum Business Value Added Reseller Agreement - WIN Signed, 4.9.18" History

-  Document digitally presigned by DocuSign\, Inc. (techops@docuSign.com)  
04/09/2018 - 8:29:13 AM EDT- IP address: 71.11.1.204
-  Document created by Cary Taylor (cary.taylor@charter.com)  
04/11/2018 - 11:27:23 AM EDT- IP address: 71.11.1.204
-  Document emailed to Chris Czekaj (chris.czekaj@charter.com) for signature  
04/11/2018 - 11:29:34 AM EDT
-  Document viewed by Chris Czekaj (chris.czekaj@charter.com)  
04/11/2018 - 12:03:52 PM EDT- IP address: 71.11.1.204
-  Document e-signed by Chris Czekaj (chris.czekaj@charter.com)  
Signature Date: 04/11/2018 - 12:04:21 PM EDT - Time Source: server- IP address: 71.11.1.204
-  Signed document emailed to margaret.rubino@windstream.com, Cary Taylor (cary.taylor@charter.com), Lynette Sharp (Lynette.Sharp@charter.com), Chris Czekaj (chris.czekaj@charter.com), and 1 more  
04/11/2018 - 12:04:21 PM EDT



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# **EXHIBIT B**

WINDSTREAM HOLDINGS, INC



Mailstop B1F03-53A  
4001 Rodney Parham Road  
Little Rock, Arkansas 72212

Carol Keith  
*Deputy General Counsel*

847.201.1743  
fax. 330.486.3561  
Email: Carol.Keith@windstream.com

March 21, 2019

**By Electronic Mail & Overnight Delivery**

Cody J. Harrison,  
Vice President, Associate General Counsel  
400 Atlantic Street  
Stamford, CT 06901  
[Cody.J.Harrison@charter.com](mailto:Cody.J.Harrison@charter.com)

Re: Cease and Desist Spectrum's Advertising Regarding Windstream's Chapter 11

Dear Mr. Harrison:

As a follow-up to our March 20, 2019 call, during which we discussed inaccurate verbal communications by Charter employees/agents regarding Windstream's Chapter 11 bankruptcy, I have now received the attached direct mailout targeting our customers with false and misleading information. Specifically, the mailout threatens our customers that they are at "risk" of losing their TV and internet services and contains several incorrect statements about Windstream pricing and contracts. This communication intentionally preys on customers and other potential readers who may not be familiar with the process of a Chapter 11 reorganization and the protections provided thereunder.

The mailout goes on to state that a Chapter 11 "means uncertainty" when a Chapter 11 reorganization provides the opposite by allowing a company to restructure its debt and continue operating and serving its customers, as Windstream is doing and as Spectrum or one of its affiliates did.

It is unclear the number of states in which these mailouts are occurring. What is clear is all states, including Georgia, have Deceptive Trade Practices Acts which prohibit unfair and deceptive acts or practices in the marketplace by "[d]isparaging goods, services, or business of another by false or misleading representation." O.G.C.A. § 10-1-390 *et seq* (2018).

There are also federal protections for such misconduct which provide a civil action for:

(1) Any person who, on or in connection with any goods or services, or any container for goods uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which -

- (A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or
- (B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities, shall be liable in a civil action by any person who believes that he or she is likely to be damaged by such an act.

*See the Lanham Act, 15 U.S.C. § 1125(a)(1).*

Additionally, complaints can also be brought to the attention of State and Federal Regulators, prosecutorial agencies and the National Advertising Division of the Better Business Bureau, Inc.

Windstream is very concerned with Spectrum's targeted mailouts, especially combined with Spectrum's disconnection of several Windstream customers over the past weekend and this week, conveniently creating the appearance of "uncertainty" just as the false mailout claims. Given our longstanding presence in the communications industry, we have no choice but to assume that Spectrum's conduct of false advertisement and creation of "support" for same with inappropriate customer disconnections is a direct and blatant attempt to intentionally mislead, confuse and/or deceive consumers and Windstream customers and to seriously damage Windstream's reputation and business. We have and will continue to, suffer irreparable injury arising from Spectrum's behavior, the remedies for which include an injunction, recovery of actual and punitive damages, and reimbursement of our attorneys' fees and costs.

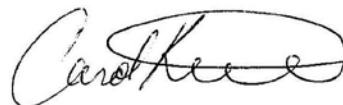
Spectrum must immediately cease and desist from all further use of these false and misleading mailouts. Specifically, we seek your full cooperation in connection with Spectrum taking immediate steps to discontinue any future false and misleading mailouts, advertisements and/or other business communications regarding Windstream's Chapter 11.

To that end, we seek Spectrum's written assurances of its compliance with the above demands on or before March 25, 2019. If Spectrum fails to immediately and fully comply with these demands, we will take whatever legal action may be necessary to protect our rights, including asking the bankruptcy court to award damages based on this highly suspicious confluence of Spectrum behavior.

Nothing contained in this letter should be considered as a waiver of any rights and claims of Windstream or its subsidiaries, which are hereby expressly reserved.



We look forward to hearing from you as outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Keene", written over a horizontal line.

Deputy General Counsel





## Windstream Customers, Don't Risk Losing Your TV and Internet Services.

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. To ensure you are not left without vital TV and Internet services, switch to Spectrum. With a network built for the future, Spectrum is here for the long haul—with our best deal for TV and Internet services from **\$44.99/mo each for 12 mos.\***

- **FREE** HD and **FREE** On Demand with instant access up to 50,000 On Demand titles.
- Download the **Spectrum TV® App** to stream up to 180 live channels and access up to 50,000 On Demand titles on your devices, anywhere in your home and everywhere on-the-go.
- **Fastest speeds up to 100 Mbps.** Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top-performing Internet provider**, delivering more speed, more consistently.\*\*\*
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.†

Windstream has a 2-year contract.† With Spectrum there are no contracts. Plus, we will buy you out of your current contract up to \$500.\*\*

---

Goodbye, Windstream.  
Hello, Spectrum.

Call 1-800-386-1578  
or visit [Spectrum.com](http://Spectrum.com)

Limited-time offer! Expires 04/25/19

TV + Internet

**\$44<sup>99</sup>**  
/mo each  
for 12 mos\*

**NO CONTRACTS**

GA-10-032519-PLG-3 33513001-A01-00338619-000894

WIN Ex. 1

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# **EXHIBIT C**

WINDSTREAM HOLDINGS, INC

Mailstop B1F03-53A  
4001 Rodney Parham Road  
Little Rock, Arkansas 72212

Carol Keith  
*Deputy General Counsel*

847.550.4433  
Email: Carol.Keith@windstream.com



March 26, 2019

**By Electronic Mail & Overnight Delivery**

Cody J. Harrison,  
Vice President, Associate General Counsel  
400 Atlantic Street  
Stamford, CT 06901  
[Cody.J.Harrison@charter.com](mailto:Cody.J.Harrison@charter.com)

Re: Supplemental Cease and Desist Spectrum's Advertising Regarding Windstream's  
Chapter 11

Dear Mr. Harrison:

I am following up regarding my cease and desist letter, dated March 21, 2019, concerning direct mailouts to Windstream customers containing false and misleading information with regard to Windstream's Chapter 11 and inappropriately threatening our customers that they may lose their television and/or internet.

Since that communication we have been made aware from several sources that this false and misleading distortion was not limited geographically or simply a one-off effort in a limited market. Apparently, Spectrum is engaging in an intentional and coordinated, national assault targeting Windstream customers committed to causing irreparable injury and damage to Windstream's reputation and business. This continues to be compounded by more disconnects about which we are receiving notice, as late as yesterday. Obviously, this is a concerted effort to create the false appearance of "uncertainty" to buttress your false and misleading allegations.

To date, these false and misleading mailouts have surfaced in Alabama, North Carolina, Nebraska and elsewhere. Customers are calling in or coming in to our local stores unhappy, upset and concerned about these scare tactics. Also, some of these customers are also Windstream employees who, understandably, reacted to this assault with distress and alarm.

Most concerning is the fact that some of our customers, upon receiving the targeted mailouts, called Spectrum to inquire and were told by Spectrum that they "have a contract with Windstream to buy us out". More than one customer was told this and we know who these customers are.

This misconduct is unacceptable and will not be tolerated. This goes beyond a mere marketing decision made in bad taste and is clearly an illegal targeting of Windstream's services and/or business in the marketplace using "false and misleading" representations. Furthermore, when given the opportunity, Spectrum employees have been directed to double down and outright lie to Windstream customers that Spectrum has a contract to buy Windstream out.

We have previously informed you of the actions that Windstream is and will be taking against Spectrum if this misconduct is not ceased immediately including pursuing any and all available legal avenues. Both Nebraska and Alabama have strong unlawful trade practices acts making it unlawful to disparage "the goods, services or business of another by false or misleading representations of fact." AL Code § 8-19-5 (2015) and Nebraska revised Statute 87-302. Of note are North Carolina's deceptive trade practices laws which provide for treble damages. N.C. GEN STAT, § 75-16. Trebling of damages is automatic and is not subject to judicial review. States also provide investigative and enforcement powers to their respective attorney generals wherever these fraudulent mailouts are occurring with penalties, fines and damages awarded on a per violation basis.

Based on our previous contact and conversations, Windstream was given assurances that you would be taking this matter seriously, would be investigating and would provide us with a response. As of this writing we still have not received a response. What we continue to receive are contacts from our customers consistently expressing their outrage and concerns.

Spectrum must immediately cease and desist from all further use of these false and misleading mailouts and seeks Spectrum's written assurances of its compliance with the above demands as of the date of this letter.

If you fail to provide the assurances requested, Windstream has taken the necessary steps to allow it to bring these illegal actions directly to the bankruptcy court for a determination of damages and is prepared to do just that.

Nothing contained in this letter should be considered as a waiver of any rights and claims of Windstream or its subsidiaries, which are hereby expressly reserved.

We look forward to hearing from you as outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Keene", written over a horizontal line.

Deputy General Counsel



# **EXHIBIT D**



Cody J. Harrison  
VP, Associate General Counsel

March 26, 2019

**VIA E-MAIL DELIVERY**

Carol Keith, Esq.  
Deputy General Counsel  
Windstream Holdings, Inc.  
Mailstop B1F03-53A  
4001 Rodney Parham Road  
Little Rock, Arkansas 72212  
Carol.Keith@windstream.com

Ms. Keith:

We are responding to your March 21, 2019 and March 26, 2019 letters.

Charter strenuously disagrees with the suggestion that there is anything false or misleading about its advertising. Windstream filed for bankruptcy in face of a \$300 million civil judgment, and as courts have repeatedly recognized, a filing like this creates "uncertainty" regarding Windstream's future until the bankruptcy is resolved. *See, e.g., In re Met-L-Wood*, 861 F.2d 1012, 1017 (7th Cir. 1988); *In re SW Boston Hotel Venture, LLC*, 460 B.R. 38, 59 (Bankr. D. Mass. 2011). This uncertainty is reflected in, among other things, the market's current valuation of Windstream's stock as compared to the trading price of the company's stock prior to Windstream's bankruptcy filing.

Despite Charter's disagreement with Windstream's accusations, the issue is moot as the direct mail piece in question was always intended to be of limited duration, and Charter is currently in the process of modifying its advertising for Windstream markets. Charter will take Windstream's objections into account in formulating future advertising materials.

Your March 26, 2019 letter also accuses Charter representatives of telling Windstream customers that Charter "has a contract with Windstream to buy us out." Whoever is reporting this to Windstream apparently misunderstands Spectrum's "Contract Buyout" offer, which reimburses eligible customers for any early termination fees they incur (up to \$500) when they switch to Spectrum. Charter's "Contract Buyout" offer was established long before Windstream filed for bankruptcy, and has nothing to do with Windstream's bankruptcy. Charter will continue to inform customers who are interested in switching to Charter of this offer.

We trust this addresses the objections that Windstream has raised to Charter's advertising.

All rights are hereby reserved.

Regards,

A handwritten signature in blue ink, appearing to be "CH", written over a horizontal line.

Cody J. Harrison  
VP, Associate General Counsel

# **EXHIBIT E**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CHARTER COMMUNICATIONS	)	
HOLDING COMPANY, LLC, and	)	
CHARTER COMMUNICATIONS	)	
OPERATING, LLC,	)	
	)	Case No.
Plaintiffs,	)	
	)	JURY TRIAL DEMANDED
v.	)	
	)	
DIRECTV, INC.,	)	
	)	
Defendant.	)	

**VERIFIED COMPLAINT**

COME NOW Plaintiffs Charter Communications Holding Company, LLC and Charter Communications Operating, LLC (collectively, “Charter”) and in support of this Verified Complaint against Defendant DirecTV, Inc. (“DirecTV”), state the following:

**NATURE OF ACTION**

1. Charter is the third-largest publicly-held cable operator in the United States, with operations in 27 states, approximately 5.5 million residential and commercial customers, and approximately 16,500 employees. Charter is a thriving and growing business, which generates significant positive cash flow before debt service and has achieved upward, favorable trends as an operating enterprise. In the past three years, Charter has increased *pro forma* annualized revenue from approximately \$5.4 billion to approximately \$6.5 billion, and *pro forma* annualized adjusted Earnings Before Interest, Taxes, Depreciation, and Amortization (“EBITDA”) from \$1.9 billion to approximately \$2.3 billion.



2. Over the past several months, recognizing the recent deteriorating capital market conditions and its significant debt load, Charter embarked on a plan to de-leverage its balance sheet to improve its already-strong competitive position. To do so, Charter negotiated a financial restructuring with key bondholder constituencies and agreed upon a consensual, pre-arranged plan of reorganization (the “Plan”) under Chapter 11 of the Bankruptcy Code. The Plan provides for the canceling of approximately \$8 billion in debt, the raising of approximately \$3 billion of capital and debt financing, and the continuation of Charter’s business in the ordinary course with trade creditors receiving payment in full – 100 cents on the dollar. Due to the consensual nature of the Plan, Charter’s time in bankruptcy should be brief and will have no impact on its ability to service its customers.

3. Despite these publicly-known facts surrounding Charter’s bankruptcy filing, Charter competitor, Defendant DirecTV, has attempted to exploit the fact that Charter filed for bankruptcy to create a misimpression among Charter’s actual and potential customers that Charter is liquidating and that Charter’s services will end or be substantially impaired. This is blatantly false. Recently, DirecTV launched a national advertising campaign specifically targeted at Charter’s customers and prospective customers designed to create a false impression that Charter’s Chapter 11 bankruptcy filing will adversely affect Charter’s customers. For example, some of DirecTV’s ads assert that there is “no way” Charter can continue to provide “the latest technology, more channels in HD or new exclusive programming” – even though Charter is continuing to do so. In addition, a number of ads claim that Charter’s customers must be “saved” from Charter’s bankruptcy, and depict DirecTV as their life-preserver or fire extinguisher – clearly implying the outright falsehood that Charter’s customers should switch to DirecTV’s competing service, because Charter is a figurative “sinking ship” or “going up in

flames,” *i.e.*, that it will go out of business. In the context of a pre-arranged, consensual bankruptcy such as Charter’s – where there is no plan for liquidation, the business is growing, the bankruptcy case is moving forward at precedent-setting speed (Charter has already received Bankruptcy Court approval of its Disclosure Statement in support of the Plan and the hearing date has been set), and all the relief required to continue business as usual has been granted, with trade creditors being paid in full – DirecTV’s ads are literally false, grossly misleading, cause consumer confusion, and are likely to deceive Charter’s current and prospective customers.

4. DirecTV’s false advertising campaign constitutes false advertising under the Lanham Act, 15 U.S.C. § 1125(a), tortious interference with Charter’s contracts, tortious interference with Charter’s prospective business relationships, injurious falsehood, defamation, and violations of various state consumer fraud and deceptive business practices laws. Pursuant to the Lanham Act, Charter seeks a permanent injunction, compensatory damages, enhanced damages, and attorneys fees. In addition, to prevent immediate irreparable injury, Charter seeks a temporary restraining order and a preliminary injunction to put an immediate stop to this campaign of deceptive and false advertising.

5. DirecTV is a repeat offender of the Lanham Act. Three different courts in two cases have found DirecTV guilty of false advertising in the last two years. *Time Warner Cable, Inc. v. DirecTV, Inc.*, 475 F. Supp.2d 299 (S.D.N.Y. 2007); *Time Warner Cable, Inc. v. DirecTV, Inc.*, 497 F.3d 144 (2d Cir. 2007); *DirecTV, Inc. v. Comcast of Illinois III, Inc.*, No. 07 C 2568, 2007 WL 2808235, at \*2 (N.D. Ill. Aug. 15, 2007).

### **THE PARTIES**

6. Charter Communications Holding Company, LLC is a Delaware company with its principal place of business in this district at 12405 Powerscourt Drive, St. Louis, Missouri.

7. Charter Communications Operating, LLC is a Delaware company with its principal place of business in this district at 12405 Powerscourt Drive, St. Louis, Missouri.

8. Charter Communications Holding Company, LLC and Charter Communications Operating, LLC are, among other things, in the business of operating broadband communication businesses in the United States with approximately 5.5 million customers as of December 31, 2008.

9. Charter's businesses have offered and continue to offer residential and commercial customers traditional cable video programming (basic and digital), high-speed Internet services and telephone services, advanced broadband services such as High Definition television ("HD"), Charter OnDemand™ ("On Demand"), and digital video recorder ("DVR") service, and other media services to customers throughout the United States. Charter sells its cable video programming, high-speed Internet, telephone, and advanced broadband services primarily on a subscription basis.

10. DirecTV is a Delaware corporation with its principal place of business at 2230 East Imperial Highway, El Segundo, California.

11. DirecTV is a registered foreign corporation in the State of Missouri.

12. DirecTV is in the business of providing digital television programming directly to its customers' homes or businesses throughout the United States. DirecTV regularly transacts business in this district.

13. Charter and DirecTV are direct competitors for customers within this district and in various other locations throughout the United States.

### **JURISDICTION AND VENUE**

14. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121(a), 28 U.S.C. § 1331, and 28 U.S.C. § 1367.

15. This Court's exercise of personal jurisdiction over DirecTV is proper because DirecTV regularly does business in the State of Missouri, DirecTV is registered as a foreign corporation in the State of Missouri, and DirecTV has engaged in and continues to engage in the advertising campaign at issue within the State of Missouri.

16. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial part of the events giving rise to the claims occurred in this jurisdiction because the false and deceptive advertising took place, in part, in this district, and 28 U.S.C. § 1391(b)(1) in that Defendant is subject to personal jurisdiction in this district.

### **JURY TRIAL DEMANDED**

17. Plaintiffs hereby demand trial by jury on all counts and all issues triable by jury.

### **FACTUAL BACKGROUND COMMON TO ALL ALLEGATIONS**

#### **Charter's Financial Restructuring and Voluntary Chapter 11 Bankruptcy Petition**

18. On February 12, 2009, Charter and its subsidiaries announced that they had reached an agreement-in-principle with certain of Charter's debt holders on the terms of a financial restructuring to reduce Charter's debt by approximately \$8 billion and raise approximately \$3 billion of capital and debt financing.

19. To implement the restructuring, on March 27, 2009, Charter and its subsidiaries filed a voluntary bankruptcy petition pursuant to Chapter 11 of the Bankruptcy Code (11 U.S.C. § 1101, *et seq.*) in the United States Bankruptcy Court for the Southern District of New York,



Case No. 09-11435-jmp. Charter's pre-arranged bankruptcy was designed to allow Charter to continue operating as usual while it develops and implements a balance sheet restructuring that will leave intact both Charter's operations and the senior portion of its capital structure.

20. The Plan provides for Charter's trade creditors to be paid in full. To that end, Charter sought and obtained authorization from the Bankruptcy Court to continue to pay its trade creditors in the ordinary course of business. As of March 31, 2009, Charter had approximately \$836 million of cash on hand, and was producing more than \$2.3 billion of positive adjusted *pro forma* EBITDA on an annualized basis. Bankruptcy Court approvals and substantial available resources have permitted Charter to continue its operations without disruption during its bankruptcy, as it will throughout that process. Moreover, Charter is planning a quick exit from bankruptcy. In line with that intention, Charter obtained Bankruptcy Court approval of the Disclosure Statement with respect to the Plan on May 5, 2009. A hearing to confirm the Plan is currently scheduled for July 20, 2009. Due to the consensual nature of the Plan, Charter's time in bankruptcy should be brief and will have no impact on its ability to service its customers.

21. In fact, since the bankruptcy filing, Charter continues to operate business "as usual" and to provide its customers with the latest technology, such as more HD channels, new exclusive programming, higher speed Internet access services, and all services that were available pre-filing. Charter is and remains committed to serving its customers and bringing its customers the latest innovations in home entertainment and broadband service. Over the past year, for example, Charter has increased its HD offerings and will continue adding more channels in HD. Charter currently offers approximately 30 HD channels in a majority of its markets and will launch additional HD channels in other areas later this spring and summer.

Charter's plans to increase its HD offerings continue forward and have not been slowed by the financial restructuring.

22. Charter's free content and HD content have grown over time and continue to grow. Charter's bankruptcy has not affected that growth.

23. Charter is currently trialing "switched digital technology" or "SDV" in three markets and is in the process of implementing SDV in additional markets. This technology allows Charter to free-up additional bandwidth to launch new HD channels and while the technology requires a substantial financial commitment and investment, Charter's bankruptcy proceeding has not impeded these plans and, in fact, will facilitate implementation of this technology once Charter emerges from bankruptcy.

24. Charter continues to offer and upgrade its On Demand service. On Demand is a technology that allows the customer to view certain programming and movies at the customer's convenience, rather than at the time the programming or movie airs.

25. Since filing its bankruptcy petition, Charter launched NBC Primetime On Demand, and will expand its Primetime On Demand content going forward. This offering, which allows Charter customers to order certain NBC programs at their convenience for free, adds more value to Charter's video service. Charter will expand its Primetime On Demand offerings to include other content providers.

26. Charter offers theatrical movies through its On Demand service. Since March 27, 2009, Charter has continued to add new releases and other popular movies to On Demand in the same manner it did prior to the initiation of its bankruptcy proceeding.

27. Since the bankruptcy filing, 254 movies have been released on Charter On Demand (that count includes new release movies, library titles, and independent and foreign

movies) with six of them being released on the same day those movies were first available on DVD. Charter presently offers more than 6000 movies and television shows through Charter On Demand.

28. Charter is investing in a new interactive program guide, making it easier for customers to access and view television programming. This project continues forward and has not been delayed or cancelled because of the financial restructuring. Charter has created and continues to plan and implement initiatives to offer the latest technology, add more HD channels, and provide new exclusive programming. Charter's bankruptcy has not affected those plans.

29. Charter has launched telephone service to additional markets and faster speed Internet services during its bankruptcy. For example, Charter recently launched 60 Megabits per second ("Mbps") Internet access, one of the fastest in the United States, utilizing recently announced "DOCSIS 3.0" technology. Charter's infrastructure has the capacity to support even higher speeds as demand and usage grows.

30. Charter has created and continues to plan and implement initiatives to develop and offer new services and improved technology now and in the future.

31. Charter has created and continues to plan and implement initiatives to offer the latest technology, add more HD channels, and provide new exclusive programming.

32. Charter's services and offerings to its customers and prospective customers have not been and will not be diminished or adversely impacted during the reorganization.

#### **DirecTV's False Advertising Campaign**

33. Despite the above publicly-available facts regarding the consensual nature of Charter's bankruptcy and the continuation of its operations as usual, DirecTV has attempted to exploit the fact of a "bankruptcy" filing to mislead Charter's actual and potential customers into

thinking that Charter is going out-of-business or that Charter's services to its customers will be impaired. In particular, DirecTV's advertisements falsely state that Charter will not be able to provide services due to Charter's bankruptcy and that customers need to be "saved" by DirecTV from Charter's bankruptcy. As detailed below, DirecTV has made false and deceptive claims regarding the impact of Charter's financial restructuring on Charter's ability to serve its customers through at least five separate means: (1) direct mailings to Charter customers, (2) print advertising, (3) billboard advertising, (4) radio advertising, and (5) personal solicitation.

34. There may be other DirecTV advertisements exploiting Charter's bankruptcy in a false and misleading way. Charter will seek all such advertisements published or aired by or on behalf of DirecTV in discovery.

**(1) DirecTV's False and Deceptive Direct Mailings**

35. DirecTV has recently sent and continues to send direct mail advertisements to Charter's customers in this District and throughout the nation. The direct mailings consistently state as follows:

Dear [Charter Customer]:

It's official: Charter has filed for bankruptcy. As they focus on their problems, *there's no way they'll be able to bring you the latest technology, more channels in HD and new exclusive programming.* But DIRECTV will.

....

So instead of wondering how cable's problems will affect you, just switch to DIRECTV....

See Direct Mailings attached hereto and incorporated herein as Exhibit 1 (emphasis added).



36. DirecTV is mailing this advertisement to current Charter customers in at least the following states: Connecticut, Louisiana, Michigan, Missouri, South Carolina, and Wisconsin.

*Id.*

37. Many of DirecTV's direct mail ads are enclosed in envelopes that do not readily identify DirecTV as the sender. Rather, in an apparent effort to make the mailer appear official, DirecTV makes the following text visible through an opening in the envelope immediately above the recipients' name and address: "**Important information about the television service in [Charter customer's city].**" See Exhibit 2 (emphasis in original).

38. A true and accurate redacted copy of the first page of DirecTV's direct mail ad sent to Charter's customers follows, and true and accurate redacted copies of the entire advertisement are filed herewith as Exhibit 1.



2230 East Imperial Hwy.  
El Segundo, CA 90245

Important information about the television service in  
O Fallon

REDACTED

O Fallon, MO REDACTED

Dear REDACTED

It's official: Charter has filed for bankruptcy. As they focus on their problems, there's no way they'll be able to bring you the latest technology, more channels in HD and new exclusive programming. But DIRECTV will. So make the popular choice—join over 18 million families who have made the FREE and EASY switch to DIRECTV.

Lock in your price for one full year and save \$21 a month.\*

Get over 150 channels for only \$34.99 a month.\* You'll get all your local channels\* and **3 FREE months of SHOWTIME®**. Switching is **FREE** and **EASY**, with no equipment to buy, no start-up costs and **FREE Professional Installation**. Plus, ask how to get a **FREE DIRECTV HD-DVR Receiver** upgrade.\*

Enjoy the best in HD,\* sports and technology:

- **DIRECTV has the most channels in HD**—now over 130!†
- **NCAA® MEGA MARCH MADNESS®, NFL SUNDAY TICKET™** and **FREE NASCAR HotPass™**—only on DIRECTV‡
- **DIRECTV® DVR Scheduler**—set your home DVR from any cell phone or computer‡
- **100% digital picture** on every channel and Dolby® Digital 5.1 surround sound‡
- **Worry-free 99.9% signal reliability**

Get help while you can—get DIRECTV

DIRECTV has been ranked #1 in customer satisfaction over cable 8 years running.\*\* So instead of wondering how cable's problems will affect you, just switch to DIRECTV. Call **1-877-912-3291** now to start getting more entertainment for your money. †Among the largest national cable & satellite TV providers. 2009 American Customer Satisfaction Index, University of Michigan Business School.

Sincerely,

*Michael Rogers*

Michael Rogers, V.P. Marketing

P.S. Why settle for less? Now's your chance to leave cable and get the best in TV with DIRECTV.

**Switch now! 1-877-912-3291 or directv.com**

Offers and 7/7/09 & are based on approved credit; credit card req'd. New customers only. (lease req'd. Must maintain programming. DVR service &/or HD Access: Lease fee of \$5/mo. for 2nd & eq. add'l receiver. Collector/Custom installation extra. \$18.95 handling & delivery fee may apply. See add'l terms on back of letter. \*Price & savings reflected include a \$10 bill credit/mo. for 12 consecutive mos. after online promo-in rebate, plus an add'l \$2 bill credit/mo. for 12 consecutive mos. when you register on directv.com prior to rebate redemption. Void e-mail address & consent to receive e-mails. †Among the largest national cable & satellite TV providers. 2009 American Customer Satisfaction Index, University of Michigan Business School. \*\*See add'l terms on back of letter.

**More TV. Less money.**  
Upgrade to DIRECTV now and get:

Over 150 channels for just  
**\$34.99** mo.  
**FOR 12 MONTHS\***  
The CHOICE™ package

Plus, for a limited time,  
get all this:

**3 MONTHS FREE**  
28 premium movie channels  
\$108 value!  
**HBO** **starz** **SHOWTIME**  
7 Channels 12 Channels 9 Channels  
\*With activation of CHOICE XTRA™ programming or higher\*



**FREE**  
**DIRECTV® HD DVR**  
Receiver upgrade  
Ask how\*  
\$199 value!



**FREE**  
**Professional Installation**  
in up to 4 rooms

Want to keep it simple?

**\$29.99** mo.  
**EVERYDAY LOW PRICE**  
The FAMILY™ package

30100657456

**(2) DirecTV's False and Deceptive Print Advertisements**

39. A print advertisement (“the life-preserver ad”) published by DirecTV or on its behalf states:

With Charter Cable filing for bankruptcy, now's the time to save yourself.

Get help while you can. Get DIRECTV. It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to “restructure” their finances, *do you really think they'll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting for Charter's bankruptcy to affect you, just switch to DIRECTV, America's #1 satellite provider.*

Exhibit 3 (emphasis added).

40. The life-preserver ad misleadingly depicts DirecTV as a life-preserver that will “save” the customers from Charter's bankruptcy.

41. A true and accurate copy of the life-preserver print advertisement that was published in the April 5, 2009 edition of the Reno Gazette-Journal follows and is filed herewith as Exhibit 3.



**With Charter Cable filing  
for bankruptcy, now's the  
time to save yourself.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting for Charter's bankruptcy to affect you, just switch to DIRECTV, America's #1 satellite provider.

**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**\$34.99** <sup>50%</sup> The CHOICE Package

**THE TV PACKAGE THAT BEATS CABLE**

- ☒ **OVER 150 Digital Channels**
- FREE** 5 PREMIUM CHANNELS FOR 3 MONTHS

**\$39.99** <sup>48%</sup> The CHOICE EXTRA Package

**MORE CHANNELS, MOVIES AND SPORTS!**

- ☒ **OVER 200 Digital Channels**
- ☒ **FREE DVR or HD DVR Receiver Upgrade\***
- FREE** 5 PREMIUM CHANNELS FOR 3 MONTHS

**HBO** + **SHOWS** + **ESPN**

7 Channels 12 Channels 10 Channels

**\$44.99** <sup>45%</sup> The CHOICE ULTRA Package

**WATCH WHAT YOU WANT, WHEN YOU WANT.**

- ☒ **OVER 200 Digital Channels**
- ☒ **FREE DVR or HD DVR Receiver Upgrade\***
- ☒ **Monthly DVR Service Included**
- FREE** 5 PREMIUM CHANNELS FOR 3 MONTHS

**HBO** + **SHOWS** + **ESPN**

12 Channels 12 Channels 10 Channels

Free Next-Day Installation • No Equipment to Buy • No Start-Up Costs • 99.9% Digital Signal Reliability



42. Another version of DirecTV's life-preserver print ad was published in the April 19, 2009 edition of the Reno Gazette-Journal. A true and accurate copy follows and is filed herewith as Exhibit 4.

**WORLD**

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RENO GAZETTE-JOURNAL/RGJ.COM

SUNDAY, APRIL 19, 2009

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**With Charter Cable filing  
for bankruptcy, now's the  
time to save yourself.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll have the time to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter's bankruptcy might affect you, just switch to DIRECTV, America's #1 satellite TV service.



**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**SAVE SOME GREEN \$21** LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.

**\$34.99** For 12 Months

**The CHOICE Package**

THE TV PACKAGE THAT BEATS CABLE

- OVER 150 Digital Channels
- 9 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** 7 Channels

**\$39.99** For 12 Months

**The CHOICE XTRA Package**

MORE CHANNELS, MOVIES AND SPORTS!

- OVER 200 Digital Channels
- FREE DVR or HD DVR Receiver Upgrade
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** 7 Channels **HBO** 12 Channels **SHOWTIME** 4 Channels

**\$44.99** For 12 Months

**The PLUS DVR Package**


WATCH WHAT YOU WANT, WHEN YOU WANT.

- OVER 200 Digital Channels
- FREE DVR or HD DVR Receiver Upgrade
- Monthly DVR Service Included
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** 7 Channels **HBO** 12 Channels **SHOWTIME** 4 Channels

**Free Next-Day Installation • No Equipment to Buy • No Start-Up Costs • 99.9% Digital Signal Reliability**


Offer valid 7/1/09 to 6/30/10. On approved credit. Credit card required. New customers only. Please required, must maintain programming, DVR and HD Access. Hardware available separately. Lease fee \$5/mo. for second and each additional receiver. \$19.95 handling & delivery fee may apply. All prices reflect a \$16 bill credit for 12 months after online or mail-in rebate plus an additional \$5 bill credit for 12 months when customer submits rebate online and registers account on directv.com. Void where prohibited. Void where prohibited.

**VISIT YOUR AUTHORIZED LOCAL DIRECTV DEALER TODAY:**



**935 Topsy Lane  
Carson City, NV 89705  
775-624-5475**

**1-800-380-4388**  
**directv.com**



Credit card not required in MA & PA. \*BILL CREDIT/PROGRAMMING OFFER: LIMIT ONE PROGRAMMING OFFER PER ACCOUNT. Featured package names and prices: CHOICE \$34.99/mo.; CHOICE XTRA \$39.99/mo.; PLUS DVR \$44.99/mo. If receive full \$21 credit, customer must submit rebate form online and register account on directv.com prior to rebate redemption. Requires valid email address and must agree to receive emails. Upon DIRECTV System activation, customer will receive redemption instructions (included in customer's first DIRECTV bill, a separate mailing, or, in the state of New York, from retailer) and must comply with the terms of the instructions. Rebate begins 6-8 weeks after receipt of rebate bill or by mail. Timing of promotional price depends on redemption date. Account must be in "good standing" as determined by DIRECTV in its sole discretion, to remain eligible. DIRECTV not responsible for late, lost, mislabeled, incomplete, not or postage-due mail. IF BY THE END OF PROMOTIONAL PRICE PERIOD(S) CUSTOMER DOES NOT CONTACT DIRECTV TO CHANGE SERVICE THEN ALL SERVICES WILL AUTOMATICALLY CONTINUE AT THE PREVAILING RATES INCLUD \$5/MO. LEASE FEE FOR THE 2ND AND EACH ADDITIONAL RECEIVER. DIRECTV System has a feature which restricts access to channels. In certain markets, programming/pricing may vary. \*\*INSTANT REBATE: Advance equipment instant rebate activation of the CHOICE XTRA package or above; FAMILIAR ULTRA or above; JadaWorld; or any qualifying international service bundle, which shall include the PREFERRED CHOICE programming package (valued at \$35.00/mo.). DVR service (\$5/mo. Access fee (\$10/mo.) required for HD DVR lease. LIMIT ONE ADVANCED EQUIPMENT REBATE PER DIRECTV ACCOUNT. INSTALLATION: Standard professional installation only. Custom installation extra. SYSTEM LEASE: Purchase of 24 consecutive 1-yr DIRECTV base programming package (\$29.99/mo. or 10 over) or qualifying international service bundle required. FAILURE TO ACTIVATE ALL DIRECTV SYSTEM EQUIPMENT IN ACCORDANCE WITH THE EQUIPMENT LEASE ADDENDUM MAY IN A CHARGE OF \$150 PER RECEIVER NOT ACTIVATED. IF YOU FAIL TO MAINTAIN YOUR PROGRAMMING, DIRECTV MAY CHARGE A PRO-RATED FEE OF \$480. RECEIVERS ARE AT ALL TIMES PROPERTY OF DIRECTV AND MUST BE RETURNED CANCELLATION OF SERVICE OR ADDITIONAL FEES MAY APPLY. VISIT directv.com OR CALL 1-800-DIRECTV FOR DETAILS. Programming, pricing, terms and conditions subject to change at any time. Pricing residential. Taxes not included. Account all programming subject to DIRECTV Customer Agreement; copy provided at directv.com/legal and in first bill. ©2009 DIRECTV, Inc. DIRECTV and the Cyclone Design logo, CHOICE, CHOICE XTRA and PLUS DVR are trademarks of DIRECTV, Inc. All other trademarks and service marks are the property of their respective owners.

43. Another version of DirecTV's life-preserver print advertisement was published in the May 3, 2009 edition of the Reno Gazette-Journal. A true and accurate copy follows and is filed herewith as Exhibit 5.

NEWS OF THE WEIRD

AND LATEST TECHNOLOGY

---

**CHARTER CABLE FILED FOR BANKRUPTCY.**

**WE'LL SAVE THE DAY**

**DIRECTV**

Get help while you can. Get DIRECTV. It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll have the time to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter's bankruptcy might affect you, just switch to DIRECTV, America's #1 satellite TV service.

**SAVE \$27**

**\$34.99**

THE TV PACKAGE WITH BROAD CABLE

OVER 300 Digital Channels

FREE HD DVR

**SAVE \$39**

**\$39.99**

THE DIRECTV STARTER PACK

OVER 300 Digital Channels

FREE HD DVR

**SAVE \$44**

**\$44.99**

THE DIRECTV PREMIUM PACK

OVER 300 Digital Channels

FREE HD DVR

**No Equipment to Buy • No Start-Up Costs • Free Installation • 99.9% Digital Signal Reliability**

VISIT YOUR AUTHORIZED LOCAL DIRECTV DEALER TODAY:

935 Topsy Lane  
Garson City, NV 89705  
775-624-5475

**1-800-380-4388**  
directv.com

**DIRECTV**  
SATELLITE TELEVISION



44. Another print advertisement (“the fire extinguisher ad”) published by DirecTV or on its behalf states in part:

Charter Cable filed for bankruptcy. We’ll save the day.

Get help while you can. Get DIRECTV. It’s official. Charter Cable has filed for bankruptcy. And now that they’re going to be focused on trying to “restructure” their finances, *do you really think they’ll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter’s bankruptcy might affect you, just switch to DIRECTV, America’s #1 satellite TV service.*

Exhibit 6 (emphasis added).

45. The fire extinguisher ad misleadingly depicts DirecTV as a fire extinguisher that will “save” the customers from Charter’s bankruptcy.

46. A true and accurate copy of the print advertisement follows and is filed herewith as Exhibit 6.



**Charter Cable filed  
for bankruptcy.**

**We'll save the day.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll have the time to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter's bankruptcy might affect you, just switch to DIRECTV, America's #1 satellite TV service.



**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**\$34.99** per month

**The CHOICE Package**

THE TV PACKAGE THAT BEATS CABLE

- OVER 150 Digital Channels
- 2 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** HD **RECEIVER** UPGRADE

**\$39.99** per month

**MORE CHANNELS, MOVIES AND SPORTS!**

- OVER 200 Digital Channels
- FREE** HD **DVR** or **HD** **RECEIVER** UPGRADE
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** HD **HBO** + **SHOWTIME** + **COMET**

**\$44.99** per month

**The PLUS DVR Package**

WATCH WHAT YOU WANT WHEN YOU WANT

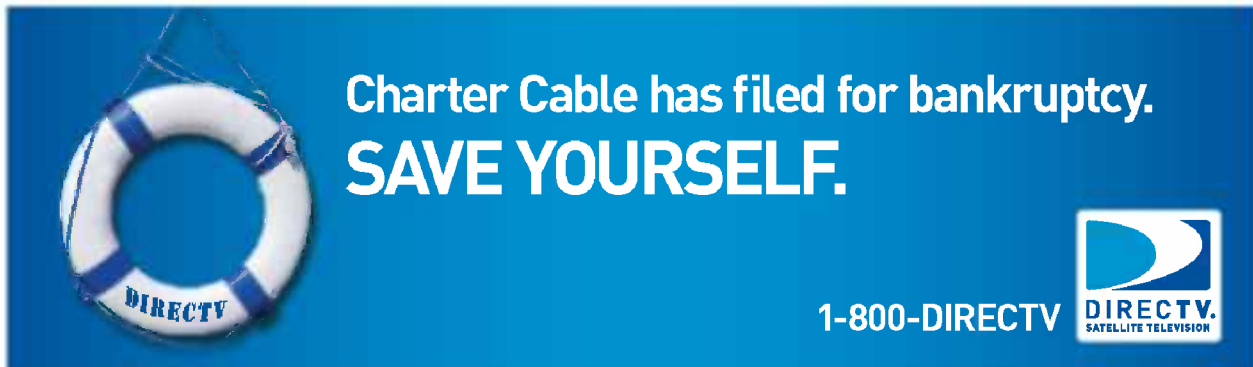
- OVER 200 Digital Channels
- FREE** HD **DVR** or **HD** **RECEIVER** UPGRADE
- Monthly** **DVR** **Service** **Included**

**(3) DirecTV's False and Deceptive Billboard Advertisements**

47. A billboard advertisement displayed by DirecTV or on its behalf states, "Charter Cable has filed for bankruptcy. SAVE YOURSELF." Exhibit 7.

48. Billboards with this advertisement are located in, but not limited to, the St. Louis, Missouri area, including two billboards located along Interstate 55 that were recently installed.

49. A true and accurate copy of DirecTV's billboard advertisement follows and is filed herewith as Exhibit 7.



**(4) DirecTV's False and Deceptive Radio Advertisements**

50. One of DirecTV's radio advertisements states in part:

Announcer No. 1: Ok, Charter cable customers, time for some direct talk from DirecTV. *As you may know, Charter has filed for bankruptcy. Uh-oh. And so now you're probably thinking "What does this mean for me? Will I miss my favorite shows? Lose my TV service? What about my HD channels?"* I certainly don't know. But I do know you can avoid Charter's mess completely by switching to DirecTV.... You can save yourself from this hassle.... *So instead of waiting to see how Charter's bankruptcy will affect you, just switch to DirecTV, America's number one satellite TV service....*

Exhibit 8 (emphasis added).

51. Another DirecTV radio ad states in part:

Phone ringing . . .

Charter Customer: Hello.

DirecTV: Hi, it's DirecTV calling....

....

DirecTV: *And did you know Charter just filed for bankruptcy?  
I suggest you avoid this mess altogether and switch to DirecTV....*

Exhibit 9 (emphasis added).

52. Another DirecTV radio ad states in part:

Phone ringing . . .

Charter Customer: Hello.

DirecTV: Hi, it's DirecTV calling.

....

Charter Customer: *And I just heard Charter filed for  
bankruptcy.*

DirecTV: *Yeah, that's not going to help their customer  
service one bit.* So just switch to the number one satellite provider  
in the country, DirecTV....

Exhibit 10 (emphasis added).

53. True and accurate audio recordings of these three radio advertisements are  
contained on audio compact discs filed herewith as Exhibits 8, 9, and 10.

54. Upon information and belief, DirecTV has caused these radio advertisements to  
air in the St. Louis, Missouri market and in other locations where Charter does business.

**(5) DirecTV's Personal Solicitation**

55. Upon information and belief, DirecTV employees or sales contractors personally  
solicit potential customers.



56. The soliciting DirecTV employees or sales contractors ask consumers which company provides their cable service. If the consumer is a Charter customer, the DirecTV employee or contractor informs the consumer of Charter's bankruptcy and provides the consumer with false and deceptive information that Charter's bankruptcy will adversely affect Charter's ability to continue providing services to its customers.

**DirecTV's Ad Campaign Is False, Deceptive, Misleading, and Unsubstantiated**

57. With the intent to sell its goods and services, DirecTV's ad campaign makes statements and conveys messages that are false, deceptive, misleading, and unsubstantiated.

58. Contrary to the depictions in DirecTV's false and misleading advertisements, Charter is not liquidating and is not going out-of-business; their customers do not need to be "saved" by either a life-preserver or a fire extinguisher. Charter is a growing and thriving business, which is on track to emerge from bankruptcy stronger than ever with \$8 billion less of debt and \$3 billion of new investment and refinancing. As a pre-arranged, planned, and consensual Chapter 11 filing, Charter's bankruptcy proceeding will allow Charter to exit bankruptcy quickly and to continue business as usual during and after the proceeding. Indeed, Charter's trade creditors will receive full payment of all amounts owed in the ordinary course.

59. As set forth above in Paragraphs 20 through 32, contrary to the statements in DirecTV's false and misleading advertisements, Charter's bankruptcy filing has not and will not have an adverse effect on Charter's services; Charter continues to provide its customers with the latest technology, more channels in HD, and new exclusive programming.

60. These services, and others, demonstrate that Charter continues to operate not only "as usual" and provide its customers with all services that were available prior to the bankruptcy filings, it is in fact *enhancing* its offerings while in bankruptcy. Charter remains focused on

offering its customers more value through advanced video services, including increased HD offerings and bringing its customers the latest innovations in home entertainment.

**DirecTV's False Ad Campaign Caused and Continues to Cause Consumer Confusion**

61. Since DirecTV began running its ad campaign against Charter, Charter has received customer inquiries revealing customer confusion as a result of the false claims in DirecTV's ads. Those customers are concerned that the information contained in the DirecTV ads indicates that Charter will end operations and will not be able to provide them with service.

62. Several Charter customers have visited Charter offices and called Charter's customer service lines to inquire whether they should terminate their Charter service because they understood DirecTV's direct mailer to mean that Charter will not be able to provide service.

63. Charter has received inquiries from several customers who reference DirecTV's false advertising and ask if the bankruptcy filing will affect Charter's ability to provide technology and programming.

64. Charter's customer service representatives ("CSR") have documented several customer inquiries about the DirecTV advertisements and direct mailers. These customers sought clarification about the ads which led them to believe that Charter was going out of business, ceasing operations, or would be unable to provide them with service. Charter customers have reported receiving phone calls from DirecTV providing similar information to the direct mailers they received.

65. When Charter customers call Charter, the CSR who answers the call sometimes contemporaneously creates notes regarding the nature and details of the call.

66. The following is a redacted example of a CSR's documentation of a call from a Charter customer in Romulus, Michigan:

The following customer who received the letter from DIRECTV advising that they were losing services unless they switched due to Charter's bankruptcy.

Phone Number [REDACTED]; Customer Name: [REDACTED]; Site 500, Romulus MI.

She received letter in the mail from DIRECT TV. This letter was on DIRECT TV letterhead regarding television service in Romulus. It stated Charter has filed for bankruptcy, and you will be losing your services as a result. If you wish to avoid the interruption of service, they can call DIRECT TV to get their services switched.

I have assured customer that is not the case, but there are other people in that market who may be receiving the same mailing. The customer says the wording is very clear that their Charter services will be lost.

67. Another example of the customer confusion caused by DirecTV's ad campaign is a Charter customer in Eunice, Louisiana who visited a Charter office on April 29, 2009 and asked when the office would be closing because she received a flyer from DirecTV stating that Charter would no longer provide her with service.

68. A second Charter customer in Eunice, Louisiana provides another example of the customer confusion caused by DirecTV's ad campaign. During the week of April 27, 2009, this customer informed Charter that she was approached by a DirecTV employee while buying a television from Sam's Club in Lafayette, Louisiana. After learning that this customer's service provider was Charter, the DirecTV employee told her that Charter filed for bankruptcy and would no longer be able to provide her services. The customer then visited the Eunice, Louisiana Charter office and inquired about the false information provided to her by DirecTV.

69. The customer came into the Eunice, Louisiana office and told a Charter employee about her experience with the DirecTV employee at the Sam's Club in Lafayette, Louisiana and asked if it was true that Charter would no longer be able to provide her services because of the bankruptcy.

**Charter Is Implementing Corrective Advertising as a Result of DirecTV's False Ad Campaign**

70. In response to DirecTV's false advertising campaign, Charter is responding with marketing efforts aimed at correcting DirecTV's false claims. Charter is expending time, money, and resources on corrective marketing as a direct result of DirecTV's false advertisements.

71. As part of Charter's corrective marketing in response to DirecTV's false advertisements, Charter is expending time, money, and resources in educating its customer service representatives ("CSRs") to explain the true effects of Charter's pre-arranged financial restructuring.

72. Charter's education of its CSRs includes instructions to specifically address DirecTV's false ads directed at Charter's financial restructuring.

**DirecTV's False Ad Campaign May Cause Irreparable Harm to Charter**

73. Nationally, there are a limited number of options for customers seeking a television service provider. Essentially, the customer has the choice between normal "over-the-air" broadcasters, a cable service provider, or a satellite service provider.

74. DirecTV is one of only two national satellite television service providers and has a much larger national market share of viewers than Charter.

75. Charter is the primary national cable television service provider in the St. Louis, Missouri area and in other areas in the United States. Charter and DirecTV directly compete with one another to provide television services to customers throughout the United States, including but not limited to customers located in St. Louis, Missouri.



76. The competition among television service providers for customers is intense in light of the limited number of options for customers and because customers typically subscribe to only one subscription television service provider at a given time.

77. Customers who believe DirecTV's false messages may be lost as a potential customer to Charter. If that customer chooses to switch to a different television service provider, the limited number of options makes it likely that the customer will choose DirecTV.

78. Typically there are startup or installation costs associated with satellite television service including but not limited to a satellite dish and receivers. The customer may have to pay for leasing the satellite equipment, installation of the equipment and may also have to sign a fixed term contract with the satellite television provider. The offers in DirecTV's advertisements are contingent on the customer signing a contract subscribing to DirecTV service for a certain number of years.

#### **DirecTV Refuses to Modify its Conduct**

79. On April 10, 2009, counsel for Charter, Dean Franklin, sent a letter to Vice President and Associate General Counsel for DirecTV, Takehiko Suzuki. The letter informed Mr. Suzuki of the reasons why the DirecTV advertisements are false and why they violate 15 U.S.C. § 1125 along with Charter's state statutory and common law rights. The letter expressed Charter's desire to resolve this matter amicably and requested that DirecTV immediately cease and desist making false claims about Charter and its bankruptcy filing. *See* Letter from D. Franklin to T. Suzuki (Apr. 10, 2009) (attached hereto as Exhibit 11).

80. On April 15, 2009, Mr. Suzuki responded to Mr. Franklin's April 10 letter and stated that DirecTV would address Charter's concerns: "to alleviate any concerns you may have, we are in the process of modifying the print advertising (including the billboard). The new

creative will be in the marketplace in short order. We believe the foregoing addresses your concerns, and as such, we consider this matter closed.” *See* Letter from T. Suzuki to D. Franklin (Apr. 15, 2009) (attached hereto as Exhibit 12).

81. Despite DirecTV’s statements, during the week of April 27, 2009 – after DirecTV received Charter’s cease and desist letter – DirecTV increased its nationwide false advertising campaign directed at Charter’s bankruptcy both in terms of volume and egregiousness.

82. DirecTV’s billboards on Interstate 55 were installed after Charter sent the cease and desist letter to DirecTV and were installed after DirecTV represented to Charter that DirecTV would modify their print and billboard advertisements.

83. Charter became aware of DirecTV’s false and deceptive direct mailers after sending its cease and desist letter to DirecTV.

84. After the receipt of Charter’s cease and desist letter, DirecTV’s ad campaign, including but not limited to the direct mailers, became more explicit with its false statements and messages, asserting that there is “no way” Charter will be able to offer services to customers due to the bankruptcy proceedings.

85. The volume of advertisements in DirecTV’s false advertisement campaign increased since the cease and desist letter was sent, including but not limited to the widespread direct mailing campaign in multiple states around the country and the addition of billboard advertisements along major highways in, but not limited to, the St. Louis, Missouri area.

86. Despite Charter’s efforts to resolve this matter amicably, DirecTV continues to implement its false advertising campaign in at least the following states: Connecticut, Illinois, Louisiana, Michigan, Missouri, Nevada, South Carolina, and Wisconsin.

**Count I – Violation of the Lanham Act, 15 U.S.C. § 1125(a)**

87. Charter incorporates by reference paragraphs 1 through 86 of the Complaint as if fully set forth herein.

88. DirecTV has and continues to make false and misleading statements about Charter's products and services in DirecTV's commercial advertisements in violation of 15 U.S.C. § 1125(a).

89. Individually and collectively, the advertisements described above are false or misleading and deceive, confuse, or are likely to deceive or confuse, a substantial segment of their intended audience in that they falsely portray Charter's bankruptcy as having a detrimental effect on Charter's customers, including, without limitation, through falsely claiming an impact on Charter's customer service, its ability to provide the latest technology, its ability to provide additional HD programming, and its ability to provide new exclusive programming.

90. DirecTV's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions deceive, or are likely to deceive, a substantial segment of their intended audience as to the nature, qualities, and characteristics of Charter's products and services.

91. DirecTV's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions cause confusion, or are likely to cause confusion or mistake, as to a substantial segment of their intended audience as to the nature, qualities, and characteristics of Charter's products and services.

92. DirecTV's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions misrepresent the nature, characteristics, and qualities of Charter's goods, services, or commercial activities.

93. DirecTV's false and misleading statements in its commercial advertising and promotion have been disseminated to the public at large, which includes customers and potential customers of both Charter and DirecTV.

94. Customers have been actually deceived or confused by DirecTV's false and misleading statements.

95. The false and misleading statements described above were made by DirecTV or its authorized agents.

96. DirecTV's advertising is material in that it is likely to influence the purchasing decision of Charter's current or prospective customers.

97. DirecTV's false and misleading statements were, are, and continue to be made in interstate commerce.

98. DirecTV's false and misleading statements were, are, and continue to be undertaken in bad faith.

99. DirecTV's false and misleading statements were, are, and continue to be made intentionally and willfully with a reckless disregard for the rights of Charter.

100. DirecTV's false and misleading advertising has resulted and will continue to result in actual or probable injury to Charter.



101. DirecTV's false and misleading advertising has damaged and will continue to damage Charter's business reputation and goodwill, and it has caused and will continue to cause Charter to incur money damages.

102. DirecTV's false and misleading statements in its commercial advertising have and are likely to continue to injure Charter by causing Charter to lose subscribers and sales, resulting in business losses in an amount to be determined at trial and that are presently unknown to Charter but which are believed to be substantial and are accumulating on an ongoing basis.

103. DirecTV's acts and omissions have caused and are continuing to cause damage to Charter's business reputation and goodwill and were and continue to be conducted knowingly and willfully by DirecTV. Therefore, Charter is entitled to recover (1) DirecTV's profits, (2) actual money damages sustained by Charter, (3) treble damages as provided under 15 U.S.C. § 1117(a), (4) the costs of the action as provided under 15 U.S.C. § 1117(a), and (5) attorneys' fees as a required result of a finding that this is an exceptional case pursuant to 15 U.S.C. § 1117(a).

### **Count II – Tortious Interference With Contract**

104. Charter incorporates by reference paragraphs 1 through 103 of the Complaint as if fully set forth herein.

105. Charter sells its services primarily on a subscription basis and has contractual relationships with its customers.

106. Through its national advertising campaign and its false and misleading statements described above, DirecTV has and continues to intentionally and improperly interfere with contracts between Charter and Charter's customers by inducing or otherwise causing Charter's customers to not perform the contract.

107. DirecTV knew of the contracts between Charter and Charter's customers when DirecTV initiated its false advertising campaign and made the false and misleading statements described above.

108. DirecTV's false advertising campaign and false and misleading statements were directed to Charter's current and prospective customers.

109. DirecTV intentionally and without justification interfered with and continues to interfere with contracts between Charter and Charter's customers by inducing or causing a breach of those contracts.

110. DirecTV's false advertising and false and misleading statements have caused damage to Charter and are likely to continue to result in damage to Charter.

**Count III – Tortious Interference With Business Expectancy  
or Prospective Business Relationships**

111. Charter incorporates by reference paragraphs 1 through 110 of the Complaint as if fully set forth herein.

112. Through its national advertising campaign and its false and misleading statements described above, DirecTV has and continues to interfere with valid business expectancies or prospective business relationships between Charter and Charter's prospective customers by inducing or otherwise causing a breach of the expectancies or relationships.

113. DirecTV's interference with Charter's valid business expectancies or prospective business relationships has been and continues to be intentional, improper, and without justification.

114. DirecTV's false and misleading statements in its commercial advertising and promotion have been disseminated to Charter's prospective customers with whom Charter has valid business expectancies or prospective business relationships.

115. DirecTV knew of the valid business expectancies or prospective business relationships between Charter and Charter's prospective customers when DirecTV initiated its false advertising campaign and made the false and misleading statements described above.

116. DirecTV's false advertising and false and misleading statements have caused damage to Charter and are likely to continue to result in damage to Charter.

#### **Count IV – Injurious Falsehoods**

117. Charter incorporates by reference paragraphs 1 through 116 of the Complaint as if fully set forth herein.

118. DirecTV's publication of false and misleading statements about Charter caused and continues to cause Charter pecuniary loss.

119. DirecTV intended for the publication of its false statements to result in harm to the interests of Charter having a pecuniary value, or DirecTV either recognized or should have recognized that the publication of its false statements were likely to result in harm to the interests of Charter having a pecuniary value.

120. DirecTV knew that its published statements in its commercial advertisements were and continue to be false, or DirecTV acted in reckless disregard of the truth or falsity of its published statements.

121. DirecTV's publication of false and misleading statements in its commercial advertisements were and continue to be substantial factors in bringing about Charter's pecuniary losses.

122. DirecTV's false and misleading statements in its commercial advertising have and are likely to continue to injure Charter by causing Charter to lose subscribers and sales, resulting in business losses in an amount to be determined at trial and that are presently unknown to Charter but which are believed to be substantial and are accumulating on an ongoing basis.

123. DirecTV's false and misleading advertising has caused and will continue to cause Charter to incur monetary damages.

### **Count V - Defamation**

124. Charter incorporates by reference paragraphs 1 through 123 of the Complaint as if fully set forth herein.

125. Through its national advertising campaign and its publication of false and misleading statements as described above, DirecTV has and continues to defame Charter causing actual harm to Charter's business reputation.

126. DirecTV published its commercial advertisements described above.

127. DirecTV's advertisements identify Charter and include defamatory statements about Charter.

128. DirecTV's advertisements include material, false statements about Charter.

129. DirecTV's ad campaign was implemented with a conscious intent to publish the false and defamatory statements.

130. DirecTV's defamatory and false statements were published with actual malice, and with knowledge that the statements were false.

131. DirecTV's defamatory and false statements were negligently published.

132. DirecTV's defamatory and false statements caused and continue to cause actual reputational harm to Charter.



133. Upon information and belief, DirecTV's defamatory and false publications directly caused and continue to cause the loss of customers or a general diminution in Charter's business.

**Count VI – State Law Consumer Fraud and Deceptive Business Practices Acts**

134. Charter incorporates by reference paragraphs 1 through 133 of the Complaint as if fully set forth herein.

135. DirecTV's conduct described herein is in violation of the Consumer Fraud Acts, Consumer Protection Acts, Deceptive Business Practices Acts, Deceptive Trade Practices Acts, Unfair Business Practices Acts, and Unfair Trade Practices Acts of certain states in which DirecTV implemented and continues to implement its false advertising campaign.

136. DirecTV's conduct constitutes a violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. Ann. §42-110, *et seq.*

137. DirecTV's conduct constitutes a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat. Ann. §505/1 *et seq.*

138. DirecTV's conduct constitutes a violation of the Louisiana Unfair Trade Practices Act, La. Rev. St. Ann. §51-1401, *et seq.*

139. DirecTV's conduct constitutes a violation of the Michigan Consumer Protection Act, Mich. Comp. Laws Ann. §§ 445.901-922.

140. DirecTV's conduct constitutes a violation of the Nevada Deceptive Trade Practices Act, Nev. Rev. St. Ann. §41.600.

141. DirecTV's conduct constitutes a violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann., §39-5-10, *et seq.*

142. DirecTV's conduct constitutes a violation of the Wisconsin Deceptive Trade Practices Act, Wis. Stat. Ann. §100.18.

143. The DirecTV false advertising campaign may extend to other states, and those ads may also exploit Charter's bankruptcy in a false and misleading way and violate certain statutes and laws of those other states.

WHEREFORE, Plaintiffs Charter Communications Holding Company, LLC, and Charter Communications Operating, LLC, respectfully request relief as follows:

a. A temporary restraining order and an order that preliminarily and permanently enjoins DirecTV, its officers, agents, servants, employees, attorneys, and all others in active concert or participation with them, from:

1. Disseminating anywhere in the United States the advertisements described in this Complaint, and any other advertisements substantially similar thereto; and

2. Claiming, whether directly or by implication, in any advertisement or promotional communication, regardless of media (including without limitation direct mail, newspaper or other print, billboard, radio, personal solicitation, Internet, and television), that Charter's bankruptcy will impair or otherwise adversely impact Charter's customers; will impair or otherwise adversely impact Charter's ability to continue providing, or provide in the future, cable television service to customers; or will cause Charter to cease operations or go out of business;

b. An order requiring DirecTV to compensate Charter for its corrective advertising;

c. An order awarding Plaintiffs damages from Defendant in an amount to be determined at trial, but no less than: (1) Defendant's profits, (2) Plaintiffs' lost profits, (3) any damages sustained by Plaintiffs, and (4) the costs of the action;

- d. Treble actual damages pursuant to 15 U.S.C. § 1117(a);
- e. A finding pursuant to 15 U.S.C. § 1117(a) that this is an exceptional case and an order awarding Plaintiffs attorneys' fees, expenses, and costs as allowed by law;
- f. Punitive damages;
- g. Special damages;
- h. All remedies available to Plaintiffs pursuant to the various state statutes referenced in Count VI;
- i. Attorneys' fees, expenses, and costs as allowed by law;
- j. Pre-judgment and post-judgment interest; and
- k. Such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

THOMPSON COBURN LLP

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Attorneys for Plaintiffs


Charter Communications Holding Company, LLC,  
and Charter Communications Operating, LLC



**VERIFICATION**

The undersigned verifies under penalty of perjury that the factual statements set forth in Plaintiffs' Verified Complaint are true and correct, and as to matters that are stated to be on information and belief, the undersigned certifies under penalty of perjury that he verily believes the same to be true.

Executed on May 10, 2009.

  
\_\_\_\_\_  
Ted W. Schtemp  
Executive Vice President and Chief Marketing Officer  
Charter Communications

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CHARTER COMMUNICATIONS	)	
HOLDING COMPANY, LLC, and	)	
CHARTER COMMUNICATIONS	)	
OPERATING, LLC,	)	
	)	Case No.
Plaintiffs,	)	
	)	JURY TRIAL DEMANDED
v.	)	
	)	
DIRECTV, INC.,	)	
	)	
Defendant.	)	

**VERIFIED COMPLAINT**

COME NOW Plaintiffs Charter Communications Holding Company, LLC and Charter Communications Operating, LLC (collectively, “Charter”) and in support of this Verified Complaint against Defendant DirecTV, Inc. (“DirecTV”), state the following:

**NATURE OF ACTION**

1. Charter is the third-largest publicly-held cable operator in the United States, with operations in 27 states, approximately 5.5 million residential and commercial customers, and approximately 16,500 employees. Charter is a thriving and growing business, which generates significant positive cash flow before debt service and has achieved upward, favorable trends as an operating enterprise. In the past three years, Charter has increased *pro forma* annualized revenue from approximately \$5.4 billion to approximately \$6.5 billion, and *pro forma* annualized adjusted Earnings Before Interest, Taxes, Depreciation, and Amortization (“EBITDA”) from \$1.9 billion to approximately \$2.3 billion.

2. Over the past several months, recognizing the recent deteriorating capital market conditions and its significant debt load, Charter embarked on a plan to de-leverage its balance sheet to improve its already-strong competitive position. To do so, Charter negotiated a financial restructuring with key bondholder constituencies and agreed upon a consensual, pre-arranged plan of reorganization (the “Plan”) under Chapter 11 of the Bankruptcy Code. The Plan provides for the canceling of approximately \$8 billion in debt, the raising of approximately \$3 billion of capital and debt financing, and the continuation of Charter’s business in the ordinary course with trade creditors receiving payment in full – 100 cents on the dollar. Due to the consensual nature of the Plan, Charter’s time in bankruptcy should be brief and will have no impact on its ability to service its customers.

3. Despite these publicly-known facts surrounding Charter’s bankruptcy filing, Charter competitor, Defendant DirecTV, has attempted to exploit the fact that Charter filed for bankruptcy to create a misimpression among Charter’s actual and potential customers that Charter is liquidating and that Charter’s services will end or be substantially impaired. This is blatantly false. Recently, DirecTV launched a national advertising campaign specifically targeted at Charter’s customers and prospective customers designed to create a false impression that Charter’s Chapter 11 bankruptcy filing will adversely affect Charter’s customers. For example, some of DirecTV’s ads assert that there is “no way” Charter can continue to provide “the latest technology, more channels in HD or new exclusive programming” – even though Charter is continuing to do so. In addition, a number of ads claim that Charter’s customers must be “saved” from Charter’s bankruptcy, and depict DirecTV as their life-preserver or fire extinguisher – clearly implying the outright falsehood that Charter’s customers should switch to DirecTV’s competing service, because Charter is a figurative “sinking ship” or “going up in

flames,” *i.e.*, that it will go out of business. In the context of a pre-arranged, consensual bankruptcy such as Charter’s – where there is no plan for liquidation, the business is growing, the bankruptcy case is moving forward at precedent-setting speed (Charter has already received Bankruptcy Court approval of its Disclosure Statement in support of the Plan and the hearing date has been set), and all the relief required to continue business as usual has been granted, with trade creditors being paid in full – DirecTV’s ads are literally false, grossly misleading, cause consumer confusion, and are likely to deceive Charter’s current and prospective customers.

4. DirecTV’s false advertising campaign constitutes false advertising under the Lanham Act, 15 U.S.C. § 1125(a), tortious interference with Charter’s contracts, tortious interference with Charter’s prospective business relationships, injurious falsehood, defamation, and violations of various state consumer fraud and deceptive business practices laws. Pursuant to the Lanham Act, Charter seeks a permanent injunction, compensatory damages, enhanced damages, and attorneys fees. In addition, to prevent immediate irreparable injury, Charter seeks a temporary restraining order and a preliminary injunction to put an immediate stop to this campaign of deceptive and false advertising.

5. DirecTV is a repeat offender of the Lanham Act. Three different courts in two cases have found DirecTV guilty of false advertising in the last two years. *Time Warner Cable, Inc. v. DirecTV, Inc.*, 475 F. Supp.2d 299 (S.D.N.Y. 2007); *Time Warner Cable, Inc. v. DirecTV, Inc.*, 497 F.3d 144 (2d Cir. 2007); *DirecTV, Inc. v. Comcast of Illinois III, Inc.*, No. 07 C 2568, 2007 WL 2808235, at \*2 (N.D. Ill. Aug. 15, 2007).

### **THE PARTIES**

6. Charter Communications Holding Company, LLC is a Delaware company with its principal place of business in this district at 12405 Powerscourt Drive, St. Louis, Missouri.

7. Charter Communications Operating, LLC is a Delaware company with its principal place of business in this district at 12405 Powerscourt Drive, St. Louis, Missouri.

8. Charter Communications Holding Company, LLC and Charter Communications Operating, LLC are, among other things, in the business of operating broadband communication businesses in the United States with approximately 5.5 million customers as of December 31, 2008.

9. Charter's businesses have offered and continue to offer residential and commercial customers traditional cable video programming (basic and digital), high-speed Internet services and telephone services, advanced broadband services such as High Definition television ("HD"), Charter OnDemand™ ("On Demand"), and digital video recorder ("DVR") service, and other media services to customers throughout the United States. Charter sells its cable video programming, high-speed Internet, telephone, and advanced broadband services primarily on a subscription basis.

10. DirecTV is a Delaware corporation with its principal place of business at 2230 East Imperial Highway, El Segundo, California.

11. DirecTV is a registered foreign corporation in the State of Missouri.

12. DirecTV is in the business of providing digital television programming directly to its customers' homes or businesses throughout the United States. DirecTV regularly transacts business in this district.

13. Charter and DirecTV are direct competitors for customers within this district and in various other locations throughout the United States.



### **JURISDICTION AND VENUE**

14. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121(a), 28 U.S.C. § 1331, and 28 U.S.C. § 1367.

15. This Court's exercise of personal jurisdiction over DirecTV is proper because DirecTV regularly does business in the State of Missouri, DirecTV is registered as a foreign corporation in the State of Missouri, and DirecTV has engaged in and continues to engage in the advertising campaign at issue within the State of Missouri.

16. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial part of the events giving rise to the claims occurred in this jurisdiction because the false and deceptive advertising took place, in part, in this district, and 28 U.S.C. § 1391(b)(1) in that Defendant is subject to personal jurisdiction in this district.

### **JURY TRIAL DEMANDED**

17. Plaintiffs hereby demand trial by jury on all counts and all issues triable by jury.

### **FACTUAL BACKGROUND COMMON TO ALL ALLEGATIONS**

#### **Charter's Financial Restructuring and Voluntary Chapter 11 Bankruptcy Petition**

18. On February 12, 2009, Charter and its subsidiaries announced that they had reached an agreement-in-principle with certain of Charter's debt holders on the terms of a financial restructuring to reduce Charter's debt by approximately \$8 billion and raise approximately \$3 billion of capital and debt financing.

19. To implement the restructuring, on March 27, 2009, Charter and its subsidiaries filed a voluntary bankruptcy petition pursuant to Chapter 11 of the Bankruptcy Code (11 U.S.C. § 1101, *et seq.*) in the United States Bankruptcy Court for the Southern District of New York,

Case No. 09-11435-jmp. Charter's pre-arranged bankruptcy was designed to allow Charter to continue operating as usual while it develops and implements a balance sheet restructuring that will leave intact both Charter's operations and the senior portion of its capital structure.

20. The Plan provides for Charter's trade creditors to be paid in full. To that end, Charter sought and obtained authorization from the Bankruptcy Court to continue to pay its trade creditors in the ordinary course of business. As of March 31, 2009, Charter had approximately \$836 million of cash on hand, and was producing more than \$2.3 billion of positive adjusted *pro forma* EBITDA on an annualized basis. Bankruptcy Court approvals and substantial available resources have permitted Charter to continue its operations without disruption during its bankruptcy, as it will throughout that process. Moreover, Charter is planning a quick exit from bankruptcy. In line with that intention, Charter obtained Bankruptcy Court approval of the Disclosure Statement with respect to the Plan on May 5, 2009. A hearing to confirm the Plan is currently scheduled for July 20, 2009. Due to the consensual nature of the Plan, Charter's time in bankruptcy should be brief and will have no impact on its ability to service its customers.

21. In fact, since the bankruptcy filing, Charter continues to operate business "as usual" and to provide its customers with the latest technology, such as more HD channels, new exclusive programming, higher speed Internet access services, and all services that were available pre-filing. Charter is and remains committed to serving its customers and bringing its customers the latest innovations in home entertainment and broadband service. Over the past year, for example, Charter has increased its HD offerings and will continue adding more channels in HD. Charter currently offers approximately 30 HD channels in a majority of its markets and will launch additional HD channels in other areas later this spring and summer.

Charter's plans to increase its HD offerings continue forward and have not been slowed by the financial restructuring.

22. Charter's free content and HD content have grown over time and continue to grow. Charter's bankruptcy has not affected that growth.

23. Charter is currently trialing "switched digital technology" or "SDV" in three markets and is in the process of implementing SDV in additional markets. This technology allows Charter to free-up additional bandwidth to launch new HD channels and while the technology requires a substantial financial commitment and investment, Charter's bankruptcy proceeding has not impeded these plans and, in fact, will facilitate implementation of this technology once Charter emerges from bankruptcy.

24. Charter continues to offer and upgrade its On Demand service. On Demand is a technology that allows the customer to view certain programming and movies at the customer's convenience, rather than at the time the programming or movie airs.

25. Since filing its bankruptcy petition, Charter launched NBC Primetime On Demand, and will expand its Primetime On Demand content going forward. This offering, which allows Charter customers to order certain NBC programs at their convenience for free, adds more value to Charter's video service. Charter will expand its Primetime On Demand offerings to include other content providers.

26. Charter offers theatrical movies through its On Demand service. Since March 27, 2009, Charter has continued to add new releases and other popular movies to On Demand in the same manner it did prior to the initiation of its bankruptcy proceeding.

27. Since the bankruptcy filing, 254 movies have been released on Charter On Demand (that count includes new release movies, library titles, and independent and foreign

movies) with six of them being released on the same day those movies were first available on DVD. Charter presently offers more than 6000 movies and television shows through Charter On Demand.

28. Charter is investing in a new interactive program guide, making it easier for customers to access and view television programming. This project continues forward and has not been delayed or cancelled because of the financial restructuring. Charter has created and continues to plan and implement initiatives to offer the latest technology, add more HD channels, and provide new exclusive programming. Charter's bankruptcy has not affected those plans.

29. Charter has launched telephone service to additional markets and faster speed Internet services during its bankruptcy. For example, Charter recently launched 60 Megabits per second ("Mbps") Internet access, one of the fastest in the United States, utilizing recently announced "DOCSIS 3.0" technology. Charter's infrastructure has the capacity to support even higher speeds as demand and usage grows.

30. Charter has created and continues to plan and implement initiatives to develop and offer new services and improved technology now and in the future.

31. Charter has created and continues to plan and implement initiatives to offer the latest technology, add more HD channels, and provide new exclusive programming.

32. Charter's services and offerings to its customers and prospective customers have not been and will not be diminished or adversely impacted during the reorganization.

#### **DirecTV's False Advertising Campaign**

33. Despite the above publicly-available facts regarding the consensual nature of Charter's bankruptcy and the continuation of its operations as usual, DirecTV has attempted to exploit the fact of a "bankruptcy" filing to mislead Charter's actual and potential customers into

thinking that Charter is going out-of-business or that Charter's services to its customers will be impaired. In particular, DirecTV's advertisements falsely state that Charter will not be able to provide services due to Charter's bankruptcy and that customers need to be "saved" by DirecTV from Charter's bankruptcy. As detailed below, DirecTV has made false and deceptive claims regarding the impact of Charter's financial restructuring on Charter's ability to serve its customers through at least five separate means: (1) direct mailings to Charter customers, (2) print advertising, (3) billboard advertising, (4) radio advertising, and (5) personal solicitation.

34. There may be other DirecTV advertisements exploiting Charter's bankruptcy in a false and misleading way. Charter will seek all such advertisements published or aired by or on behalf of DirecTV in discovery.

**(1) DirecTV's False and Deceptive Direct Mailings**

35. DirecTV has recently sent and continues to send direct mail advertisements to Charter's customers in this District and throughout the nation. The direct mailings consistently state as follows:

Dear [Charter Customer]:

It's official: Charter has filed for bankruptcy. As they focus on their problems, *there's no way they'll be able to bring you the latest technology, more channels in HD and new exclusive programming.* But DIRECTV will.

....

So instead of wondering how cable's problems will affect you, just switch to DIRECTV....

See Direct Mailings attached hereto and incorporated herein as Exhibit 1 (emphasis added).



36. DirecTV is mailing this advertisement to current Charter customers in at least the following states: Connecticut, Louisiana, Michigan, Missouri, South Carolina, and Wisconsin. *Id.*

37. Many of DirecTV's direct mail ads are enclosed in envelopes that do not readily identify DirecTV as the sender. Rather, in an apparent effort to make the mailer appear official, DirecTV makes the following text visible through an opening in the envelope immediately above the recipients' name and address: **"Important information about the television service in [Charter customer's city]."** See Exhibit 2 (emphasis in original).

38. A true and accurate redacted copy of the first page of DirecTV's direct mail ad sent to Charter's customers follows, and true and accurate redacted copies of the entire advertisement are filed herewith as Exhibit 1.



2230 East Imperial Hwy.  
El Segundo, CA 90245

Important information about the television service in  
O Fallon

REDACTED

O Fallon, MO REDACTED

Dear REDACTED

It's official: Charter has filed for bankruptcy. As they focus on their problems, there's no way they'll be able to bring you the latest technology, more channels in HD and new exclusive programming. But DIRECTV will. So make the popular choice—join over 18 million families who have made the FREE and EASY switch to DIRECTV.

Lock in your price for one full year and save \$21 a month.\*

Get over 150 channels for only \$34.99 a month.\* You'll get all your local channels\* and **3 FREE months of SHOWTIME®**. Switching is **FREE** and **EASY**, with no equipment to buy, no start-up costs and **FREE Professional Installation**. Plus, ask how to get a **FREE DIRECTV HD-DVR Receiver** upgrade.\*

Enjoy the best in HD,\* sports and technology:

- **DIRECTV has the most channels in HD**—now over 130!†
- **NCAA® MEGA MARCH MADNESS,® NFL SUNDAY TICKET™** and **FREE NASCAR HotPass™**—only on DIRECTV‡
- **DIRECTV® DVR Scheduler**—set your home DVR from any cell phone or computer‡
- **100% digital picture** on every channel and Dolby® Digital 5.1 surround sound‡
- **Worry-free 99.9% signal reliability**

Get help while you can—get DIRECTV

DIRECTV has been ranked #1 in customer satisfaction over cable 8 years running.\*\* So instead of wondering how cable's problems will affect you, just switch to DIRECTV. Call **1-877-912-3291** now to start getting more entertainment for your money. †Among the largest national cable & satellite TV providers. 2009 American Customer Satisfaction Index, University of Michigan Business School.

Sincerely,

*Michael Rogers*

Michael Rogers, V.P. Marketing

P.S. Why settle for less? Now's your chance to leave cable and get the best in TV with DIRECTV.

**Switch now! 1-877-912-3291 or directv.com**

Offers and 7/7/09 & are based on approved credit; credit card req'd. New customers only. (lease req'd. Must maintain programming. DVR service &/or HD Access: Lease fee of \$5/mo. for 2nd & eq. add'l receiver. Collector/Custom installation extra. \$18.95 handling & delivery fee may apply. See add'l terms on back of letter. \*Price & savings reflected include a \$10 bill credit/mo. for 12 consecutive mos. after online or mail-in rebate, plus an add'l \$2 bill credit/mo. for 12 consecutive mos. when you register on directv.com prior to rebate redemption. Void e-mail address & consent to receive e-mails. \*\*See www.americancustomer.com for details. ©2009 DIRECTV, Inc. All rights reserved. DIRECTV, the DIRECTV logo, and the "My TV" logo are trademarks of DIRECTV, Inc. in the U.S. and other countries.

**More TV. Less money.**  
Upgrade to DIRECTV now and get:

Over 150 channels for just **\$34.99** mo. ~~\$55.99~~  
**FOR 12 MONTHS\***  
The CHOICE™ package

Plus, for a limited time,  
get all this:

**3 MONTHS FREE**  
28 premium movie channels  
\$108 value!  
**HBO** **starz** **SHOWTIME**  
7 Channels 12 Channels 9 Channels  
\*With activation of CHOICE XTRA™ programming or higher\*



**FREE**  
**DIRECTV® HD DVR**  
Receiver upgrade  
Ask how\*  
\$199 value!



**FREE**  
**Professional Installation**  
in up to 4 rooms

Want to keep it simple?

**\$29.99** mo.  
**EVERYDAY LOW PRICE**  
The FAMILY™ package

30100657456

**(2) DirecTV's False and Deceptive Print Advertisements**

39. A print advertisement ("the life-preserver ad") published by DirecTV or on its behalf states:

With Charter Cable filing for bankruptcy, now's the time to save yourself.

Get help while you can. Get DIRECTV. It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, *do you really think they'll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting for Charter's bankruptcy to affect you, just switch to DIRECTV, America's #1 satellite provider.*

Exhibit 3 (emphasis added).

40. The life-preserver ad misleadingly depicts DirecTV as a life-preserver that will "save" the customers from Charter's bankruptcy.

41. A true and accurate copy of the life-preserver print advertisement that was published in the April 5, 2009 edition of the Reno Gazette-Journal follows and is filed herewith as Exhibit 3.



**With Charter Cable filing  
for bankruptcy, now's the  
time to save yourself.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting for Charter's bankruptcy to affect you, just switch to DIRECTV, America's #1 satellite provider.

**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**\$34.99** <sup>1</sup>/<sub>month</sub> <sup>2</sup>/<sub>year</sub>  
The CHOICE Package

THE TV PACKAGE THAT BEATS CABLE

- ☒ OVER 150 Digital Channels
- ☒ PREMIUM CHANNELS (HD) KUZZU

**FREE** <sup>3</sup>/<sub>month</sub> <sup>4</sup>/<sub>year</sub>  
1 Channel

**\$39.99** <sup>1</sup>/<sub>month</sub> <sup>2</sup>/<sub>year</sub>  
The CHOICE EXTRA Package

MORE CHANNELS, MOVIES AND SPORTS!

- ☒ OVER 200 Digital Channels
- ☒ FREE DVR or HD DVR Receiver Upgrade

20 PREMIUM CHANNELS FOR 3 MONTHS

**FREE** <sup>5</sup>/<sub>month</sub> <sup>6</sup>/<sub>year</sub>  
7 Channels 12 Channels 10 Channels

**\$44.99** <sup>1</sup>/<sub>month</sub> <sup>2</sup>/<sub>year</sub>  
The CHOICE ULTRA Package

WATCH WHAT YOU WANT, WHEN YOU WANT.

- ☒ OVER 200 Digital Channels
- ☒ FREE DVR or HD DVR Receiver Upgrade
- ☒ Monthly DVR Service Included

20 PREMIUM CHANNELS FOR 3 MONTHS

**FREE** <sup>7</sup>/<sub>month</sub> <sup>8</sup>/<sub>year</sub>  
12 Channels 12 Channels 10 Channels

Free Next-Day Installation • No Equipment to Buy • No Start-Up Costs • 99.9% Digital Signal Reliability

42. Another version of DirecTV's life-preserver print ad was published in the April 19, 2009 edition of the Reno Gazette-Journal. A true and accurate copy follows and is filed herewith as Exhibit 4.



**WORLD**

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RENO GAZETTE-JOURNAL/RGJ.COM

SUNDAY, APRIL 19, 2009

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**With Charter Cable filing  
for bankruptcy, now's the  
time to save yourself.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll have the time to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter's bankruptcy might affect you, just switch to DIRECTV, America's #1 satellite TV service.



**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**SAVE SOME GREEN \$21** LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.

**\$34.99** For 12 Months

**The CHOICE Package**

THE TV PACKAGE THAT BEATS CABLE

- OVER 150 Digital Channels
- 9 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** HD **RECEIVER**

**\$39.99** For 12 Months

**The CHOICE XTRA Package**

MORE CHANNELS, MOVIES AND SPORTS!

- OVER 200 Digital Channels
- FREE DVR or HD DVR Receiver Upgrade\*
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** HD **RECEIVER** + **SHO** + **STARZ** + **SHOWTIME**

**\$44.99** For 12 Months

**The PLUS DVR Package**


WATCH WHAT YOU WANT, WHEN YOU WANT.

- OVER 200 Digital Channels
- FREE DVR or HD DVR Receiver Upgrade\*
- Monthly DVR Service Included
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** HD **RECEIVER** + **SHO** + **STARZ** + **SHOWTIME**

**Free Next-Day Installation • No Equipment to Buy • No Start-Up Costs • 99.9% Digital Signal Reliability**


Offer ends 7/1/09. On approved credit. Credit card required. New customers only. Please required, must maintain programming, DVR and HD Access. Hardware available separately. Lease fee \$5/mo. for second and each additional receiver. \$19.95 handling & delivery fee may apply. All prices reflect a \$16 bill credit for 12 months after online or mail-in rebate plus an additional \$5 bill credit for 12 months when customer submits rebate online and registers account on directv.com. Void where prohibited. \*See dealer address required.

**VISIT YOUR AUTHORIZED LOCAL DIRECTV DEALER TODAY:**



**935 Topsy Lane  
Carson City, NV 89705  
775-624-5475**

**1-800-380-4388**  
**directv.com**



**DIRECTV.**  
SATELLITE TELEVISION

Credit card not required in MA & PA. \*BILL CREDIT/PROGRAMMING OFFER: LIMIT ONE PROGRAMMING OFFER PER ACCOUNT. Featured package names and prices: CHOICE \$34.99/mo.; CHOICE XTRA \$39.99/mo.; PLUS DVR \$44.99/mo. If receive full \$21 credit, customer must submit rebate form online and register account on directv.com prior to rebate redemption. Requires valid email address and must agree to receive emails. Upon DIRECTV System activation, customer will receive redemption instructions (included in customer's first DIRECTV bill, a separate mailing, or, in the state of New York, from retailer) and must comply with the terms of the instructions. Rebate begins 6-8 weeks after receipt of rebate bill or by mail. Timing of promotional price depends on redemption date. Account must be in "good standing" as determined by DIRECTV in its sole discretion, to remain eligible. DIRECTV not responsible for late, lost, illegible, mutilated, incomplete, not or postage-due mail. IF BY THE END OF PROMOTIONAL PRICE PERIOD(S) CUSTOMER DOES NOT CONTACT DIRECTV TO CHANGE SERVICE THEN ALL SERVICES WILL AUTOMATICALLY CONTINUE AT THE PREVAILING RATES INCLUD \$5/MO. LEASE FEE FOR THE 2ND AND EACH ADDITIONAL RECEIVER. DIRECTV System has a feature which restricts access to channels. In certain markets, programming/pricing may vary. \*\*INSTANT REBATE: Advance equipment instant rebate activation of the CHOICE XTRA package or above; FAMILIAR ULTRA or above; JadoWorld; or any qualifying international service bundle, which shall include the PREFERRED CHOICE programming package (valued at \$35.00/mo.). DVR service (\$5/mo. Access fee (\$10/mo.) required for HD DVR lease. LIMIT ONE ADVANCED EQUIPMENT REBATE PER DIRECTV ACCOUNT. INSTALLATION: Standard professional installation only. Custom installation extra. SYSTEM LEASE: Purchase of 24 consecutive 1-yr DIRECTV base programming package (\$29.99/mo. or 10 over) or qualifying international service bundle required. FAILURE TO ACTIVATE ALL DIRECTV SYSTEM EQUIPMENT IN ACCORDANCE WITH THE EQUIPMENT LEASE ADDENDUM MAY IN A CHARGE OF \$150 PER RECEIVER NOT ACTIVATED. IF YOU FAIL TO MAINTAIN YOUR PROGRAMMING, DIRECTV MAY CHARGE A PRO-RATED FEE OF \$480. RECEIVERS ARE AT ALL TIMES PROPERTY OF DIRECTV AND MUST BE RETURNED CANCELLATION OF SERVICE OR ADDITIONAL FEES MAY APPLY. VISIT directv.com OR CALL 1-800-DIRECTV FOR DETAILS. Programming, pricing, terms and conditions subject to change at any time. Pricing residential. Taxes not included. Account all programming subject to DIRECTV Customer Agreement; copy provided at directv.com/legal and in first bill. ©2009 DIRECTV, Inc. DIRECTV and the Cyclone Design logo, CHOICE, CHOICE XTRA and PLUS DVR are trademarks of DIRECTV, Inc. All other trademarks and service marks are the property of their respective owners.

43. Another version of DirecTV's life-preserver print advertisement was published in the May 3, 2009 edition of the Reno Gazette-Journal. A true and accurate copy follows and is filed herewith as Exhibit 5.



44. Another print advertisement (“the fire extinguisher ad”) published by DirecTV or on its behalf states in part:

Charter Cable filed for bankruptcy. We’ll save the day.

Get help while you can. Get DIRECTV. It’s official. Charter Cable has filed for bankruptcy. And now that they’re going to be focused on trying to “restructure” their finances, *do you really think they’ll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter’s bankruptcy might affect you, just switch to DIRECTV, America’s #1 satellite TV service.*

Exhibit 6 (emphasis added).

45. The fire extinguisher ad misleadingly depicts DirecTV as a fire extinguisher that will “save” the customers from Charter’s bankruptcy.

46. A true and accurate copy of the print advertisement follows and is filed herewith as Exhibit 6.





**Charter Cable filed  
for bankruptcy.**

**We'll save the day.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll have the time to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter's bankruptcy might affect you, just switch to DIRECTV, America's #1 satellite TV service.



**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**\$34.99** per month

**The CHOICE Package**

THE TV PACKAGE THAT BEATS CABLE

- OVER 150 Digital Channels
- 2 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** HD **RECEIVER** UPGRADE

**\$39.99** per month

**MORE CHANNELS, MOVIES AND SPORTS!**

- OVER 200 Digital Channels
- FREE** HD **DVR** or **HD** **DVR** Receiver Upgrade
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** HD **HBO** + **SHOWTIME** + **COMET**

**\$44.99** per month

**The PLUS DVR Package**

WATCH WHAT YOU WANT WHEN YOU WANT

- OVER 200 Digital Channels
- FREE** HD **DVR** or **HD** **DVR** Receiver Upgrade
- Monthly DVR Service Included

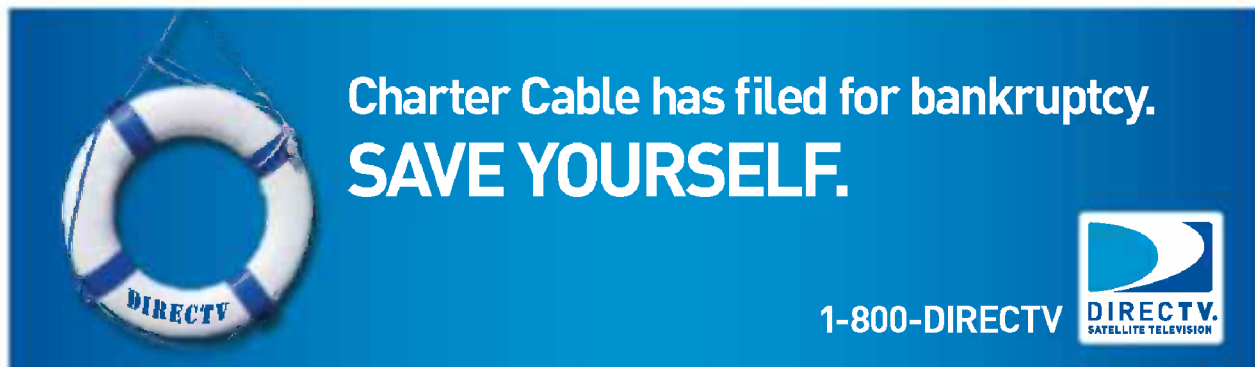


**(3) DirecTV's False and Deceptive Billboard Advertisements**

47. A billboard advertisement displayed by DirecTV or on its behalf states, "Charter Cable has filed for bankruptcy. SAVE YOURSELF." Exhibit 7.

48. Billboards with this advertisement are located in, but not limited to, the St. Louis, Missouri area, including two billboards located along Interstate 55 that were recently installed.

49. A true and accurate copy of DirecTV's billboard advertisement follows and is filed herewith as Exhibit 7.



**(4) DirecTV's False and Deceptive Radio Advertisements**

50. One of DirecTV's radio advertisements states in part:

Announcer No. 1: Ok, Charter cable customers, time for some direct talk from DirecTV. *As you may know, Charter has filed for bankruptcy. Uh-oh. And so now you're probably thinking "What does this mean for me? Will I miss my favorite shows? Lose my TV service? What about my HD channels?"* I certainly don't know. But I do know you can avoid Charter's mess completely by switching to DirecTV.... You can save yourself from this hassle.... *So instead of waiting to see how Charter's bankruptcy will affect you, just switch to DirecTV, America's number one satellite TV service....*

Exhibit 8 (emphasis added).

51. Another DirecTV radio ad states in part:

Phone ringing . . .

Charter Customer: Hello.

DirecTV: Hi, it's DirecTV calling....

....

DirecTV: *And did you know Charter just filed for bankruptcy?  
I suggest you avoid this mess altogether and switch to DirecTV....*

Exhibit 9 (emphasis added).

52. Another DirecTV radio ad states in part:

Phone ringing . . .

Charter Customer: Hello.

DirecTV: Hi, it's DirecTV calling.

....

Charter Customer: *And I just heard Charter filed for  
bankruptcy.*

DirecTV: *Yeah, that's not going to help their customer  
service one bit.* So just switch to the number one satellite provider  
in the country, DirecTV....

Exhibit 10 (emphasis added).

53. True and accurate audio recordings of these three radio advertisements are  
contained on audio compact discs filed herewith as Exhibits 8, 9, and 10.

54. Upon information and belief, DirecTV has caused these radio advertisements to  
air in the St. Louis, Missouri market and in other locations where Charter does business.

**(5) DirecTV's Personal Solicitation**

55. Upon information and belief, DirecTV employees or sales contractors personally  
solicit potential customers.

56. The soliciting DirecTV employees or sales contractors ask consumers which company provides their cable service. If the consumer is a Charter customer, the DirecTV employee or contractor informs the consumer of Charter's bankruptcy and provides the consumer with false and deceptive information that Charter's bankruptcy will adversely affect Charter's ability to continue providing services to its customers.

**DirecTV's Ad Campaign Is False, Deceptive, Misleading, and Unsubstantiated**

57. With the intent to sell its goods and services, DirecTV's ad campaign makes statements and conveys messages that are false, deceptive, misleading, and unsubstantiated.

58. Contrary to the depictions in DirecTV's false and misleading advertisements, Charter is not liquidating and is not going out-of-business; their customers do not need to be "saved" by either a life-preserver or a fire extinguisher. Charter is a growing and thriving business, which is on track to emerge from bankruptcy stronger than ever with \$8 billion less of debt and \$3 billion of new investment and refinancing. As a pre-arranged, planned, and consensual Chapter 11 filing, Charter's bankruptcy proceeding will allow Charter to exit bankruptcy quickly and to continue business as usual during and after the proceeding. Indeed, Charter's trade creditors will receive full payment of all amounts owed in the ordinary course.

59. As set forth above in Paragraphs 20 through 32, contrary to the statements in DirecTV's false and misleading advertisements, Charter's bankruptcy filing has not and will not have an adverse effect on Charter's services; Charter continues to provide its customers with the latest technology, more channels in HD, and new exclusive programming.

60. These services, and others, demonstrate that Charter continues to operate not only "as usual" and provide its customers with all services that were available prior to the bankruptcy filings, it is in fact *enhancing* its offerings while in bankruptcy. Charter remains focused on

offering its customers more value through advanced video services, including increased HD offerings and bringing its customers the latest innovations in home entertainment.

**DirecTV's False Ad Campaign Caused and Continues to Cause Consumer Confusion**

61. Since DirecTV began running its ad campaign against Charter, Charter has received customer inquiries revealing customer confusion as a result of the false claims in DirecTV's ads. Those customers are concerned that the information contained in the DirecTV ads indicates that Charter will end operations and will not be able to provide them with service.

62. Several Charter customers have visited Charter offices and called Charter's customer service lines to inquire whether they should terminate their Charter service because they understood DirecTV's direct mailer to mean that Charter will not be able to provide service.

63. Charter has received inquiries from several customers who reference DirecTV's false advertising and ask if the bankruptcy filing will affect Charter's ability to provide technology and programming.

64. Charter's customer service representatives ("CSR") have documented several customer inquiries about the DirecTV advertisements and direct mailers. These customers sought clarification about the ads which led them to believe that Charter was going out of business, ceasing operations, or would be unable to provide them with service. Charter customers have reported receiving phone calls from DirecTV providing similar information to the direct mailers they received.

65. When Charter customers call Charter, the CSR who answers the call sometimes contemporaneously creates notes regarding the nature and details of the call.

66. The following is a redacted example of a CSR's documentation of a call from a Charter customer in Romulus, Michigan:

The following customer who received the letter from DIRECTV advising that they were losing services unless they switched due to Charter's bankruptcy.

Phone Number [REDACTED]; Customer Name: [REDACTED]; Site 500, Romulus MI.

She received letter in the mail from DIRECT TV. This letter was on DIRECT TV letterhead regarding television service in Romulus. It stated Charter has filed for bankruptcy, and you will be losing your services as a result. If you wish to avoid the interruption of service, they can call DIRECT TV to get their services switched.

I have assured customer that is not the case, but there are other people in that market who may be receiving the same mailing. The customer says the wording is very clear that their Charter services will be lost.

67. Another example of the customer confusion caused by DirecTV's ad campaign is a Charter customer in Eunice, Louisiana who visited a Charter office on April 29, 2009 and asked when the office would be closing because she received a flyer from DirecTV stating that Charter would no longer provide her with service.

68. A second Charter customer in Eunice, Louisiana provides another example of the customer confusion caused by DirecTV's ad campaign. During the week of April 27, 2009, this customer informed Charter that she was approached by a DirecTV employee while buying a television from Sam's Club in Lafayette, Louisiana. After learning that this customer's service provider was Charter, the DirecTV employee told her that Charter filed for bankruptcy and would no longer be able to provide her services. The customer then visited the Eunice, Louisiana Charter office and inquired about the false information provided to her by DirecTV.

69. The customer came into the Eunice, Louisiana office and told a Charter employee about her experience with the DirecTV employee at the Sam's Club in Lafayette, Louisiana and asked if it was true that Charter would no longer be able to provide her services because of the bankruptcy.



**Charter Is Implementing Corrective Advertising as a Result of DirecTV's False Ad Campaign**

70. In response to DirecTV's false advertising campaign, Charter is responding with marketing efforts aimed at correcting DirecTV's false claims. Charter is expending time, money, and resources on corrective marketing as a direct result of DirecTV's false advertisements.

71. As part of Charter's corrective marketing in response to DirecTV's false advertisements, Charter is expending time, money, and resources in educating its customer service representatives ("CSRs") to explain the true effects of Charter's pre-arranged financial restructuring.

72. Charter's education of its CSRs includes instructions to specifically address DirecTV's false ads directed at Charter's financial restructuring.

**DirecTV's False Ad Campaign May Cause Irreparable Harm to Charter**

73. Nationally, there are a limited number of options for customers seeking a television service provider. Essentially, the customer has the choice between normal "over-the-air" broadcasters, a cable service provider, or a satellite service provider.

74. DirecTV is one of only two national satellite television service providers and has a much larger national market share of viewers than Charter.

75. Charter is the primary national cable television service provider in the St. Louis, Missouri area and in other areas in the United States. Charter and DirecTV directly compete with one another to provide television services to customers throughout the United States, including but not limited to customers located in St. Louis, Missouri.

76. The competition among television service providers for customers is intense in light of the limited number of options for customers and because customers typically subscribe to only one subscription television service provider at a given time.

77. Customers who believe DirecTV's false messages may be lost as a potential customer to Charter. If that customer chooses to switch to a different television service provider, the limited number of options makes it likely that the customer will choose DirecTV.

78. Typically there are startup or installation costs associated with satellite television service including but not limited to a satellite dish and receivers. The customer may have to pay for leasing the satellite equipment, installation of the equipment and may also have to sign a fixed term contract with the satellite television provider. The offers in DirecTV's advertisements are contingent on the customer signing a contract subscribing to DirecTV service for a certain number of years.

#### **DirecTV Refuses to Modify its Conduct**

79. On April 10, 2009, counsel for Charter, Dean Franklin, sent a letter to Vice President and Associate General Counsel for DirecTV, Takehiko Suzuki. The letter informed Mr. Suzuki of the reasons why the DirecTV advertisements are false and why they violate 15 U.S.C. § 1125 along with Charter's state statutory and common law rights. The letter expressed Charter's desire to resolve this matter amicably and requested that DirecTV immediately cease and desist making false claims about Charter and its bankruptcy filing. *See* Letter from D. Franklin to T. Suzuki (Apr. 10, 2009) (attached hereto as Exhibit 11).

80. On April 15, 2009, Mr. Suzuki responded to Mr. Franklin's April 10 letter and stated that DirecTV would address Charter's concerns: "to alleviate any concerns you may have, we are in the process of modifying the print advertising (including the billboard). The new

creative will be in the marketplace in short order. We believe the foregoing addresses your concerns, and as such, we consider this matter closed.” *See* Letter from T. Suzuki to D. Franklin (Apr. 15, 2009) (attached hereto as Exhibit 12).

81. Despite DirecTV’s statements, during the week of April 27, 2009 – after DirecTV received Charter’s cease and desist letter – DirecTV increased its nationwide false advertising campaign directed at Charter’s bankruptcy both in terms of volume and egregiousness.

82. DirecTV’s billboards on Interstate 55 were installed after Charter sent the cease and desist letter to DirecTV and were installed after DirecTV represented to Charter that DirecTV would modify their print and billboard advertisements.

83. Charter became aware of DirecTV’s false and deceptive direct mailers after sending its cease and desist letter to DirecTV.

84. After the receipt of Charter’s cease and desist letter, DirecTV’s ad campaign, including but not limited to the direct mailers, became more explicit with its false statements and messages, asserting that there is “no way” Charter will be able to offer services to customers due to the bankruptcy proceedings.

85. The volume of advertisements in DirecTV’s false advertisement campaign increased since the cease and desist letter was sent, including but not limited to the widespread direct mailing campaign in multiple states around the country and the addition of billboard advertisements along major highways in, but not limited to, the St. Louis, Missouri area.

86. Despite Charter’s efforts to resolve this matter amicably, DirecTV continues to implement its false advertising campaign in at least the following states: Connecticut, Illinois, Louisiana, Michigan, Missouri, Nevada, South Carolina, and Wisconsin.

**Count I – Violation of the Lanham Act, 15 U.S.C. § 1125(a)**

87. Charter incorporates by reference paragraphs 1 through 86 of the Complaint as if fully set forth herein.

88. DirecTV has and continues to make false and misleading statements about Charter's products and services in DirecTV's commercial advertisements in violation of 15 U.S.C. § 1125(a).

89. Individually and collectively, the advertisements described above are false or misleading and deceive, confuse, or are likely to deceive or confuse, a substantial segment of their intended audience in that they falsely portray Charter's bankruptcy as having a detrimental effect on Charter's customers, including, without limitation, through falsely claiming an impact on Charter's customer service, its ability to provide the latest technology, its ability to provide additional HD programming, and its ability to provide new exclusive programming.

90. DirecTV's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions deceive, or are likely to deceive, a substantial segment of their intended audience as to the nature, qualities, and characteristics of Charter's products and services.

91. DirecTV's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions cause confusion, or are likely to cause confusion or mistake, as to a substantial segment of their intended audience as to the nature, qualities, and characteristics of Charter's products and services.

92. DirecTV's use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in its commercial advertisements and promotions misrepresent the nature, characteristics, and qualities of Charter's goods, services, or commercial activities.

93. DirecTV's false and misleading statements in its commercial advertising and promotion have been disseminated to the public at large, which includes customers and potential customers of both Charter and DirecTV.

94. Customers have been actually deceived or confused by DirecTV's false and misleading statements.

95. The false and misleading statements described above were made by DirecTV or its authorized agents.

96. DirecTV's advertising is material in that it is likely to influence the purchasing decision of Charter's current or prospective customers.

97. DirecTV's false and misleading statements were, are, and continue to be made in interstate commerce.

98. DirecTV's false and misleading statements were, are, and continue to be undertaken in bad faith.

99. DirecTV's false and misleading statements were, are, and continue to be made intentionally and willfully with a reckless disregard for the rights of Charter.

100. DirecTV's false and misleading advertising has resulted and will continue to result in actual or probable injury to Charter.



101. DirecTV's false and misleading advertising has damaged and will continue to damage Charter's business reputation and goodwill, and it has caused and will continue to cause Charter to incur money damages.

102. DirecTV's false and misleading statements in its commercial advertising have and are likely to continue to injure Charter by causing Charter to lose subscribers and sales, resulting in business losses in an amount to be determined at trial and that are presently unknown to Charter but which are believed to be substantial and are accumulating on an ongoing basis.

103. DirecTV's acts and omissions have caused and are continuing to cause damage to Charter's business reputation and goodwill and were and continue to be conducted knowingly and willfully by DirecTV. Therefore, Charter is entitled to recover (1) DirecTV's profits, (2) actual money damages sustained by Charter, (3) treble damages as provided under 15 U.S.C. § 1117(a), (4) the costs of the action as provided under 15 U.S.C. § 1117(a), and (5) attorneys' fees as a required result of a finding that this is an exceptional case pursuant to 15 U.S.C. § 1117(a).

### **Count II – Tortious Interference With Contract**

104. Charter incorporates by reference paragraphs 1 through 103 of the Complaint as if fully set forth herein.

105. Charter sells its services primarily on a subscription basis and has contractual relationships with its customers.

106. Through its national advertising campaign and its false and misleading statements described above, DirecTV has and continues to intentionally and improperly interfere with contracts between Charter and Charter's customers by inducing or otherwise causing Charter's customers to not perform the contract.

107. DirecTV knew of the contracts between Charter and Charter's customers when DirecTV initiated its false advertising campaign and made the false and misleading statements described above.

108. DirecTV's false advertising campaign and false and misleading statements were directed to Charter's current and prospective customers.

109. DirecTV intentionally and without justification interfered with and continues to interfere with contracts between Charter and Charter's customers by inducing or causing a breach of those contracts.

110. DirecTV's false advertising and false and misleading statements have caused damage to Charter and are likely to continue to result in damage to Charter.

**Count III – Tortious Interference With Business Expectancy  
or Prospective Business Relationships**

111. Charter incorporates by reference paragraphs 1 through 110 of the Complaint as if fully set forth herein.

112. Through its national advertising campaign and its false and misleading statements described above, DirecTV has and continues to interfere with valid business expectancies or prospective business relationships between Charter and Charter's prospective customers by inducing or otherwise causing a breach of the expectancies or relationships.

113. DirecTV's interference with Charter's valid business expectancies or prospective business relationships has been and continues to be intentional, improper, and without justification.

114. DirecTV's false and misleading statements in its commercial advertising and promotion have been disseminated to Charter's prospective customers with whom Charter has valid business expectancies or prospective business relationships.

115. DirecTV knew of the valid business expectancies or prospective business relationships between Charter and Charter's prospective customers when DirecTV initiated its false advertising campaign and made the false and misleading statements described above.

116. DirecTV's false advertising and false and misleading statements have caused damage to Charter and are likely to continue to result in damage to Charter.

#### **Count IV – Injurious Falsehoods**

117. Charter incorporates by reference paragraphs 1 through 116 of the Complaint as if fully set forth herein.

118. DirecTV's publication of false and misleading statements about Charter caused and continues to cause Charter pecuniary loss.

119. DirecTV intended for the publication of its false statements to result in harm to the interests of Charter having a pecuniary value, or DirecTV either recognized or should have recognized that the publication of its false statements were likely to result in harm to the interests of Charter having a pecuniary value.

120. DirecTV knew that its published statements in its commercial advertisements were and continue to be false, or DirecTV acted in reckless disregard of the truth or falsity of its published statements.

121. DirecTV's publication of false and misleading statements in its commercial advertisements were and continue to be substantial factors in bringing about Charter's pecuniary losses.

122. DirecTV's false and misleading statements in its commercial advertising have and are likely to continue to injure Charter by causing Charter to lose subscribers and sales, resulting in business losses in an amount to be determined at trial and that are presently unknown to Charter but which are believed to be substantial and are accumulating on an ongoing basis.

123. DirecTV's false and misleading advertising has caused and will continue to cause Charter to incur monetary damages.

### **Count V - Defamation**

124. Charter incorporates by reference paragraphs 1 through 123 of the Complaint as if fully set forth herein.

125. Through its national advertising campaign and its publication of false and misleading statements as described above, DirecTV has and continues to defame Charter causing actual harm to Charter's business reputation.

126. DirecTV published its commercial advertisements described above.

127. DirecTV's advertisements identify Charter and include defamatory statements about Charter.

128. DirecTV's advertisements include material, false statements about Charter.

129. DirecTV's ad campaign was implemented with a conscious intent to publish the false and defamatory statements.

130. DirecTV's defamatory and false statements were published with actual malice, and with knowledge that the statements were false.

131. DirecTV's defamatory and false statements were negligently published.

132. DirecTV's defamatory and false statements caused and continue to cause actual reputational harm to Charter.

133. Upon information and belief, DirecTV's defamatory and false publications directly caused and continue to cause the loss of customers or a general diminution in Charter's business.

**Count VI – State Law Consumer Fraud and Deceptive Business Practices Acts**

134. Charter incorporates by reference paragraphs 1 through 133 of the Complaint as if fully set forth herein.

135. DirecTV's conduct described herein is in violation of the Consumer Fraud Acts, Consumer Protection Acts, Deceptive Business Practices Acts, Deceptive Trade Practices Acts, Unfair Business Practices Acts, and Unfair Trade Practices Acts of certain states in which DirecTV implemented and continues to implement its false advertising campaign.

136. DirecTV's conduct constitutes a violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. Ann. §42-110, *et seq.*

137. DirecTV's conduct constitutes a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat. Ann. §505/1 *et seq.*

138. DirecTV's conduct constitutes a violation of the Louisiana Unfair Trade Practices Act, La. Rev. St. Ann. §51-1401, *et seq.*

139. DirecTV's conduct constitutes a violation of the Michigan Consumer Protection Act, Mich. Comp. Laws Ann. §§ 445.901-922.

140. DirecTV's conduct constitutes a violation of the Nevada Deceptive Trade Practices Act, Nev. Rev. St. Ann. §41.600.

141. DirecTV's conduct constitutes a violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann., §39-5-10, *et seq.*



142. DirecTV's conduct constitutes a violation of the Wisconsin Deceptive Trade Practices Act, Wis. Stat. Ann. §100.18.

143. The DirecTV false advertising campaign may extend to other states, and those ads may also exploit Charter's bankruptcy in a false and misleading way and violate certain statutes and laws of those other states.

WHEREFORE, Plaintiffs Charter Communications Holding Company, LLC, and Charter Communications Operating, LLC, respectfully request relief as follows:

a. A temporary restraining order and an order that preliminarily and permanently enjoins DirecTV, its officers, agents, servants, employees, attorneys, and all others in active concert or participation with them, from:

1. Disseminating anywhere in the United States the advertisements described in this Complaint, and any other advertisements substantially similar thereto; and

2. Claiming, whether directly or by implication, in any advertisement or promotional communication, regardless of media (including without limitation direct mail, newspaper or other print, billboard, radio, personal solicitation, Internet, and television), that Charter's bankruptcy will impair or otherwise adversely impact Charter's customers; will impair or otherwise adversely impact Charter's ability to continue providing, or provide in the future, cable television service to customers; or will cause Charter to cease operations or go out of business;

b. An order requiring DirecTV to compensate Charter for its corrective advertising;

c. An order awarding Plaintiffs damages from Defendant in an amount to be determined at trial, but no less than: (1) Defendant's profits, (2) Plaintiffs' lost profits, (3) any damages sustained by Plaintiffs, and (4) the costs of the action;

- d. Treble actual damages pursuant to 15 U.S.C. § 1117(a);
- e. A finding pursuant to 15 U.S.C. § 1117(a) that this is an exceptional case and an order awarding Plaintiffs attorneys' fees, expenses, and costs as allowed by law;
- f. Punitive damages;
- g. Special damages;
- h. All remedies available to Plaintiffs pursuant to the various state statutes referenced in Count VI;
- i. Attorneys' fees, expenses, and costs as allowed by law;
- j. Pre-judgment and post-judgment interest; and
- k. Such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

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and Charter Communications Operating, LLC

**VERIFICATION**

The undersigned verifies under penalty of perjury that the factual statements set forth in Plaintiffs' Verified Complaint are true and correct, and as to matters that are stated to be on information and belief, the undersigned certifies under penalty of perjury that he verily believes the same to be true.

Executed on May 10, 2009.



Ted W. Schtemp  
Executive Vice President and Chief Marketing Officer  
Charter Communications

**TAB 5**

**WINDSTREAM CONSUMER BROADBAND EXCHANGES SUMMARY  
JANUARY 2016 – AUGUST 2019**

		2016												
All Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total¹
[1]	Adds	19,988	20,014	21,955	18,030	17,761	20,005	17,682	23,546	21,818	18,757	17,407	17,621	234,584
[2]	Disconnects	21,433	22,319	21,380	20,778	23,660	26,855	24,408	28,374	23,856	22,270	22,524	20,784	278,641
[3]	Net	(1,445)	(2,305)	575	(2,748)	(5,899)	(6,850)	(6,726)	(4,828)	(2,038)	(3,513)	(5,117)	(3,163)	(44,057)
[4]	Subscribers	1,094,455	1,092,150	1,092,725	1,089,977	1,084,078	1,077,228	1,070,502	1,065,674	1,063,636	1,060,123	1,055,006	1,051,843	1,074,783
[5]	Churn	n/a	2.0%	2.0%	1.9%	2.2%	2.5%	2.3%	2.7%	2.2%	2.1%	2.1%	2.0%	2.2%
[6]	Average Churn Tenure (months)	n/a	49	51	53	46	40	44	38	45	48	47	51	46
		2016												
Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total¹
[7]	Adds	7,202	7,160	8,058	6,701	6,762	7,617	6,538	8,836	8,257	7,063	6,380	6,325	86,899
[8]	Disconnects	8,985	9,444	9,080	8,818	9,847	10,975	9,964	11,626	9,714	8,906	9,129	8,677	115,165
[9]	Net	(1,783)	(2,284)	(1,022)	(2,117)	(3,085)	(3,358)	(3,426)	(2,790)	(1,457)	(1,843)	(2,749)	(2,352)	(28,266)
[10]	Subscribers	411,782	409,498	408,476	406,359	403,274	399,916	396,490	393,700	392,243	390,400	387,651	385,299	398,757
[11]	Churn	n/a	2.3%	2.2%	2.2%	2.4%	2.7%	2.5%	2.9%	2.5%	2.3%	2.3%	2.2%	2.4%
[12]	Average Churn Tenure (months)	n/a	44	45	46	41	37	40	34	41	44	43	45	42
		2016												
Non-Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total¹
[13]	Adds	12,786	12,854	13,897	11,329	10,999	12,388	11,144	14,710	13,561	11,694	11,027	11,296	147,685
[14]	Disconnects	12,448	12,875	12,300	11,960	13,813	15,880	14,444	16,748	14,142	13,364	13,395	12,107	163,476
[15]	Net	338	(21)	1,597	(631)	(2,814)	(3,492)	(3,300)	(2,038)	(581)	(1,670)	(2,368)	(811)	(15,791)
[16]	Subscribers	682,673	682,652	684,249	683,618	680,804	677,312	674,012	671,974	671,393	669,723	667,355	666,544	676,026
[17]	Churn	n/a	1.9%	1.8%	1.7%	2.0%	2.3%	2.1%	2.5%	2.1%	2.0%	2.0%	1.8%	2.0%
[18]	Average Churn Tenure (months)	n/a	53	56	57	49	43	47	40	48	50	50	55	50



**TAB 5**

**WINDSTREAM CONSUMER BROADBAND EXCHANGES SUMMARY  
JANUARY 2016 – AUGUST 2019**

		2017												
All Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total¹
[1]	Adds	22,340	19,706	21,469	15,813	17,333	19,014	19,666	26,762	19,983	19,649	16,874	16,582	235,191
[2]	Disconnects	21,465	21,781	23,797	20,919	26,021	27,001	24,641	27,611	22,776	22,965	21,431	19,501	279,909
[3]	Net	875	(2,075)	(2,328)	(5,106)	(8,688)	(7,987)	(4,975)	(849)	(2,793)	(3,316)	(4,557)	(2,919)	(44,718)
[4]	Subscribers	1,052,718	1,050,643	1,048,315	1,043,209	1,034,521	1,026,534	1,021,559	1,020,710	1,017,917	1,014,601	1,010,044	1,007,125	1,028,991
[5]	Churn	2.0%	2.1%	2.3%	2.0%	2.5%	2.6%	2.4%	2.7%	2.2%	2.3%	2.1%	1.9%	2.3%
[6]	Average Churn Tenure (months)	49	48	44	50	40	38	42	37	45	44	47	52	45
		2017												
Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total¹
[7]	Adds	8,197	7,451	8,190	5,817	6,408	7,090	7,591	10,448	8,143	7,749	6,711	6,252	90,047
[8]	Disconnects	9,147	9,427	10,144	9,272	11,002	11,623	10,228	11,322	9,583	9,351	8,562	7,745	117,406
[9]	Net	(950)	(1,976)	(1,954)	(3,455)	(4,594)	(4,533)	(2,637)	(874)	(1,440)	(1,602)	(1,851)	(1,493)	(27,359)
[10]	Subscribers	384,349	382,373	380,419	376,964	372,370	367,837	365,200	364,326	362,886	361,284	359,433	357,940	369,615
[11]	Churn	2.4%	2.5%	2.7%	2.4%	2.9%	3.1%	2.8%	3.1%	2.6%	2.6%	2.4%	2.2%	2.6%
[12]	Average Churn Tenure (months)	42	41	38	41	34	32	36	32	38	39	42	46	38
		2017												
Non-Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total¹
[13]	Adds	14,143	12,255	13,279	9,996	10,925	11,924	12,075	16,314	11,840	11,900	10,163	10,330	145,144
[14]	Disconnects	12,318	12,354	13,653	11,647	15,019	15,378	14,413	16,289	13,193	13,614	12,869	11,756	162,503
[15]	Net	1,825	(99)	(374)	(1,651)	(4,094)	(3,454)	(2,338)	25	(1,353)	(1,714)	(2,706)	(1,426)	(17,359)
[16]	Subscribers	668,369	668,270	667,896	666,245	662,151	658,697	656,359	656,384	655,031	653,317	650,611	649,185	659,376
[17]	Churn	1.8%	1.8%	2.0%	1.7%	2.3%	2.3%	2.2%	2.5%	2.0%	2.1%	2.0%	1.8%	2.0%
[18]	Average Churn Tenure (months)	54	54	49	57	44	43	46	40	50	48	51	55	49

**TAB 5**

**WINDSTREAM CONSUMER BROADBAND EXCHANGES SUMMARY  
 JANUARY 2016 – AUGUST 2019**

		2018												
All Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total <sup>1</sup>
[1]	Adds	18,943	17,021	22,213	19,743	21,019	22,606	23,170	28,944	22,570	24,572	21,914	20,352	263,067
[2]	Disconnects	21,207	19,775	19,499	18,770	20,920	21,549	21,366	24,842	20,042	21,749	20,119	19,293	249,131
[3]	Net	(2,264)	(2,754)	2,714	973	99	1,057	1,804	4,102	2,528	2,823	1,795	1,059	13,936
[4]	Subscribers	1,004,861	1,002,107	1,004,821	1,005,794	1,005,893	1,006,950	1,008,754	1,012,856	1,015,384	1,018,207	1,020,002	1,021,061	1,010,558
[5]	Churn	2.1%	2.0%	1.9%	1.9%	2.1%	2.1%	2.1%	2.5%	2.0%	2.1%	2.0%	1.9%	2.1%
[6]	Average Churn Tenure (months)	47	51	51	54	48	47	47	41	51	47	51	53	49
		2018												
Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total <sup>1</sup>
[7]	Adds	7,020	6,321	8,224	7,419	7,875	8,222	8,664	10,511	8,469	9,579	8,416	7,518	98,238
[8]	Disconnects	8,262	8,221	7,887	7,691	8,147	8,500	8,319	9,525	7,729	8,487	7,663	7,354	97,785
[9]	Net	(1,242)	(1,900)	337	(272)	(272)	(278)	345	986	740	1,092	753	164	453
[10]	Subscribers	356,698	354,798	355,135	354,863	354,591	354,313	354,658	355,644	356,384	357,476	358,229	358,393	355,932
[11]	Churn	2.3%	2.3%	2.2%	2.2%	2.3%	2.4%	2.3%	2.7%	2.2%	2.4%	2.1%	2.1%	2.3%
[12]	Average Churn Tenure (months)	43	43	45	46	44	42	43	37	46	42	47	49	44
		2018												
Non-Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Total <sup>1</sup>
[13]	Adds	11,923	10,700	13,989	12,324	13,144	14,384	14,506	18,433	14,101	14,993	13,498	12,834	164,829
[14]	Disconnects	12,945	11,554	11,612	11,079	12,773	13,049	13,047	15,317	12,313	13,262	12,456	11,939	151,346
[15]	Net	(1,022)	(854)	2,377	1,245	371	1,335	1,459	3,116	1,788	1,731	1,042	895	13,483
[16]	Subscribers	648,163	647,309	649,686	650,931	651,302	652,637	654,096	657,212	659,000	660,731	661,773	662,668	654,626
[17]	Churn	2.0%	1.8%	1.8%	1.7%	2.0%	2.0%	2.0%	2.3%	1.9%	2.0%	1.9%	1.8%	1.9%
[18]	Average Churn Tenure (months)	50	56	56	59	51	50	50	43	53	50	53	55	52

**TAB 5**

**WINDSTREAM CONSUMER BROADBAND EXCHANGES SUMMARY  
JANUARY 2016 – AUGUST 2019**

		2019								
All Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Total <sup>1</sup>
[1]	Adds	24,663	20,974	23,340	21,490	22,215	22,022	26,085	27,816	188,605
[2]	Disconnects	20,264	19,068	18,224	19,975	21,840	21,929	25,085	26,171	172,556
[3]	Net	4,399	1,906	5,116	1,515	375	93	1,000	1,645	16,049
[4]	Subscribers	1,025,460	1,027,366	1,032,482	1,033,997	1,034,372	1,034,465	1,035,465	1,037,110	1,032,590
[5]	Churn	2.0%	1.9%	1.8%	1.9%	2.1%	2.1%	2.4%	2.5%	2.1%
[6]	Average Churn Tenure (months)	50	54	56	52	47	47	41	40	48
		2019								
Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Total <sup>1</sup>
[7]	Adds	9,037	7,796	8,410	8,181	8,255	8,152	9,824	10,317	69,972
[8]	Disconnects	7,989	7,574	7,208	8,229	8,622	8,673	9,939	9,933	68,167
[9]	Net	1,048	222	1,202	(48)	(367)	(521)	(115)	384	1,805
[10]	Subscribers	359,441	359,663	360,865	360,817	360,450	359,929	359,814	360,198	360,147
[11]	Churn	2.2%	2.1%	2.0%	2.3%	2.4%	2.4%	2.8%	2.8%	2.4%
[12]	Average Churn Tenure (months)	45	47	50	44	42	42	36	36	43
		2019								
Non-Charter Exchanges		Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Total <sup>1</sup>
[13]	Adds	15,626	13,178	14,930	13,309	13,960	13,870	16,261	17,499	118,633
[14]	Disconnects	12,275	11,494	11,016	11,746	13,218	13,256	15,146	16,238	104,389
[15]	Net	3,351	1,684	3,914	1,563	742	614	1,115	1,261	14,244
[16]	Subscribers	666,019	667,703	671,617	673,180	673,922	674,536	675,651	676,912	672,443
[17]	Churn	1.9%	1.7%	1.6%	1.7%	2.0%	2.0%	2.2%	2.4%	1.9%
[18]	Average Churn Tenure (months)	54	58	61	57	51	51	45	42	52

Notes & Sources:

<sup>1</sup> For Adds, Disconnects, and Net, Total calculated as a sum. For Subscribers, Churn, and Average Churn Tenure (months), Total calculated as an average.

[1]-[12] From '190917 Charter Litigation Information -damages.xlsx,' at sheet 'Summary.'

[3] = [1] - [2].

[4] Calculated as ([3] for given month) + ([4] for previous month).

[5] Calculated as ([2] for given month) / ([4] for previous month).

[6] = 1 / [5]. Represents average expected remaining customer lifetime in months.

[9] = [7] - [8].

[10] Calculated as ([9] for given month) + ([10] for previous month).

[11] Calculated as ([8] for given month) / ([10] for previous month).

[12] = 1 / [11]. Represents average expected remaining customer lifetime in months.

[13] = [1] - [7].

[14] = [2] - [8].

[15] = [3] - [9].

[16] = [4] - [10].

[17] Calculated as ([14] for given month) / ([16] for previous month).

[18] = 1 / [17]. Represents average expected remaining customer lifetime in months.

August 9, 2018

# 2Q18 Earnings Presentation

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# Participants



**Tony Thomas**  
Chief Executive Officer



**Bob Gunderman**  
Chief Financial Officer & Treasurer



**Chris King**  
VP, Investor Relations



# Safe Harbor Statement

Windstream Holdings, Inc. claims the protection of the safe-harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. Forward-looking statements are typically identified by words or phrases such as “will,” “anticipate,” “estimate,” “expect,” “project,” “intend,” “plan,” “believe,” “target,” “forecast” and other words and terms of similar meaning. Forward-looking statements are subject to risks and uncertainties that could cause actual future events and results to differ materially from those expressed in the forward-looking statements.

Forward-looking statements include, but are not limited to, 2018 guidance for service revenue, adjusted OIBDAR, adjusted capital expenditures, and adjusted free cash flow, along with statements regarding cash taxes, future growth of adjusted OIBDAR and free cash flow; 2018 directional outlook for business units and overall business trends, including revenue and contribution margin trends and sales opportunities; improvement in our ability to compete, including opportunities associated with, and expected sales growth, of strategic products and services; increasing deployment and availability of faster broadband speeds to more households within our service areas, along with subscriber trends; statements regarding our 2018 priorities and progress; the benefits of the mergers with EarthLink Holdings Corp. and Broadview Network Holdings, Inc. including projected synergies and the timing of the synergies; our ability to improve our debt profile and balance sheet and overall reduction in net leverage; expectations regarding expense management activities, including interconnection expense, and the timing and benefit of such activities; and opportunities regarding sales or divestitures of certain assets; any other statements regarding plans, objectives, expectations and intentions and other statements that are not historical facts. These statements, along with other forward-looking statements regarding Windstream’s overall business outlook, are based on estimates, projections, beliefs, and assumptions that Windstream believes are reasonable but are not guarantees of future events, performance or results. Actual future events and results may differ materially from those expressed in these forward-looking statements as a result of a number of important factors.

Important factors that could cause actual results to differ materially from those indicated by such forward-looking statements include risks and uncertainties that the cost savings and expected synergies from the mergers with EarthLink Holdings Corp. and Broadview Networks Holdings, Inc. may not be fully realized or may take longer to realize than expected; that the businesses will not be integrated successfully; that disruption from the mergers may make it more difficult to maintain relationships with customers, employees or suppliers; that the attention of management and key personnel may be diverted by integration matters related to the mergers; that pending litigation involving an activist bondholder may be resolved unfavorably to the Company, that the expected benefits of cost reduction and expense management activities are not realized or adversely affect our sales and operational activities or are otherwise disruptive to our business and personnel; that our current capital allocation practices may be changed at any time at the discretion of our Board of Directors; further adverse changes in economic conditions in markets served by the combined company; the impact of new, emerging, or competing technologies and our ability to utilize these technologies to provide services to our customers; general worldwide economic conditions and related uncertainties; and the effect of any changes in federal or state governmental regulations or statutes. For other risk factors that could cause actual results and events to differ materially from those expressed, please refer to our filings with the Securities and Exchange Commission. Windstream does not undertake any obligation to publicly update any forward-looking statement, whether as a result of new information, future events or otherwise.

## Regulation G Disclaimer

This presentation includes certain non-GAAP financial measures. Reconciliations of these non-GAAP financial measures to the most directly comparable GAAP financial measures are available on our website at [www.windstream.com/investors](http://www.windstream.com/investors).

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# 2Q18 Highlights

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**\$507 Million** in adjusted OIBDAR

Sequential and year-over-year increase

Consolidated adjusted OIBDAR margin  
of **35.1%**

Highest margin post-ELNK acquisition and up 150 bps y-o-y

Improved sequential revenue trends

Consumer broadband growth of **2,300**  
**subscribers** during quarter

Flat subscribers in 1H18

Driven by continued expansion of faster speed capability

Continued acceleration in **SD-WAN**  
and **Strategic Sales**

Largest SD-WAN provider in country today

Serves over 1,000 unique customers in over 12,000 locations

Strategic sales represent over 50% of total enterprise sales in 2Q

Successful completion of **debt**  
**exchange** offer

Refinanced \$1.4 billion of debt and extended maturities an average of  
2 years

No material bond maturities until 2023

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# Approx. \$3.4 billion in debt refinanced in last year

Most **recent exchange** refinanced over **\$1.4 billion** in debt

Reduced total debt by \$227 million and leverage by 0.2x

Pro forma net leverage falls to 3.93x

**Extends maturities** by an average of two years

No meaningful bond maturities until 2023

Maintains approximately **\$300 million in incremental 2nd lien capacity**

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# Consumer & SMB Strategy

Monetizing Network Investments with Competitive Pricing & Service

## Customers:

- ~1.4M residential and small businesses (within ILEC territory)
- Addressability: ~ 4M locations

## 2Q18 Financial Profile:

- Service revenue: \$466 million
- Contribution margin: \$274 million
- Contribution margin (%): 58%

## Competitive Advantages:

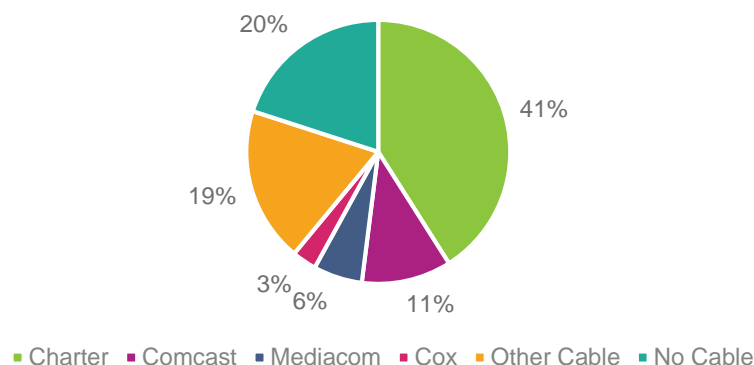
- Premium Kinetic internet speeds
- Limited intersection with national cable companies
- DIRECTV Bundle Available
- SD-WAN & OfficeSuite for small businesses

## Key Drivers:

- Upgrading and expanding broadband network
- Increasing premium speed adoption
- Enhanced network capabilities improving customer retention efforts

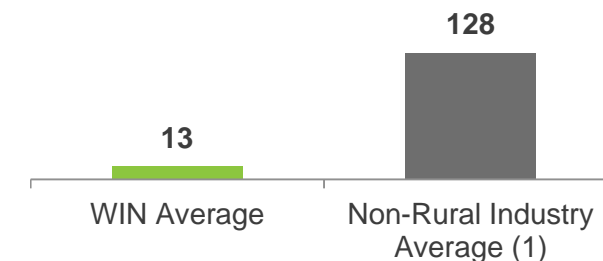
## 39% of Footprint: No National Cable Overlap

Windstream ILEC Cable Overlap



## Rural Nature of ILEC Properties

Access Lines Per Square Mile



(1) Source: FCC NAB

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**FASTER  
INTERNET  
SPEEDS ARE HERE**

**Get faster speeds on  
our 100% fiber-backed network for:**

- Smoother movie, music and video streaming
- Less time loading and buffering
- Easy, quick access to online content
- Faster connections when multiple devices are using your home's Wi-Fi

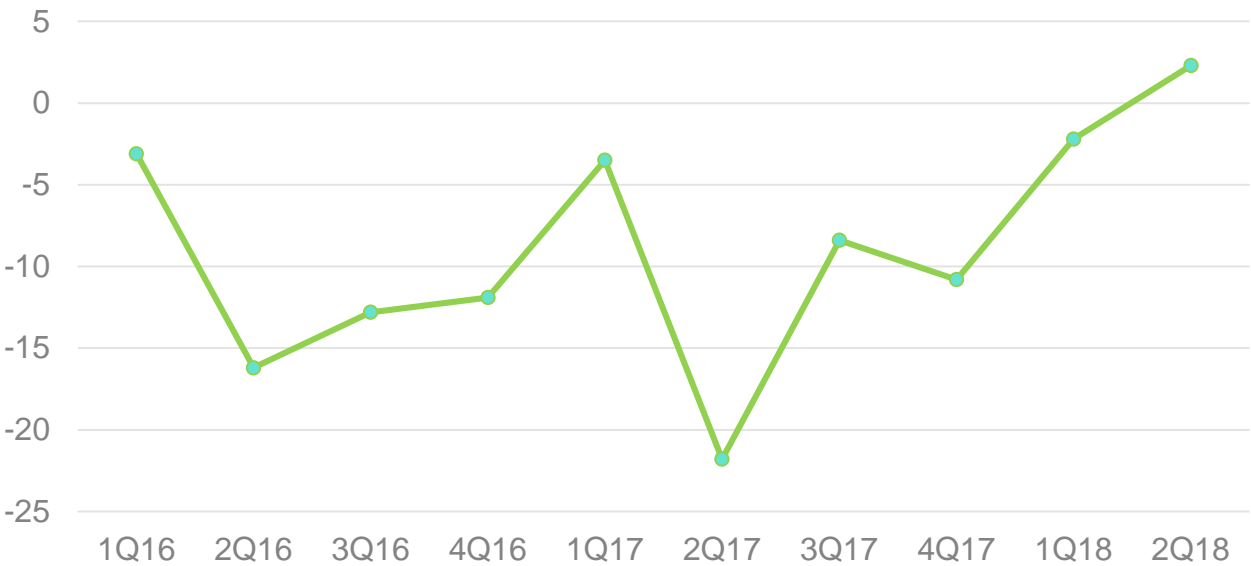
**UPGRADE TODAY**



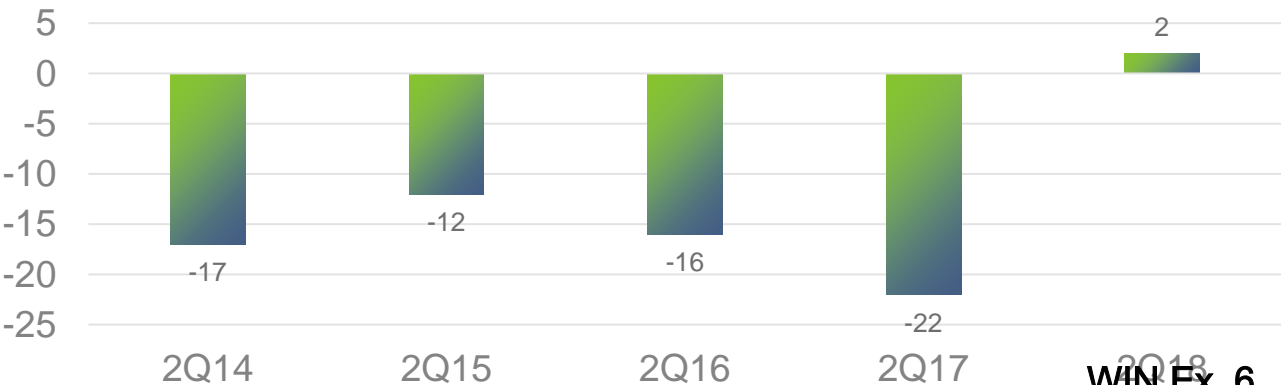
**kinetic.internet**  
by windstream.



Broadband Adds by Quarter (in thousands)



Quarterly Net Broadband Adds (in thousands)



- Strong improvements in both sales and churn drive positive broadband subscriber growth in 2Q
- 14% improvement in sales compared to 2Q17
- 17% improvement in churn compared to 2Q17
- 14 Consecutive Quarters of Consumer ARPU Growth
- Driven by Project Excel investments and efforts to extend faster broadband speed tiers to more customers across ILEC footprint

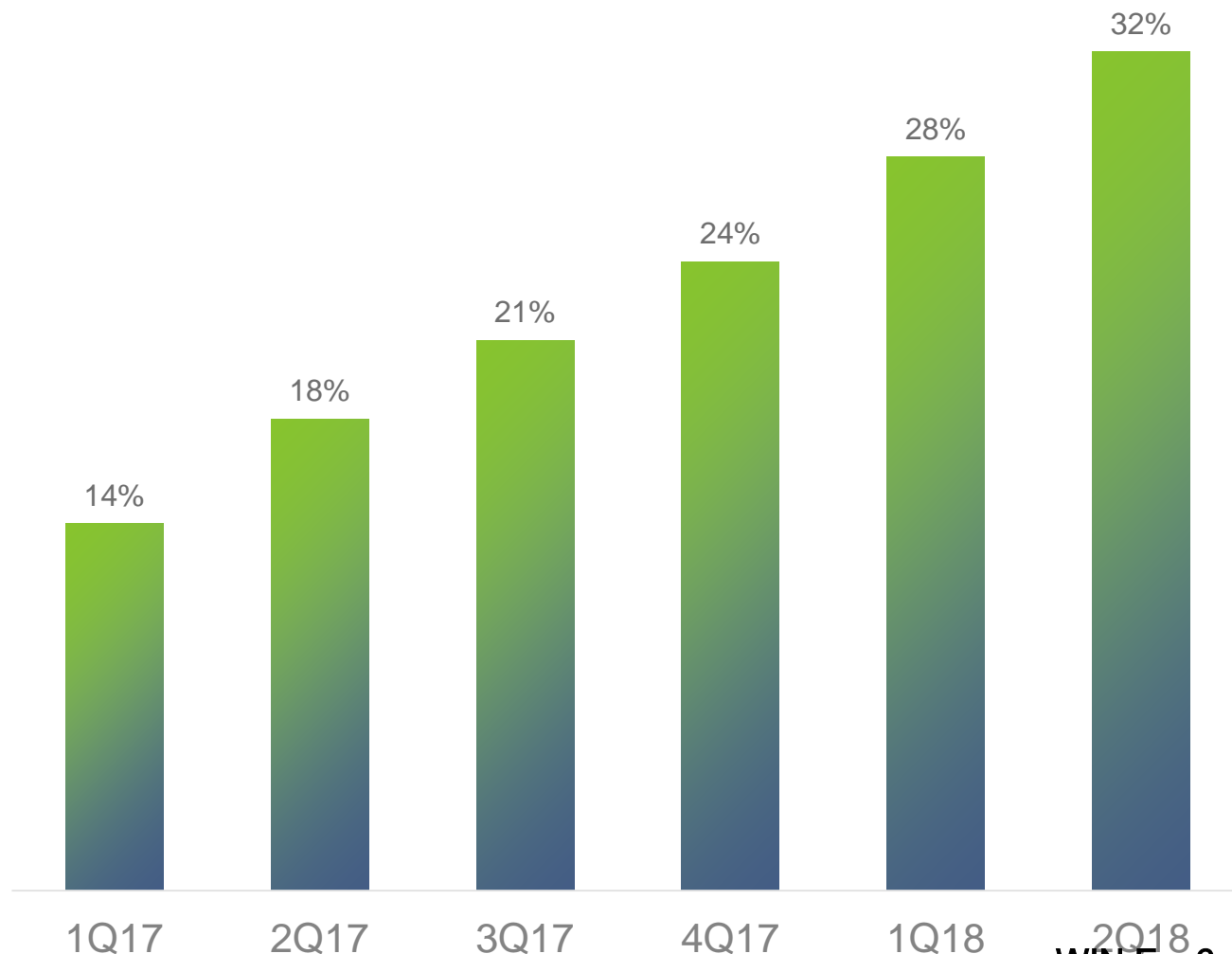
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# Improved Broadband Speed Capabilities

Customer Speed Distribution of 25 Mbps or Faster



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## Current 2018 Broadband Speed Initiatives

- 40% of broadband customers expected to enjoy speed tiers of 25 Mbps or greater by year-end
- Approx. 1.5 million homes to have speed capability of 50 Mbps or greater by year-end 2018
- 120K homes to be upgraded to speeds of 50Mbps to 100 Mbps
- 67K homes in North Georgia to be upgraded from 100 Mbps to 300 Mbps
- Additional 20K homes to be passed with FTTH capabilities



## Transforming to a Cloud Application & Connectivity Provider

### Customers:

- Nationwide coverage with full product suite

### 2Q18 Financial Profile:

- Service revenue: \$730 million
- Contribution margin: \$161 million
- Contribution margin (%): 22%

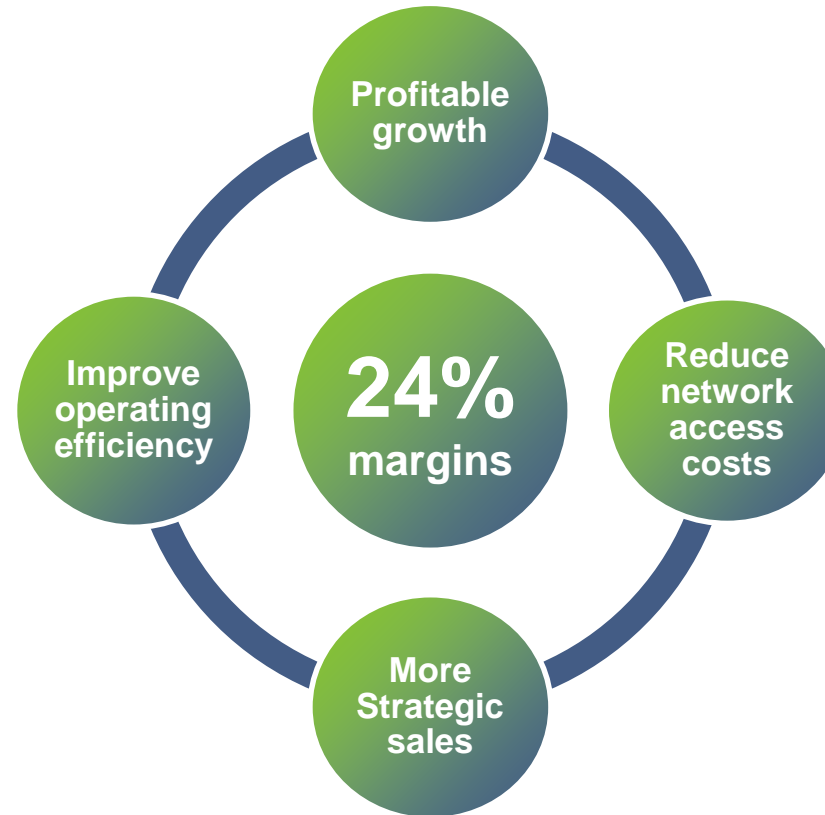
### Competitive Advantages:

- Leader in SD-WAN services
- Expansive UCaaS offerings
- Broad portfolio of advanced, customized solutions

### Key Drivers:

- Selling strategic product
- 10% annual reduction in Interconnection costs
- Enhanced systems and technologies

## EXPANDING ENTERPRISE CONTRIBUTION MARGINS TO 24% BY END OF 2018



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WE

OfficeSuiteUC<sup>®</sup>  
with SD-WAN

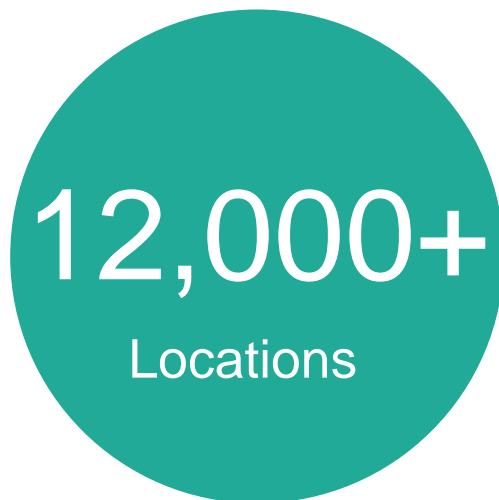
Taking cloud-based unified communications to a new optimized level of performance

WINDSTREAM ENTERPRISE



# SD-WAN/Strategic Sales Growth Accelerating

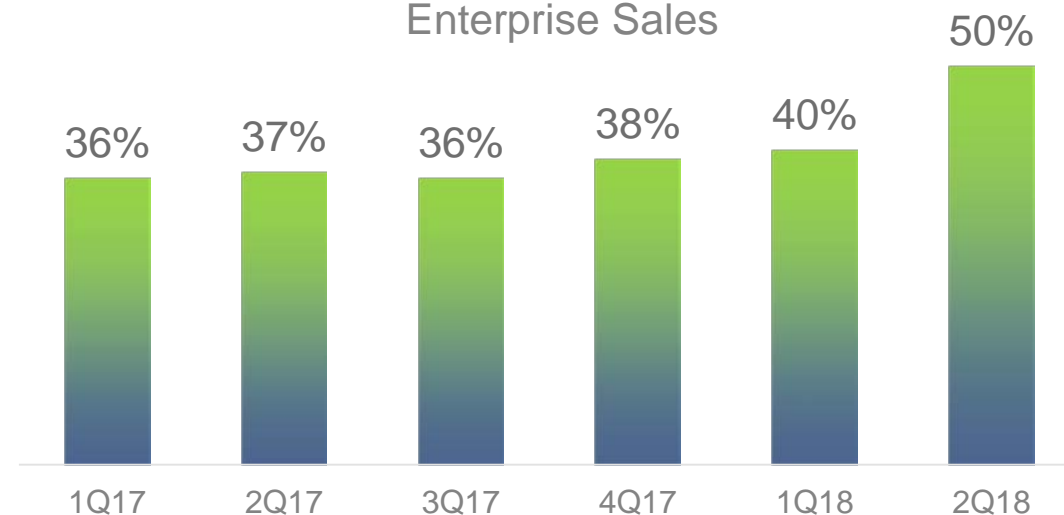
## SD-WAN



- Largest SD-WAN Service Provider in U.S. today
  - More customers and locations than any other service
- More than 400 additional locations being installed per month since beginning of year

## Strategic Sales

Strategic Sales as % of Total Windstream Enterprise Sales



- Strategic Sales growth accelerated to over 50% of total Enterprise sales during 2Q (SD-WAN, UCaaS, On-net)
  - Over 53% of total Enterprise sales in June
- Strategic Sales increased ~22% sequentially

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# Strategic Products Improve Margins

## Improving Margins while Enhancing the Customer Experience

### Illustrative Product Conversion Economics

#### Typical Enterprise Legacy Integrated Voice and Data Customer

	# Locations	# Units	ARPU	Financials
Integrated Voice and Data	40	1	\$600	\$24,000
Other Fees				\$3,000
Total Recurring Revenue				\$27,000
Access Expense (Interconnection)				\$16,000
Gross Margin \$				\$11,000
Gross Margin %				41%

#### Over the Top Applications + Broadband and Wireless Connections

	# Locations	# Units	ARPU	Financials
SD WAN/Access	40	1	\$450	\$18,000
Office Suite	40	5	\$25	\$5,000
Other Fees				\$3,450
Total Recurring Revenue				\$26,450
Access Expense (Interconnection)				\$8,400
Application License Expense				\$2,750
Gross Margin \$				\$15,300
Gross Margin %				58%

#### Customer Benefits

**Optimized Performance:** Improved customer experience with high performing apps, and virtually no downtime – up to a 100% availability SLA.

**Robust Security:** Reduced security risks with encryption to secure all connections including broadband internet.

**Simplified Management:** Real-time intelligence via centralized management console puts customers in control with complete visibility.

**Better Ownership Economics:** Ability to leverage lower cost high bandwidth broadband and no CAPEX.

#### Windstream Benefits

**Margin Enhancing:** Lower cost access methods along with over the top applications create higher margin customers.

**Revenue Stabilization:** Conversion to strategic products creates a lower churn risk customer. Legacy product revenue churns at twice the rate, often times a result of same service write downs with minimal opportunity to decrease operating cost structures.

**Risk Mitigating:** Access costs decrease and provide an alternative solution to highly regulated TDM based solutions.

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# Expanding Enterprise Margins

Annual Interconnect Cost Reductions Greater than 10%

## Significant Interconnection Cost Reduction Opportunities Remain

### Interconnection Expenses (in millions)

	2Q18 Annualized	2Q vs. 1Q Sequential
TDM	525	(5.4%)
IP/Ethernet	<u>383</u>	<u>1.0%</u>
Last Mile Access	909	(2.8%)
TDM	336	(5.1%)
IP/Ethernet	<u>10</u>	<u>(28.5%)</u>
Network Access	347	(6.0%)
Voice/Other	<u>214</u>	<u>0.2%</u>
<b>Interconnect</b>	<b>1,469</b>	<b>(3.2%)</b>

- 2Q18 annualized run-rate of almost \$1.5 billion in interconnection expenses; annualized decline of over 12%
- Legacy TDM represents over \$850 million of annualized expenses and is falling by more than 20% a year
- Migrating more traffic on-net
- Ongoing network grooming efforts
- Increasing leverage of access-agnostic technologies such as SD-WAN and UCaaS
- Continued progress on synergy realization

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# 2Q18 Financial Results

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Financial Overview <sup>(1)</sup> (Dollars in Millions)	2017			2018	
	Q2	Q3	Q4	Q1	Q2
<b>Revenue</b>					
ILEC Consumer & SMB	\$494	\$479	\$476	\$471	\$466
Enterprise	723	751	760	733	730
Wholesale	197	191	190	184	182
CLEC Consumer	52	52	51	48	46
<b>Segment Service Revenue</b>	<b>\$1,466</b>	<b>\$1,472</b>	<b>\$1,477</b>	<b>\$1,435</b>	<b>\$1,425</b>
Product Sales	26	25	21	19	20
<b>Total Revenue and Sales</b>	<b>\$1,492</b>	<b>\$1,498</b>	<b>\$1,498</b>	<b>\$1,454</b>	<b>\$1,445</b>
<b>Contribution Margin</b>					
ILEC Consumer & SMB	\$289	\$270	\$282	\$282	\$274
Enterprise	142	147	164	146	161
Wholesale	135	133	135	128	129
CLEC Consumer	26	25	28	27	27
<b>Segment Contribution Margin</b>	<b>\$592</b>	<b>\$575</b>	<b>\$608</b>	<b>\$583</b>	<b>\$590</b>
Shared Expenses	\$91	\$85	\$87	\$84	\$83
<b>Adjusted OIBDAR<sup>(2)</sup></b>	<b>\$501</b>	<b>\$490</b>	<b>\$521</b>	<b>\$500</b>	<b>\$507</b>
<i>Margin %</i>	33.6%	32.7%	34.8%	34.4%	35.1%
<b>Segment Contribution Margin %</b>					
ILEC Consumer & SMB	57.3%	55.3%	58.5%	59.2%	57.9%
Enterprise	19.2%	19.2%	21.2%	19.5%	21.7%
Wholesale	68.7%	69.6%	70.8%	69.8%	70.6%
CLEC Consumer	50.3%	47.7%	53.5%	57.0%	57.1%

- \$507 million in adjusted OIBDAR; Increased y-o-y and sequentially
- Consolidated adjusted OIBDAR margin of 35.1% represents 150 bps improvement over 2Q17 margins
- Total cash costs improved by over \$54 million, or 5.5% y-o-y
- 60 bps y-o-y improvement in ILEC Consumer & SMB segment margin %
- 14<sup>th</sup> consecutive quarter of consumer ARPU growth
- 250 bps y-o-y improvement in Enterprise margins
- Synergy plan on schedule

(1) Results are based upon the combined historical information of Windstream and EarthLink for all periods presented as well as Broadband.com July 28, 2017 closing date

(2) Adjusted OIBDAR excludes all goodwill impairment, merger, integration and certain other costs, restructuring, stock-based compensation and pension expense

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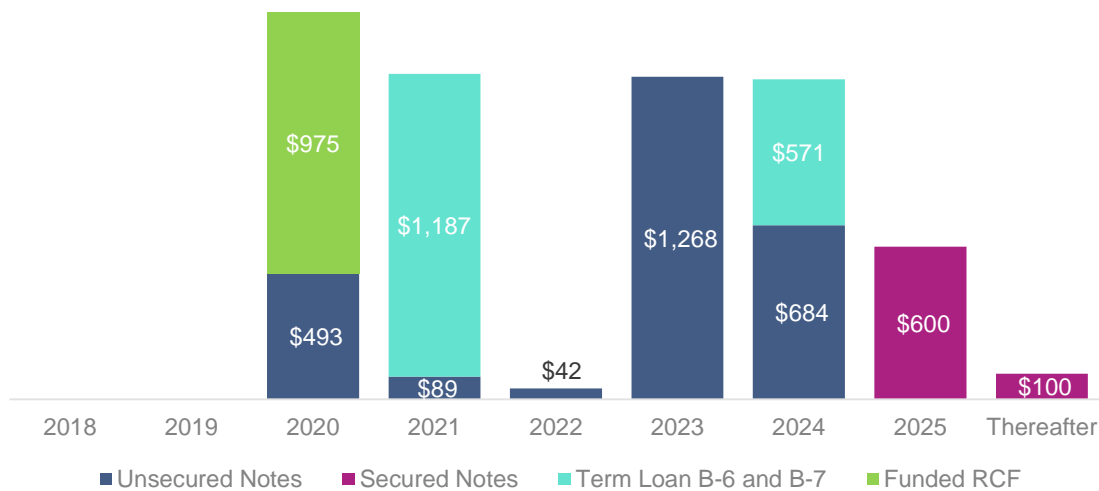


# Improved Balance Sheet

Attractive debt maturity profile, with no near-term bond maturities

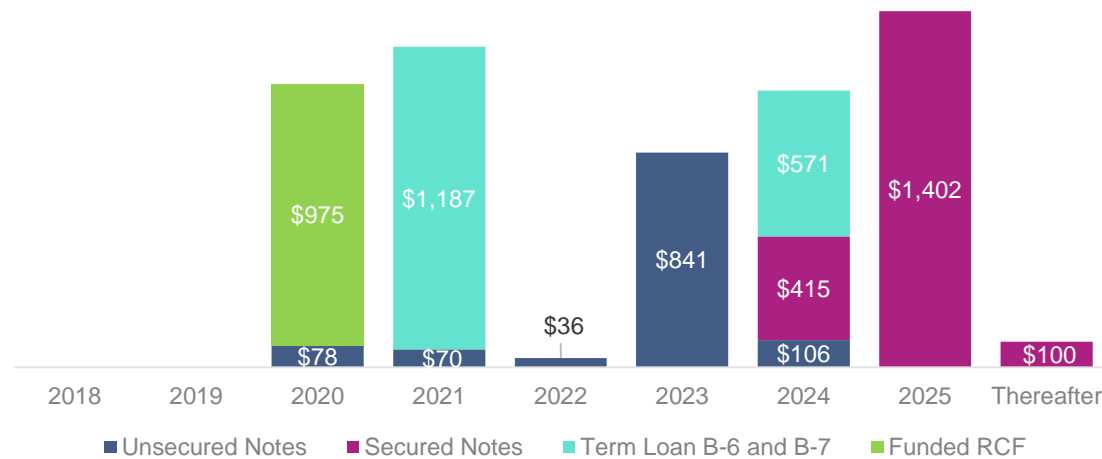
As of June 30, 2018

(dollars in millions)



As of June 30, 2018  
(pro forma for debt exchange)

(dollars in millions)



- Approx. \$3.4 billion in debt refinanced through recent exchange offers
- Most recent exchange refinanced over \$1.4 billion in debt
  - Reduced total debt by \$227 million and leverage by 0.2x
    - Pro forma net leverage falls to 3.93x from 4.08x
  - Extends maturities by an average of two years
  - Maintains approx. \$300 million in second lien capacity

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(in millions)	2018 Guidance
Service Revenue	Slightly Improved vs. 2017 Trends
Adj. OIBDAR	\$1,950 – \$2,010M
Adjusted Capex <sup>(1)</sup>	\$750 - \$800M
Adjusted Free Cash Flow <sup>(2)</sup>	~\$145M

1) Adjusted capex excludes expenditures related to Integration Capex  
2) Now includes approx. \$20 million of accrued cash interest pulled forward due to recently completed bond exchanges

Growth Expected in 2019 Adjusted OIBDAR



## Contents:

- Quarterly supplemental schedules (Pro Forma)
- 2018 Business Segment Directional Outlook
- A Closer Look at 2018 Capex



WINDSTREAM HOLDINGS, INC.

UNAUDITED ADJUSTED RESULTS OF OPERATIONS (NON-GAAP) (A)

QUARTERLY SUPPLEMENTAL INFORMATION

for the quarterly periods in the years 2018 and 2017

(In millions)

ADJUSTED RESULTS OF OPERATIONS:	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
Revenues and sales:								
Total service revenues	\$ 2,860.0	\$ 1,424.6	\$ 1,435.4	\$ 5,909.0	\$ 1,477.3	\$ 1,472.4	\$ 1,465.6	\$ 1,493.7
Product sales	38.7	19.8	18.9	93.4	20.6	25.3	26.0	21.5
Total revenues and sales	<u>2,898.7</u>	<u>1,444.4</u>	<u>1,454.3</u>	<u>6,002.4</u>	<u>1,497.9</u>	<u>1,497.7</u>	<u>1,491.6</u>	<u>1,515.2</u>
Costs and expenses:								
Cost of services	1,437.7	712.1	725.6	2,999.9	738.0	762.1	741.8	758.0
Cost of products sold	34.9	18.1	16.8	93.7	20.7	22.3	29.7	21.0
Selling, general and administrative	419.0	206.8	212.2	898.3	218.1	223.0	219.6	237.6
Costs and expenses excluding pension and share-based compensation expense	<u>1,891.6</u>	<u>937.0</u>	<u>954.6</u>	<u>3,991.9</u>	<u>976.8</u>	<u>1,007.4</u>	<u>991.1</u>	<u>1,016.6</u>
Adjusted OIBDAR (B)	1,007.1	507.4	499.7	2,010.5	521.1	490.3	500.5	498.6
Master lease rent payment	<u>327.3</u>	<u>163.9</u>	<u>163.4</u>	<u>653.5</u>	<u>163.4</u>	<u>163.3</u>	<u>163.4</u>	<u>163.4</u>
Adjusted OIBDA (C)	<u>\$ 679.8</u>	<u>\$ 343.5</u>	<u>\$ 336.3</u>	<u>\$ 1,357.0</u>	<u>\$ 357.7</u>	<u>\$ 327.0</u>	<u>\$ 337.1</u>	<u>\$ 335.2</u>
Margins (D):								
Adjusted OIBDAR margin	34.7%	35.1%	34.4%	33.5%	34.8%	32.7%	33.6%	32.9%
Adjusted OIBDA margin	23.5%	23.8%	23.1%	22.6%	23.9%	21.8%	22.6%	22.1%
CAPITAL EXPENDITURES:								
Capital expenditures under GAAP	\$ 406.3	\$ 188.7	\$ 217.6	\$ 908.6	\$ 184.4	\$ 216.4	\$ 264.4	\$ 243.4
EarthLink capital expenditures pre-merger	-	-	-	15.2	-	-	-	15.2
Project Excel capital expenditures	-	-	-	(49.9)	-	-	(26.3)	(23.6)
Integration capital expenditures	<u>(18.0)</u>	<u>(8.1)</u>	<u>(9.9)</u>	<u>(34.5)</u>	<u>(12.4)</u>	<u>(11.2)</u>	<u>(6.4)</u>	<u>(4.5)</u>
Adjusted capital expenditures (E)	<u>\$ 388.3</u>	<u>\$ 180.6</u>	<u>\$ 207.7</u>	<u>\$ 839.4</u>	<u>\$ 172.0</u>	<u>\$ 205.2</u>	<u>\$ 231.7</u>	<u>\$ 230.5</u>

(A) Adjusted results of operations are based upon the combined historical financial information of Windstream and EarthLink for all periods presented. The adjusted results assume the merger was completed on January 1, 2017.

Operating results for Broadview and MASS are included beginning on July 28, 2017 and March 27, 2018, respectively, the dates of acquisition.

(B) Adjusted OIBDAR is adjusted OIBDA before the annual cash rent payment due under the master lease agreement with Uniti.

(C) Adjusted OIBDA is operating income before depreciation and amortization, excluding goodwill impairment, pension expense, share-based compensation expense, restructuring charges, merger, integration and certain other costs as further discussed in Note (A) on page 7.

(D) Margins are calculated by dividing the respective profitability measures by total revenues and sales.

(E) Adjusted capital expenditures includes applicable amounts for EarthLink for the periods prior to the merger date of February 27, 2017 and excludes post-merger integration capital expenditures for Broadview and EarthLink and amounts related to Project Excel, a capital program completed in 2017 funded entirely using a portion of the proceeds from the sale of the paycomer business completed in December 2015.





WINDSTREAM HOLDINGS, INC.  
UNAUDITED ADJUSTED RESULTS OF OPERATIONS (NON-GAAP) (A)  
QUARTERLY SUPPLEMENTAL INFORMATION  
for the quarterly periods in the years 2018 and 2017  
(In millions)

	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
REVENUE SUPPLEMENT								
Consumer & Small Business:								
High-speed Internet bundles	\$ 509.4	\$ 254.3	\$ 255.1	\$ 1,045.8	\$ 256.8	\$ 258.9	\$ 264.0	\$ 266.1
Voice only	62.1	30.7	31.4	132.4	32.5	32.8	33.5	33.6
Video and miscellaneous	22.7	11.3	11.4	45.0	11.5	11.3	11.2	11.0
Consumer - ILEC	594.2	296.3	297.9	1,223.2	300.8	303.0	308.7	310.7
Small business - ILEC	154.6	76.5	78.1	325.1	79.6	80.7	81.4	83.4
Switched access	15.1	7.0	8.1	39.5	8.8	9.1	10.6	11.0
CAF Phase II funding	92.1	46.1	46.0	188.0	46.1	46.5	47.3	48.1
State USF and ARM support	48.1	23.9	24.2	104.9	24.5	23.6	29.6	27.2
End user surcharges	32.8	16.1	16.7	63.9	16.1	15.9	16.6	15.3
Consumer & Small Business	936.9	465.9	471.0	1,944.6	475.9	478.8	494.2	495.7
Windstream Enterprise & Wholesale:								
Voice and long distance	483.0	240.2	242.8	983.0	248.4	246.2	240.4	248.0
Data and integrated services (B)	818.3	410.0	408.3	1,686.1	427.8	427.6	408.6	422.1
Miscellaneous	96.8	48.3	48.5	182.3	48.2	45.7	43.4	45.0
End user surcharges	64.9	31.6	33.3	128.7	35.9	31.1	30.8	30.9
Enterprise	1,463.0	730.1	732.9	2,980.1	760.3	750.6	723.2	746.0
Core wholesale (C)	300.7	150.4	150.3	636.8	153.7	155.7	162.2	165.2
Resale (D)	41.4	20.1	21.3	81.8	22.8	21.9	18.4	18.7
Wireless TDM	5.1	2.4	2.7	15.7	3.0	3.4	4.0	5.3
Switched access	18.8	9.4	9.4	43.7	10.3	10.2	12.0	11.2
Wholesale	366.0	182.3	183.7	778.0	189.8	191.2	196.6	200.4
Total Windstream Enterprise & Wholesale	1,829.0	912.4	916.6	3,758.1	950.1	941.8	919.8	946.4
Consumer CLEC:								
High-speed Internet	47.6	23.2	24.4	105.2	26.5	26.6	26.0	26.1
Dial-up, email and miscellaneous	45.3	22.5	22.8	98.3	24.1	24.5	24.9	24.8
End user surcharges	1.2	0.6	0.6	2.8	0.7	0.7	0.7	0.7
Total Consumer CLEC	94.1	46.3	47.8	206.3	51.3	51.8	51.6	51.6
Total service revenues	2,860.0	1,424.6	1,435.4	5,909.0	1,477.3	1,472.4	1,465.6	1,493.7
Product sales:								
Consumer - ILEC	12.1	6.6	5.5	33.8	5.9	8.5	10.7	8.7
Enterprise	26.2	13.0	13.2	58.7	14.4	16.5	15.2	12.6
Wholesale	0.2	0.1	0.1	0.3	0.2	0.1	-	-
Consumer CLEC	0.2	0.1	0.1	0.6	0.1	0.2	0.1	0.2
Total product sales	38.7	19.8	18.9	93.4	20.6	25.3	26.0	21.5
Total revenues and sales	\$ 2,898.7	\$ 1,444.4	\$ 1,454.3	\$ 6,002.4	\$ 1,497.9	\$ 1,497.7	\$ 1,491.6	\$ 1,515.2

(A) Adjusted results of operations are based upon the combined historical financial information of Windstream and EarthLink for all periods presented. The adjusted results assume the merger was completed on January 1, 2017.

Operating results for Broadview and MASS are included beginning on July 28, 2017 and March 27, 2018, respectively, the dates of acquisition.

(B) Data and integrated service revenues primarily include voice and broadband services delivered over a single Internet connection as well as multi-site networking services.

(C) Core wholesale revenues primarily include revenues from providing special access circuits, fiber connections, data transport and wireless backhaul services.

(D) Revenues represent voice and data services sold to other communications services providers on a resale basis. Certain prior period core wholesale and wireless TDM revenues have been reclassified as resale revenues.

WIN Ex. 6



WINDSTREAM HOLDINGS, INC.  
 UNAUDITED ADJUSTED SEGMENT RESULTS (NON-GAAP) (A)  
 QUARTERLY SUPPLEMENTAL INFORMATION  
 for the quarterly periods in the years 2018 and 2017  
 (In millions)

	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
<b>Consumer &amp; Small Business</b>								
Revenues and sales:								
Service revenues	\$ 594.2	\$ 296.3	\$ 297.9	\$ 1,223.2	\$ 300.8	\$ 303.0	\$ 308.7	\$ 310.7
Product sales	12.1	6.6	5.5	33.8	5.9	8.5	10.7	8.7
Total Consumer - ILEC	606.3	302.9	303.4	1,257.0	306.7	311.5	319.4	319.4
Small business - ILEC	154.6	76.5	78.1	325.1	79.6	80.7	81.4	83.4
Switched access	15.1	7.0	8.1	39.5	8.8	9.1	10.6	11.0
CAF Phase II funding	92.1	46.1	46.0	188.0	46.1	46.5	47.3	48.1
State USF and ARM support	48.1	23.9	24.2	104.9	24.5	23.6	29.6	27.2
End user surcharges	32.8	16.1	16.7	63.9	16.1	15.9	16.6	15.3
Total revenues and sales	949.0	472.5	476.5	1,978.4	481.8	487.3	504.9	504.4
Costs and expenses	393.5	198.9	194.6	848.8	199.8	217.7	215.7	215.6
Consumer & Small Business contribution margin	\$ 555.5	\$ 273.6	\$ 281.9	\$ 1,129.6	\$ 282.0	\$ 269.6	\$ 289.2	\$ 288.8
Consumer & Small Business contribution margin %	58.5%	57.9%	59.2%	57.1%	58.5%	55.3%	57.3%	57.3%
<b>Windstream Enterprise &amp; Wholesale</b>								
<b>Enterprise</b>								
Revenues and sales:								
Service revenues	\$ 1,463.0	\$ 730.1	\$ 732.9	\$ 2,980.1	\$ 760.3	\$ 750.6	\$ 723.2	\$ 746.0
Product sales	26.2	13.0	13.2	58.7	14.4	16.5	15.2	12.6
Total revenues and sales	1,489.2	743.1	746.1	3,038.8	774.7	767.1	738.4	758.6
Costs and expenses	1,182.2	581.9	600.3	2,445.9	610.6	619.8	596.7	618.8
Contribution margin	\$ 307.0	\$ 161.2	\$ 145.8	\$ 592.9	\$ 164.1	\$ 147.3	\$ 141.7	\$ 139.8
Contribution margin %	20.6%	21.7%	19.5%	19.5%	21.2%	19.2%	19.2%	18.4%
<b>Wholesale</b>								
Revenues and sales:								
Service revenues	\$ 366.0	\$ 182.3	\$ 183.7	\$ 778.0	\$ 189.8	\$ 191.2	\$ 196.6	\$ 200.4
Product sales	0.2	0.1	0.1	0.3	0.2	0.1	-	-
Total revenues and sales	366.2	182.4	183.8	778.3	190.0	191.3	196.6	200.4
Costs and expenses	109.1	53.6	55.5	238.0	55.5	58.1	61.6	62.8
Contribution margin	\$ 257.1	\$ 128.8	\$ 128.3	\$ 540.3	\$ 134.5	\$ 133.2	\$ 135.0	\$ 137.6
Contribution margin %	70.2%	70.6%	69.8%	69.4%	70.8%	69.6%	68.7%	68.7%
<b>Total Windstream Enterprise &amp; Wholesale</b>								
Revenues and sales:								
Service revenues	\$ 1,829.0	\$ 912.4	\$ 916.6	\$ 3,758.1	\$ 950.1	\$ 941.8	\$ 919.8	\$ 946.4
Product sales	26.4	13.1	13.3	59.0	14.6	16.6	15.2	12.6
Total revenues and sales	1,855.4	925.5	929.9	3,817.1	964.7	958.4	935.0	959.0
Costs and expenses	1,291.3	635.5	655.8	2,683.9	666.1	677.9	658.3	681.6
Total Windstream Enterprise & Wholesale contribution margin	\$ 564.1	\$ 290.0	\$ 274.1	\$ 1,133.2	\$ 298.6	\$ 280.5	\$ 276.7	\$ 277.4
Total Windstream Enterprise & Wholesale contribution margin %	30.4%	31.3%	29.5%	29.7%	31.0%	29.3%	29.6%	28.9%

- (A) Adjusted results of operations are based upon the combined historical financial information of Windstream and EarthLink adjusted to exclude merger, integration and other costs related to strategic transactions, restructuring charges, pension and share-based compensation expense for all periods presented. The adjusted results assume the merger with EarthLink was completed on January 1, 2017. Operating results for Broadview and MASS are included beginning on July 28, 2017 and March 27, 2018, respectively, the dates of acquisition.
- (B) Shared expenses are not allocated to the segments and primarily consist of accounting and finance, information technology, network management, legal, human resources and investor relations, that are centrally managed and are not monitored by management at a segment level.

WIN EX. 6



WINDSTREAM HOLDINGS, INC.  
 UNAUDITED ADJUSTED SEGMENT RESULTS (NON-GAAP) (A)  
 QUARTERLY SUPPLEMENTAL INFORMATION  
 for the quarterly periods in the years 2018 and 2017  
 (In millions)

	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
<b>Consumer CLEC</b>								
Revenues and sales:								
Service revenues	\$ 94.1	\$ 46.3	\$ 47.8	\$ 206.3	\$ 51.3	\$ 51.8	\$ 51.6	\$ 51.6
Product sales	0.2	0.1	0.1	0.6	0.1	0.2	0.1	0.2
Total revenues and sales	94.3	46.4	47.9	206.9	51.4	52.0	51.7	51.8
Costs and expenses	40.5	19.9	20.6	99.9	23.9	27.2	25.7	23.1
Contribution margin	\$ 53.8	\$ 26.5	\$ 27.3	\$ 107.0	\$ 27.5	\$ 24.8	\$ 26.0	\$ 28.7
Contribution margin %	57.1%	57.1%	57.0%	51.7%	53.5%	47.7%	50.3%	55.4%
<b>Total segment revenues and expenses</b>								
Revenues and sales:								
Service revenues	\$ 2,860.0	\$ 1,424.6	\$ 1,435.4	\$ 5,909.0	\$ 1,477.3	\$ 1,472.4	\$ 1,465.6	\$ 1,493.7
Product sales	38.7	19.8	18.9	93.4	20.6	25.3	26.0	21.5
Total segment revenues and sales	2,898.7	1,444.4	1,454.3	6,002.4	1,497.9	1,497.7	1,491.6	1,515.2
Total segment costs and expenses	1,725.3	854.3	871.0	3,632.6	889.8	922.8	899.7	920.3
Segment contribution margin	\$ 1,173.4	\$ 590.1	\$ 583.3	\$ 2,369.8	\$ 608.1	\$ 574.9	\$ 591.9	\$ 594.9
Segment contribution margin %	40.5%	40.9%	40.1%	39.5%	40.6%	38.4%	39.7%	39.3%
<b>Consolidated revenues and expenses</b>								
Service revenues	2,860.0	1,424.6	\$ 1,435.4	\$ 5,909.0	\$ 1,477.3	\$ 1,472.4	\$ 1,465.6	\$ 1,493.7
Product sales	38.7	19.8	18.9	93.4	20.6	25.3	26.0	21.5
Consolidated revenues and sales	\$ 2,898.7	\$ 1,444.4	\$ 1,454.3	\$ 6,002.4	\$ 1,497.9	\$ 1,497.7	\$ 1,491.6	\$ 1,515.2
Consolidated costs and expenses								
Segment costs and expenses	\$ 1,725.3	\$ 854.3	\$ 871.0	\$ 3,632.6	\$ 889.8	\$ 922.8	\$ 899.7	\$ 920.3
Shared expenses (B)	166.3	82.7	83.6	359.3	87.0	84.6	91.4	96.3
Consolidated costs and expenses	\$ 1,891.6	\$ 937.0	\$ 954.6	\$ 3,991.9	\$ 976.8	\$ 1,007.4	\$ 991.1	\$ 1,016.6
Consolidated								
Adjusted OIBDAR	\$ 1,007.1	\$ 507.4	\$ 499.7	\$ 2,010.5	\$ 521.1	\$ 490.3	\$ 500.5	\$ 498.6
Adjusted OIBDAR margin	34.7%	35.1%	34.4%	33.5%	34.8%	32.7%	33.6%	32.9%

(A) Adjusted results of operations are based upon the combined historical financial information of Windstream and EarthLink adjusted to exclude merger, integration and other costs related to strategic transactions, restructuring charges, pension and share-based compensation expense for all periods presented. The adjusted results assume the merger with EarthLink was completed on January 1, 2017. Operating results for Broadview and MASS are included beginning on July 28, 2017 and March 27, 2018, respectively, the dates of acquisition.

(B) Shared expenses are not allocated to the segments and primarily consist of accounting and finance, information technology, network management, legal, human resources, and investor relations, that are centrally managed and are not monitored by management at a segment level.

WIN Ex. 6



WINDSTREAM HOLDINGS, INC.  
UNAUDITED ADJUSTED OPERATING METRICS (NON-GAAP)  
QUARTERLY SUPPLEMENTAL INFORMATION  
for the quarterly periods in the years 2018 and 2017  
(Units in thousands, Dollars in millions, except per unit amounts)

	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
<b>Consumer - ILEC</b>								
Households served	1,251.3	1,251.3	1,257.3	1,268.8	1,268.8	1,288.2	1,307.8	1,337.5
<i>YOY change in households served</i>	-4.3%	-4.3%	-6.0%	-6.3%	-6.3%	-6.6%	-6.8%	-6.5%
<i>Average revenue per household served per month</i>	\$ 78.59	\$ 78.74	\$ 78.62	\$ 77.71	\$ 78.43	\$ 77.81	\$ 77.80	\$ 76.94
High-speed Internet customers	1,006.7	1,006.7	1,004.4	1,006.6	1,006.6	1,017.4	1,025.8	1,047.6
Digital television customers	256.6	256.6	267.1	277.9	277.9	289.6	300.7	310.0
<i>YOY change in high-speed Internet</i>	-1.9%	-1.9%	-4.1%	-4.2%	-4.2%	-4.3%	-4.6%	-4.1%
<i>YOY change in digital television customers</i>	-14.7%	-14.7%	-13.8%	-13.4%	-13.4%	-12.1%	-12.1%	-11.5%
<b>Small Business - ILEC</b>								
Customers	123.2	123.2	125.0	128.1	128.1	131.2	134.1	136.8
<i>YOY change in customers</i>	-8.1%	-8.1%	-8.6%	-8.3%	-8.3%	-7.8%	-7.4%	-7.6%
<i>Average revenue per customer per month</i>	\$ 205.07	\$ 205.48	\$ 205.72	\$ 202.33	\$ 204.65	\$ 202.79	\$ 200.32	\$ 201.08
<b>Enterprise</b>								
Customers	115.5	115.5	120.7	125.7	125.7	129.9	114.8	120.8
<i>YOY change in customers</i>	0.6%	0.6%	-0.1%	-0.5%	-0.5%	-1.4%	-16.2%	-15.5%
<i>Average revenue per customer per month</i>	\$ 2,021.84	\$ 2,060.68	\$ 1,982.95	\$ 1,970.97	\$ 1,983.05	\$ 2,044.95	\$ 2,046.41	\$ 2,012.68
<b>Consumer CLEC</b>								
Customers	623.1	623.1	641.0	662.1	662.1	680.6	684.4	683.1
<i>YOY change in customers</i>	-9.0%	-9.0%	-6.2%	-3.9%	-3.9%	-3.2%	-5.2%	-7.4%
<i>Average revenue per customer per month</i>	\$ 24.41	\$ 24.42	\$ 24.45	\$ 25.45	\$ 25.47	\$ 25.30	\$ 25.16	\$ 25.07
<b>Service Revenues Used in Average Revenue Per Month Computations Above (per page 3):</b>								
Consumer service revenue - ILEC	\$ 594.2	\$ 296.3	\$ 297.9	\$ 1,223.2	\$ 300.8	\$ 303.0	\$ 308.7	\$ 310.7
Small business service revenue - ILEC	\$ 154.6	\$ 76.5	\$ 78.1	\$ 325.1	\$ 79.6	\$ 80.7	\$ 81.4	\$ 83.4
Enterprise service revenue	\$ 1,463.0	\$ 730.1	\$ 732.9	\$ 2,980.1	\$ 760.3	\$ 750.6	\$ 723.2	\$ 746.0
Consumer CLEC service revenue	\$ 94.1	\$ 46.3	\$ 47.8	\$ 200.3	\$ 51.3	\$ 51.8	\$ 51.6	\$ 51.6

WIN Ex. 6



WINDSTREAM HOLDINGS, INC.  
UNAUDITED ADJUSTED CONSOLIDATED RESULTS (NON-GAAP)  
QUARTERLY SUPPLEMENTAL INFORMATION  
for the quarterly periods in 2018  
(In millions)

ADJUSTED FREE CASH FLOW:	2018		
	Total	2nd Qtr.	1st Qtr.
Operating income under GAAP	\$ 157.3	\$ 88.3	\$ 69.0
Depreciation and amortization	752.5	370.7	381.8
OIBDA	909.8	459.0	450.8
Adjustments:			
Merger, integration and other costs (A)	21.4	14.1	7.3
Restructuring charges	19.5	5.8	13.7
Other costs (B)	36.1	19.0	17.1
Pension expense	1.9	1.0	0.9
Share-based compensation	18.4	8.5	9.9
Master lease rent payment	(327.3)	(163.9)	(163.4)
Adjusted OIBDA	679.8	343.5	336.3
Adjusted capital expenditures (C)	(388.3)	(180.6)	(207.7)
Cash paid for interest on long-term debt obligations	(193.0)	(126.7)	(66.3)
Cash received (paid) for income taxes, net	15.1	11.9	3.2
Adjusted free cash flow	\$ 113.6	\$ 48.1	\$ 65.5
OPERATIONAL FREE CASH FLOW:	Six Months Ended June 30,		
	2018	2017	
Net Cash Provided from Operating Activities	\$ 539.7	\$ 374.9	
Less Capital expenditures under GAAP	(406.3)	(507.8)	
Less Payments under long-term lease obligation with Uniti	(91.4)	(82.2)	
Operational free cash flow	\$ 42.0	\$ (215.1)	
DEBT LEVERAGE RATIO:	As of		
	6/30/2018		
Long-term debt, including current maturities	\$ 5,885.8		
Capital lease obligations	108.3		
Total long-term debt and capital lease obligations	5,994.1		
Cash and cash equivalents	45.4		
Net debt	\$ 5,948.7	(1)	
Adjusted OIBDA (per page 2)	Twelve		
	Months Ended	6/30/2018	
Other expense adjustments required by the credit facilities and indentures (D):			
Broadview OIBDA for the period July 1, 2017 to July 28, 2017		3.7	
Annual expense synergies for Broadview and EarthLink acquisitions		91.0	
Adjusted OIBDA for purposes of calculating net leverage ratio	\$ 1,459.2	(2)	
Net leverage ratio (E) - computed as (1)/(2)	4.08		
(A) Includes legal fees related to REIT spin-off litigation.			
(B) Other costs primarily include business transformation expenses consisting of consulting fees and incremental marketing and rebranding costs. See Note (C) on page 8 for further detailed information.			
(C) Adjusted capital expenditures includes applicable amounts for EarthLink for the pre-merger period January 1, 2017 to February 26, 2017 and excludes post-merger integration capital expenditures for Broadview and EarthLink and amounts related to Project Excel, a capital program funded entirely using a portion of the proceeds from the sale of the data center business completed in December 2015.			
(D) Other expense adjustments include operating results of Broadview for the period prior to the date of acquisition and net cost savings from integrating acquired companies, or \$25.0 million on a quarterly basis.			
(E) The net leverage ratio is computed by dividing net debt by adjusted OIBDA.			

WIN EX: 6





WINDSTREAM HOLDINGS, INC.  
RECONCILIATIONS OF NON-GAAP FINANCIAL MEASURES (A)  
for the quarterly periods in the years 2018 and 2017  
(In millions)

	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
Reconciliation of Revenues and Sales under GAAP to Adjusted Revenues and Sales:								
Service revenues under GAAP	\$ 2,860.0	\$ 1,424.6	\$ 1,435.4	\$ 5,759.7	\$ 1,477.3	\$ 1,472.4	\$ 1,465.6	\$ 1,344.4
Adjustments:								
EarthLink service revenues	-	-	-	149.3	-	-	-	149.3
Adjusted service revenues	2,860.0	1,424.6	1,435.4	5,909.0	1,477.3	1,472.4	1,465.6	1,493.7
Product sales under GAAP	38.7	19.8	18.9	93.2	20.6	25.3	26.0	21.3
Adjustments:								
EarthLink product sales	-	-	-	0.2	-	-	-	0.2
Adjusted product sales	38.7	19.8	18.9	93.4	20.6	25.3	26.0	21.5
Adjusted revenues and sales	\$ 2,898.7	\$ 1,444.4	\$ 1,454.3	\$ 6,002.4	\$ 1,497.9	\$ 1,497.7	\$ 1,491.6	\$ 1,515.2
Reconciliation of Net Loss under GAAP to Adjusted OIBDA:								
Net loss	\$ (215.1)	\$ (93.7)	\$ (121.4)	\$ (2,116.6)	\$ (1,835.7)	\$ (101.5)	\$ (68.1)	\$ (111.3)
Adjustments:								
Other (income) expense, net	(9.7)	(12.0)	2.3	2.3	10.8	(1.7)	(4.2)	(2.6)
Net loss (gain) on early extinguishment of debt	-	-	-	56.4	58.4	(5.2)	-	3.2
Interest expense	447.5	224.4	223.1	875.4	232.8	216.4	214.4	211.8
Income tax benefit	(65.4)	(30.4)	(35.0)	(408.1)	(244.7)	(66.8)	(39.6)	(57.0)
Operating income (loss) under GAAP	157.3	88.3	69.0	(1,590.6)	(1,778.4)	41.2	102.5	44.1
Depreciation and amortization	752.5	370.7	381.8	1,470.0	403.7	365.4	362.4	338.5
Adjustments:								
Goodwill impairment	-	-	-	1,840.8	1,840.8	-	-	-
EarthLink operating income (B)	-	-	-	30.8	-	-	-	30.8
Merger, integration and other costs	21.4	14.1	7.3	137.4	30.0	33.7	16.4	57.3
Restructuring charges	19.5	5.8	13.7	43.0	9.3	22.8	3.5	7.4
Other costs (C)	36.1	19.0	17.1	25.8	3.5	12.8	3.5	6.0
Pension expense	1.9	1.0	0.9	8.1	2.0	2.0	2.0	2.1
Share-based compensation expense	18.4	8.5	9.9	45.2	10.2	12.4	10.2	12.4
Adjusted OIBDAR (D)	1,007.1	507.4	499.7	2,010.5	521.1	490.3	500.5	498.6
Master lease rent payment	(327.3)	(163.9)	(163.4)	(653.5)	(163.4)	(163.3)	(163.4)	(163.4)
Adjusted OIBDA (E)	\$ 679.8	\$ 343.5	\$ 336.3	\$ 1,357.0	\$ 357.7	\$ 327.0	\$ 337.1	\$ 335.2

- (A) Adjusted results of operations are based upon the combined historical financial information of Windstream and EarthLink for all periods presented. The adjusted results assume the merger was completed on January 1, 2017.
- (B) Represents EarthLink operating results for periods prior to the merger date of February 27, 2017. These amounts exclude EarthLink's historical depreciation and amortization, restructuring, merger and integration costs and share-based compensation.
- (C) Other costs for the periods presented consist of the following:

	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
Consulting fees	\$ 20.8	\$ 12.1	\$ 8.7	\$ -	\$ -	\$ -	\$ -	\$ -
Marketing and rebranding costs	3.1	0.7	2.4	-	-	-	-	-
Network optimization costs (1)	11.6	6.2	5.4	-	-	-	-	-
Business transformation expenses	35.5	19.0	16.5	-	-	-	-	-
Carrier access settlements	0.6	-	0.6	8.3	-	8.3	-	-
Spend commitment penalty (2)	-	-	-	7.7	-	-	2.5	5.2
Storm costs (3)	-	-	-	4.7	1.8	2.9	-	-
Miscellaneous network cost initiatives	-	-	-	5.1	1.7	1.6	1.0	0.8
Other costs	\$ 36.1	\$ 19.0	\$ 17.1	\$ 25.8	\$ 3.5	\$ 12.8	\$ 3.5	\$ 6.0

- (1) Costs incurred in migrating traffic to existing lower cost circuits and terminating contracts prior to their expiration.
- (2) Reserve for a penalty attributable to not meeting certain spend commitments under a current discount plan.
- (3) Incremental costs related to Hurricanes Harvey and Irma.
- (D) Adjusted OIBDAR is adjusted OIBDA before the annual cash rent payment due under the master lease agreement with Uniti.
- (E) Adjusted OIBDA is operating income before depreciation and amortization, excluding goodwill impairment, merger and integration costs related to strategic transactions, restructuring charges, goodwill and share-based compensation expense and certain other costs as discussed in Note (C) above.



WINDSTREAM HOLDINGS, INC.  
RECONCILIATIONS OF NON-GAAP FINANCIAL MEASURES  
for the quarterly periods in the years 2018 and 2017  
(In millions)

	2018			2017				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
Reconciliation of Net Cash Provided from Operating Activities to Adjusted OIBDA:								
Net Cash Provided from Operating Activities	\$ 539.7	\$ 300.4	\$ 239.3	\$ 974.5	\$ 327.9	\$ 271.7	\$ 221.2	\$ 153.7
Adjustments:								
Master lease rent payment	(327.3)	(163.9)	(163.4)	(653.5)	(163.4)	(163.3)	(163.4)	(163.4)
EarthLink operating income (A)	-	-	-	30.8	-	-	-	30.8
Merger, integration and other costs	21.4	14.1	7.3	137.4	30.0	33.7	16.4	57.3
Restructuring charges	19.5	5.8	13.7	43.0	9.3	22.8	3.5	7.4
Other costs (B)	36.1	19.0	17.1	25.8	3.5	12.8	3.5	6.0
Other (income) expense, net	(9.7)	(12.0)	2.3	2.3	10.8	(1.7)	(4.2)	(2.6)
Interest expense	447.4	224.3	223.1	875.3	232.7	216.4	214.4	211.8
Income tax benefit, net of deferred income taxes	(0.5)	(0.2)	(0.3)	(12.8)	5.3	(18.8)	2.5	(1.8)
Provision for doubtful accounts	(15.2)	(9.6)	(5.6)	(45.7)	(12.2)	(13.8)	(10.1)	(9.6)
Other noncash adjustments, net	(2.5)	7.0	(9.5)	(38.2)	(18.6)	(6.0)	(9.1)	(4.5)
Changes in operating assets and liabilities, net	(29.1)	(41.4)	12.3	18.1	(67.6)	(26.8)	62.4	50.1
Adjusted OIBDA	<u>\$ 679.8</u>	<u>\$ 343.5</u>	<u>\$ 336.3</u>	<u>\$ 1,357.0</u>	<u>\$ 357.7</u>	<u>\$ 327.0</u>	<u>\$ 337.1</u>	<u>\$ 335.2</u>
Reconciliation of Net Cash Provided from Operating Activities to Adjusted Free Cash Flow:								
Net Cash Provided from Operating Activities	\$ 539.7	\$ 300.4	\$ 239.3	\$ 974.5	\$ 327.9	\$ 271.7	\$ 221.2	\$ 153.7
Adjustments:								
Cash paid for interest on long-term debt obligations	(193.0)	(126.7)	(66.3)	(371.9)	(138.2)	(59.2)	(126.9)	(47.6)
Cash (paid) refunded for income taxes	15.1	11.9	3.2	(2.0)	(0.2)	(0.2)	(1.6)	-
Capital expenditures	(406.3)	(188.7)	(217.6)	(908.6)	(184.4)	(216.4)	(264.4)	(243.4)
Project Excel capital expenditures	-	-	-	49.9	-	-	26.3	23.6
Integration capital expenditures	18.0	8.1	9.9	34.5	12.4	11.2	6.4	4.5
EarthLink capital expenditures pre-merger	-	-	-	(15.2)	-	-	-	(15.2)
EarthLink operating income (A)	-	-	-	30.8	-	-	-	30.8
Master lease rent payment	(327.3)	(163.9)	(163.4)	(653.5)	(163.4)	(163.3)	(163.4)	(163.4)
Merger, integration and other costs	21.4	14.1	7.3	137.4	30.0	33.7	16.4	57.3
Restructuring charges	19.5	5.8	13.7	43.0	9.3	22.8	3.5	7.4
Other costs (B)	36.1	19.0	17.1	25.8	3.5	12.8	3.5	6.0
Other (income) expense, net	(9.7)	(12.0)	2.3	2.3	10.8	(1.7)	(4.2)	(2.6)
Interest expense	447.4	224.3	223.1	875.3	232.7	216.4	214.4	211.8
Income tax benefit, net of deferred income taxes	(0.5)	(0.2)	(0.3)	(12.8)	5.3	(18.8)	2.5	(1.8)
Provision for doubtful accounts	(15.2)	(9.6)	(5.6)	(45.7)	(12.2)	(13.8)	(10.1)	(9.6)
Other noncash adjustments, net	(2.5)	7.0	(9.5)	(38.2)	(18.6)	(6.0)	(9.1)	(4.5)
Changes in operating assets and liabilities, net	(29.1)	(41.4)	12.3	18.1	(67.6)	(26.8)	62.4	50.1
Adjusted Free Cash Flow	<u>\$ 113.6</u>	<u>\$ 48.1</u>	<u>\$ 65.5</u>	<u>\$ 143.7</u>	<u>\$ 47.3</u>	<u>\$ 62.4</u>	<u>\$ (23.1)</u>	<u>\$ 57.1</u>

(A) Represents EarthLink operating results for periods prior to the merger date of February 27, 2017. These amounts exclude EarthLink's historical depreciation and amortization, restructuring, merger and integration costs and share-based compensation.

(B) See Note (C) on page 23 for further detail of these amounts.



## FY17 Pro Forma Results

(Dollars in Millions)

<b>ILEC CONSUMER &amp; SMB</b>	Service Revenue	\$1,945
	YoY Growth	(3.9%)
	Contribution Margin	\$1,130
	Contribution Margin %	57.1%

<b>ENTERPRISE</b>	Service Revenue	\$2,980
	YoY Growth	(5.5%)
	Contribution Margin	\$593
	Contribution Margin %	19.5%

<b>WHOLESALE</b>	Service Revenue	\$778
	YoY Growth	(9.5%)
	Contribution Margin	\$540
	Contribution Margin %	69.4%

<b>CLEC CONSUMER</b>	Service Revenue	\$206
	YoY Growth	(8.5%)
	Contribution Margin	\$107
	Contribution Margin %	51.7%

- Broadband customer trends improve
- Stable contribution margin percentage

- Revenue trends improve with organic sales growth and churn reduction
- Growth in contribution margin and margin percentage year-over-year

- Legacy revenue declines continue to offset strategic revenue trends
- Stable contribution margin percentage

- Similar trends to 2017

Note: Pro forma results includes historical Windstream plus pro forma EarthLink and include Broadview from 7/26/17.

WIN Ex. 6



# A Closer Look at 2018 Capex

## Executing a Network First Strategy

2018 Capex Plans	Capex (in millions)
Success-based	\$240
Broadband capacity and expansion	\$120
On-Net/Interconnection Cost Savings	\$10
IT Projects to Drive Efficiencies	\$40
Other	\$30
<b>Strategic Capex</b>	<b>\$440</b>
Maintenance capex/Network Optimization	\$335
<b>Adjusted Capital Expenditures <sup>(1)</sup></b>	<b>\$775</b>

### 2018 INITIATIVES

- Expand high-speed internet capabilities
- Expand Enterprise on-net
- Enhance network performance
- Make targeted investments to reduce network operating expenses



(1) Adjusted capex excludes expenditures related to Integration Capex and assumes mid-point of annual guidance

WIN Ex. 6



# 2Q19 Earnings Presentation

## August 8, 2019

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# Safe Harbor Statement

Windstream Holdings, Inc. claims the protection of the safe-harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. Forward-looking statements are typically identified by words or phrases such as “will,” “anticipate,” “estimate,” “expect,” “project,” “intend,” “plan,” “believe,” “target,” “forecast” and other words and terms of similar meaning. Forward-looking statements are subject to risks and uncertainties that could cause actual future events and results to differ materially from those expressed in the forward-looking statements.

Forward-looking statements include, but are not limited to, projections regarding our 2019 Financial Plan; certain revenue and contribution margin trends in our business units; expected sales growth and opportunities in strategic products and services and expansion of these products for our small and medium sized business customers; increasing broadband penetration levels and availability of faster broadband speeds to more households within our service areas; benefits of Project Excel and other activities to drive broadband speeds; expected net growth our broadband subscribers; anticipated benefits of the results of the recent fixed wireless spectrum auction; statements concerning the current arrangement and related payments with Uniti Group, Inc.; expectations regarding expense management activities, including interconnection expense, and the timing and benefit of such activities; and any other statements regarding plans, objectives, expectations and intentions and other statements that are not historical facts. These statements, along with other forward-looking statements regarding Windstream’s overall business outlook, are based on estimates, projections, beliefs, and assumptions that Windstream believes are reasonable but are not guarantees of future events, performance or results. Actual future events and results may differ materially from those expressed in these forward-looking statements as a result of a number of important factors.

Important factors that could cause actual results to differ materially from those indicated by such forward-looking statements include risks and uncertainties relating to our voluntary filing for reorganization under Chapter 11 of the Bankruptcy Code (“Chapter 11 Cases”); our ability to pursue our business strategies and achieve our 2019 operational goals in light of the Chapter 11 Cases; diversion of management’s attention as a result of the Chapter 11 Cases; the volatility of our financial results due to the Chapter 11 Cases; risks associated with third party actions or motions in the Chapter 11 Cases; that the cost savings and expected synergies from the mergers with EarthLink Holdings Corp. and Broadview Networks Holdings, Inc. may not be fully realized or may take longer to realize than expected; that the expected benefits of cost reduction and expense management activities are not realized or adversely affect our sales and operational activities or are otherwise disruptive to our business and personnel; further adverse changes in economic conditions in markets served by the combined company; the impact of new, emerging, or competing technologies and our ability to utilize these technologies to provide services to our customers; general worldwide economic conditions and related uncertainties; and the effect of any changes in federal or state governmental regulations or statutes. For other risk factors that could cause actual results and events to differ materially from those expressed, please refer to our filings with the Securities and Exchange Commission. Windstream does not undertake any obligation to publicly update any forward-looking statement, whether as a result of new information, future events or otherwise.



## Participants



**Tony Thomas**  
Chief Executive Officer



**Bob Gunderman**  
Chief Financial Officer & Treasurer



**Chris King**  
VP, Investor Relations

## Second Quarter 2019 Highlights

**\$450 million** in adjusted OIBDAR

\$3.6 million sequential improvement

### Continued acceleration in **SD-WAN** and **Strategic Sales**

Largest SD-WAN provider in country today

Currently installing approximately 600 new locations a month

Strategic sales were over 69% of total Enterprise sales in 2Q19; up from 55% in 1Q19

Consolidated adjusted OIBDAR **margin of 35.0%**

Up 140 bps y-o-y

Interconnection and Synergy achievements remain on schedule

Consumer broadband growth of **1,900 subscribers** in 2Q19

Broadband subscriber growth of 2.7% year-over-year

High-Speed Internet bundle revenues up sequentially

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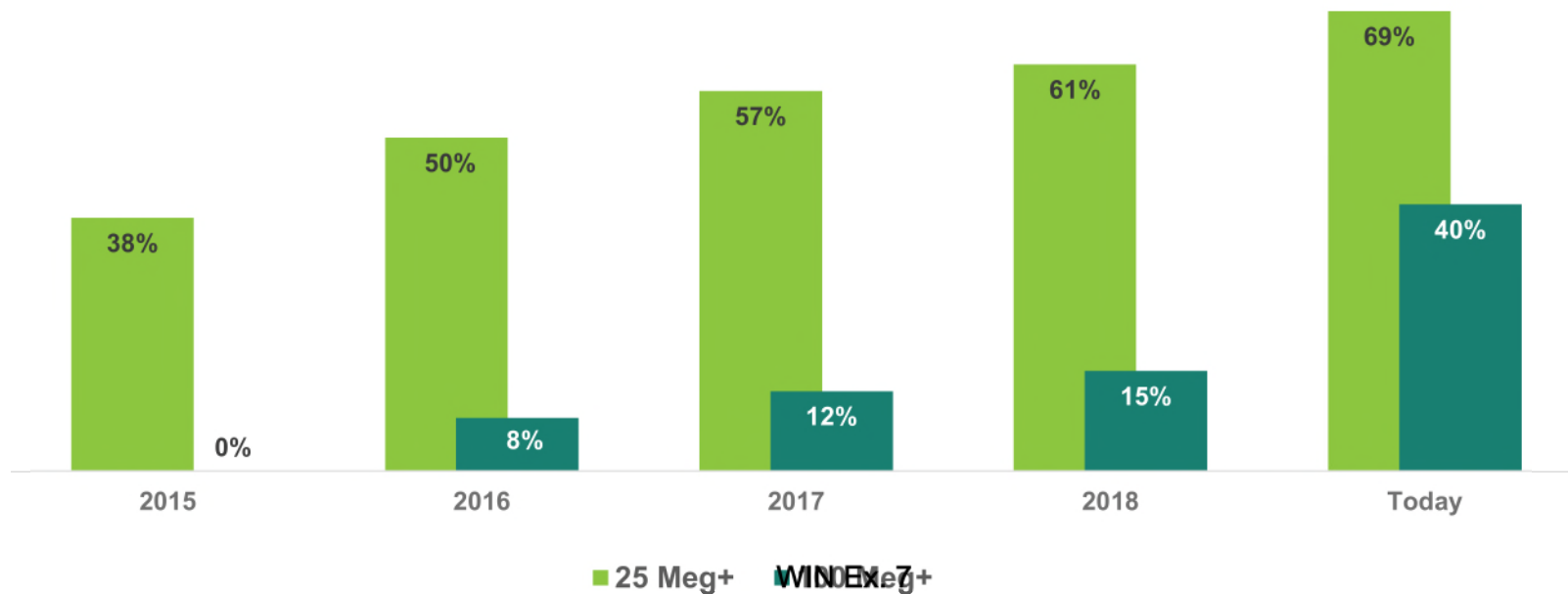
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# Kinetic Speed Addressability Chart



## % of Homes in ILEC Footprint with Access to Available Speeds

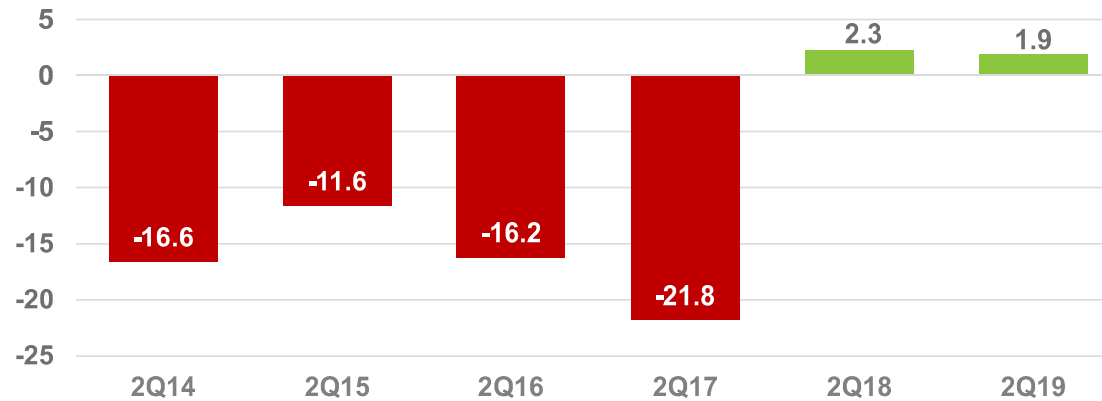


# Delivered Broadband Subscriber Growth in 2Q

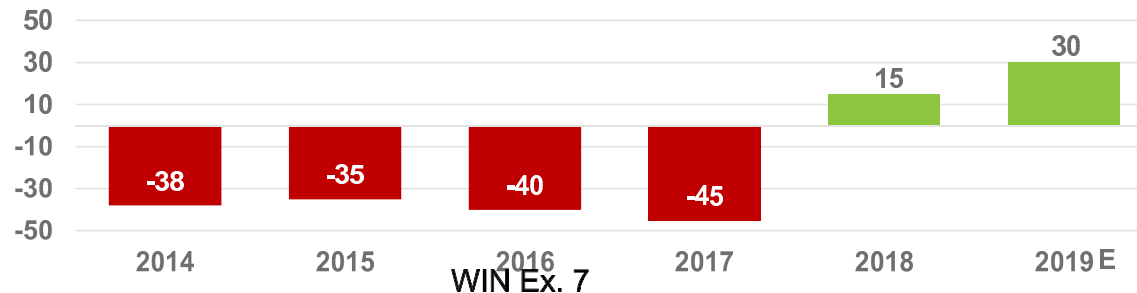


- 16 consecutive months of consumer broadband unit growth (through June 2019)
- 11% improvement in sales compared to 1H18
- Driven by Project Excel investments and efforts to extend faster broadband speed tiers to more customers across ILEC footprint
- Expecting approx. 30,000 net subscriber additions in 2019

Net Broadband Adds (in thousands)



Significant Improvement in Broadband Subscriber Growth (in thousands)



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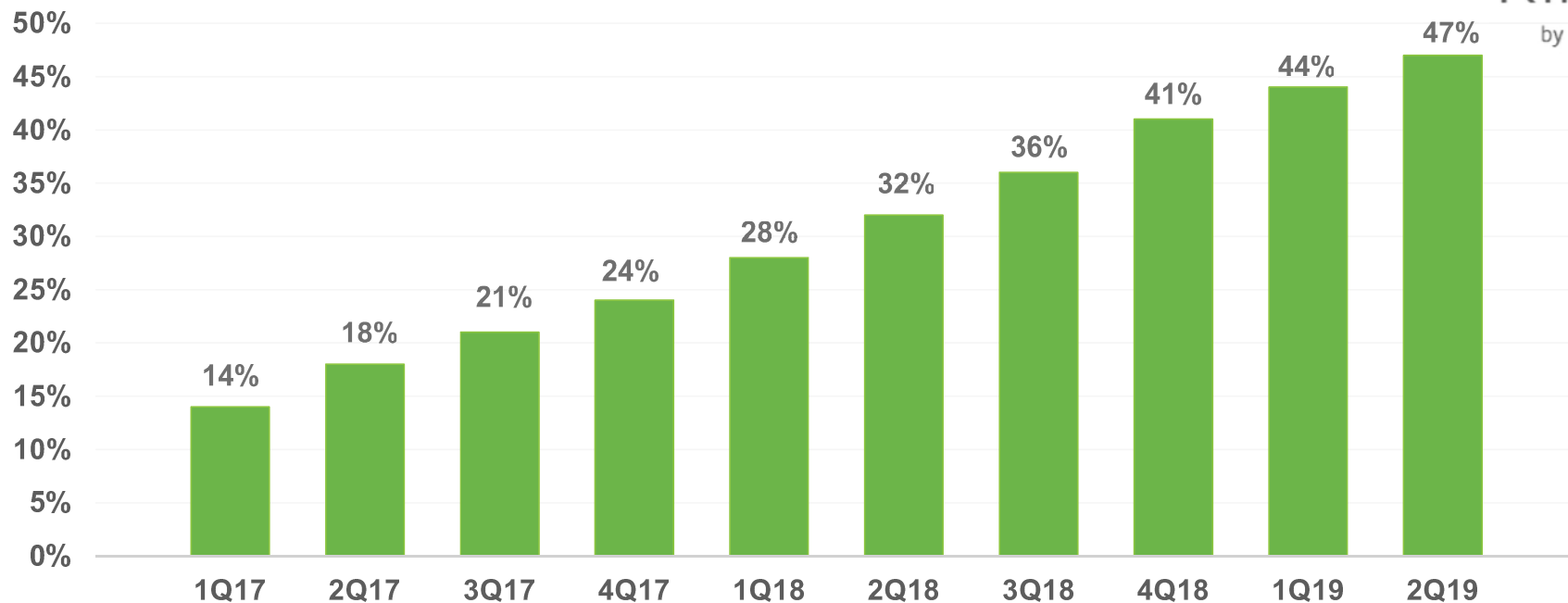


# Improved Broadband Speed Capabilities



kinetic  
by windstream.

## Customer Speed Distribution of 25 Mbps or Faster



**1GB Fiber Internet Service now expanded to 100,000 business locations**

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## Fixed Wireless Auction Results

**Windstream successfully bid  
for wireless spectrum  
covering 5 million households  
(2 million ILEC households)  
for \$26.6 million**

- Obtained 106 licenses for 450 MHz each in the 28 GHz band for \$6.2 million
- Obtained 40 licenses for 100 MHz each in the 24 GHz band for \$20.4 million

- Will be used to deliver speeds of up to 1 Gig per second
- The spectrum and associated electronics and equipment will be wholly owned by Windstream.
- In homes equipped with Gig service, consumers can engage in multiple bandwidth-intensive activities simultaneously – such as streaming music, 4K video and virtual reality applications and games – without buffering.
- For businesses, Gig service enables next-generation network, cloud, voice, security and business continuity solutions.

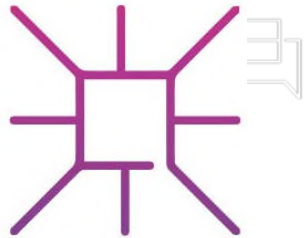
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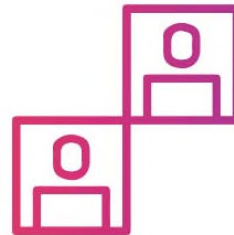


# Accelerate Enterprise Strategic Products Adoption



**~600**

SD-WAN Endpoint  
Locations Installed Every Month



**535K+**

UCaaS Seats  
Installed



**~\$280M**

Annualized Strategic  
Product Revenue  
*(based on 2Q19 results)*



**43%**

Strategic Product  
Revenue Growth Y-O-Y

**11%**

Strategic Revenue % of  
Total Enterprise Service Revenue

Strategic products are defined as: SD-WAN, UCaaS, OfficeSuite, and associated network access products and services

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# Expanding Windstream's SD-WAN Portfolio

## VALUE PROPOSITION:

SD-WAN with Fortinet enables a more cost-effective and highly secure solution with next generation firewall options that are integrated into the SD-WAN device.

Consolidating SD-WAN and security into a single device eliminates the complexity of managing two CPE devices and provides a consolidated installation footprint.

## DIFFERENTIATORS:



**Digital Experience**  
WE Connect,  
Mobile



**Integrated Security**  
on same  
appliance,  
PCI (Q3)



**Flexibility**  
access agnostic,  
purchasing  
options, design  
options,  
Professional  
Services



**Cloud Core**  
powered,  
cloud aware  
solution



**Customer Experience**  
installation,  
management,  
monitoring,  
maintenance



- + SD-WAN + NGFW Security on same appliance
- + Essential SD-WAN Capabilities
- + Best in class Next Generation Firewall (NGFW)
- + Diverse portfolio of CPE options to fit diverse deployments
- + Gartner Challenger for SD-WAN and Leader for Security Services

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## Windstream named in 2019 Gartner® Magic Quadrant for Unified Communications as a Service, Worldwide

Our first-time inclusion demonstrates emerging recognition, growth of OfficeSuite UC® solution and the unique combination of proprietary technology with a full range of network services.

Gartner recognized Windstream based on completeness of vision and ability to execute.

**This validates that our strategy to become a “software powerhouse” is being recognized in the market.**

\*Gartner, Magic Quadrant for Unified Communications as a Service, Worldwide, Daniel O’Connell, Megan Fernandez, et al., 30 July 2019. Gartner does not endorse any vendor, product or service depicted in its research publications, and does not advise technology users to select only those vendors with the highest ratings or other designation. Gartner research publications consist of the opinions of Gartner’s research organization and should not be construed as statements of fact. Gartner disclaims all warranties, express or implied, with respect to this research, including any warranties of merchantability or fitness for a particular purpose.

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## Adjusted Results Reporting Changes Effective 2Q19

- Shifted certain small business customers from Enterprise to Kinetic that reside within the ILEC territory
- Shifted wholesale customers that reside within the ILEC territory from Wholesale to Kinetic
- Shifted government and resale customers from Wholesale to Enterprise
- Allocated certain corporate expenses (primarily property taxes) to the segments

### WINDSTREAM ENTERPRISE

- Reflects revenue break-out of core, strategic, legacy and other revenues
  - Core revenues consist of dynamic IP, dedicated Internet access, MPLS, integrated voice and data, long-distance and managed services
  - Strategic revenues consist of SD-WAN, UCaaS (including OfficeSuite), and associated network access products and services
  - Legacy revenues consist of TDM voice and data services
  - Other revenues consist of administrative service fees, subscriber line charges and non-recurring usage-based LD revenues

### WINDSTREAM WHOLESALE

- Reflects revenue for products leveraging nationwide network outside of geographic territory of ILEC
  - Core revenues consist of revenues from fiber connections, data transport and wireless backhaul services



kinetic.  
by windstream.

- Now reflects all non-Enterprise revenue from within geographic territory of ILEC
- Small business revenue and wholesale revenue broken out separately



## 2Q19 Financial Results

<b>Financial Overview <sup>(1)</sup></b> (Dollars in Millions)		<b>2018</b>				<b>2018</b>	<b>2019</b>	<b>2019</b>
	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>YE</b>	<b>Q1</b>	<b>Q2</b>	
<b>Revenue</b>								
Kinetic	\$538	\$532	\$525	\$519	\$2,114	\$514	\$509	
Enterprise	\$755	\$752	\$737	\$723	\$2,968	\$696	\$673	
Wholesale	\$98	\$97	\$96	\$94	\$385	\$93	\$88	
<b>Segment Service Revenue</b>	<b>\$1,391</b>	<b>\$1,381</b>	<b>\$1,359</b>	<b>\$1,336</b>	<b>\$5,467</b>	<b>\$1,302</b>	<b>\$1,270</b>	
Product Sales	\$19	\$20	\$20	\$17	\$75	\$18	\$16	
<b>Total Revenue and Sales</b>	<b>\$1,409</b>	<b>\$1,401</b>	<b>\$1,379</b>	<b>\$1,353</b>	<b>\$5,542</b>	<b>\$1,321</b>	<b>\$1,287</b>	
<b>Contribution Margin</b>								
Kinetic	\$325	\$315	\$308	\$308	\$1,256	\$309	\$303	
Enterprise	\$127	\$147	\$145	\$143	\$562	\$133	\$139	
Wholesale	\$70	\$70	\$68	\$66	\$274	\$63	\$65	
<b>Segment Contribution Margin</b>	<b>\$522</b>	<b>\$532</b>	<b>\$521</b>	<b>\$517</b>	<b>\$2,092</b>	<b>\$504</b>	<b>\$508</b>	
Shared Expenses	\$61	\$61	\$64	\$61	\$246	\$57	\$57	
<b>Adjusted OIBDAR <sup>(1) (2) (3) (4)</sup></b>	<b>\$462</b>	<b>\$471</b>	<b>\$457</b>	<b>\$456</b>	<b>\$1,846</b>	<b>\$447</b>	<b>\$450</b>	
<i>Margin %</i>	32.7%	33.6%	33.1%	33.7%	33.3%	33.8%	35.0%	
<b>Segment Contribution Margin %</b>								
Kinetic	59.9%	58.4%	57.8%	58.6%	58.7%	59.2%	58.7%	
Enterprise	16.5%	19.2%	19.3%	19.5%	18.6%	18.8%	20.4%	
Wholesale	71.4%	72.2%	70.9%	70.0%	71.1%	67.7%	73.8%	

(1) Operating results for the consumer CLEC business sold on December 31, 2018 have been excluded from all prior periods

(2) Adjusted OIBDAR is adjusted OIBDA before the annual cash payment due under the Uniti arrangement

(3) Adjusted OIBDA is operating income (loss) before depreciation and amortization and goodwill impairment, excluding expense associated with the arrangement with Uniti, pension expense, share-based compensation expense, restructuring charges, merger, integration and certain other costs

(4) Margins are calculated by dividing the respective profitability measures by total revenues and sales.

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- \$450 million in adjusted OIBDAR
- Sequential improvement in adjusted OIBDAR
- Consolidated adjusted OIBDAR margin of 35.0% represents 140 bps improvement over 2Q18 margins
- Highest consolidated adjusted OIBDAR margin post-EarthLink acquisition
- Enterprise margin up 120 bps y-o-y and 160 bps sequentially
- Wholesale margins at record-high
- Over \$960 million in liquidity at quarter end



# Expanding Enterprise Margins

Annual Interconnect Cost Reductions Greater than 10%

## Significant Interconnection Cost Reduction Opportunities Remain

### Interconnection Expenses (in millions)

	2Q19 Annualized	2Q vs. 1Q Sequential
TDM	400	(6.3%)
IP/Ethernet	347	(2.0%)
<b>Last Mile Access</b>	<b>747</b>	<b>(4.3%)</b>
TDM	298	(3.3%)
IP/Ethernet	9	(2.0%)
<b>Network Access</b>	<b>307</b>	<b>(3.2%)</b>
<b>Voice/Other</b>	<b>139</b>	<b>(27.5%)</b>
<b>Interconnect</b>	<b>1,193</b>	<b>(7.5%)</b>

- 2Q19 annualized run-rate of almost \$1.2 billion in interconnection expenses; annualized decline of over 10%
- Legacy TDM represents almost \$700 million of annualized expenses and last mile TDM access is falling by more than 25% a year
- Cost improvements from migrating customer from other carrier networks to on-net fiber solutions and continued network grooming efforts to contract our legacy TDM network access costs
- Increasing leverage of access-agnostic technologies such as SD-WAN and UCaaS

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## Highlights of 2019 Financial Projections

**2019 adjusted OIBDAR decline to improve versus 2018 results**

**Increase in Adjusted OIBDAR margin of ~100 bps YoY**

Cash Expenses to decline (8.4%) YoY

**Consumer broadband growth of approx. 30,000 subscribers**

More than double 2018 broadband performance

**Kinetic Consumer Revenue trends Improve YoY**

Revenue improvement primarily resulting from improved broadband ARPU and subscriber trends

**Continued acceleration in SD-WAN and Strategic Sales**

Largest SD-WAN Provider in country today

Enterprise Strategic Revenues are expected to increase by ~30% YoY in 2019

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# Appendix

## Contents:

- Quarterly supplemental schedules (Pro Forma)





# Supplemental Financial Information

Windstream Holdings, Inc. ("Windstream", "we", "us", "our") has presented in this package unaudited adjusted results, which excludes in all prior periods presented the operating results of the Consumer CLEC business sold on December 31, 2018. The adjusted results also exclude goodwill impairment, straight-line expense under the contractual arrangement with Uniti Group, Inc. ("Uniti"), share-based compensation expense, restructuring charges, and merger, integration and certain other costs. We have presented certain measures of our operating performance, on an adjusted basis, that reflects the impact of the annual cash payment due under the contractual arrangement with Uniti.

Effective April 1, 2019, we reorganized our business operations into three segments: Kinetic, Enterprise and Wholesale. The Kinetic business unit primarily serves customers in markets in which we are the incumbent local exchange carrier ("ILEC") and provides services over network facilities operated by us. The Enterprise and Wholesale business units primarily serve customers in markets in which we are a competitive local exchange carrier ("CLEC") and provide services over network facilities primarily leased from other carriers. The reorganization improved the alignment of our customer base and service offerings within our ILEC and CLEC markets. The significant changes to our previous segment structure included: (1) shifting certain small business customers with operations in ILEC-only markets from the Enterprise segment to the Consumer & Small Business segment, which was renamed Kinetic; (2) shifting governmental and resale customers from Wholesale to Enterprise; (3) shifting wholesale customers and related services in ILEC markets from Wholesale to Kinetic; and (4) allocating certain corporate expenses, primarily property taxes, to the segments. Prior period segment information has been revised to conform to our new segment presentation.

We use adjusted OIBDA, adjusted OIBDAR, adjusted free cash flow, and adjusted capital expenditures as key measures of the operational performance of our business. Our management, including the chief operating decision-maker, consistently uses these measures for internal reporting and the evaluation of business objectives, opportunities and performance, and the determination of management compensation. Adjusted OIBDAR is also used by rating agencies and lenders to evaluate our operating performance and credit worthiness. Management believes that adjusted free cash flow provides investors with useful information about the ability of our core operations to generate cash flow. Because capital spending is necessary to maintain our operational capabilities, we believe that capital expenditures represents a recurring and necessary use of cash. As such, we believe investors should consider our capital spending and principal payments due under our contractual arrangement with Uniti when evaluating the amount of cash provided by our operating activities.

On February 25, 2019, Windstream and all of its subsidiaries, including Windstream Services, LLC, filed voluntary petitions (the "Chapter 11 Cases") for reorganization under Chapter 11 of the U.S. Bankruptcy Code (the "Bankruptcy Code") in the U.S. Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). We will continue to operate our businesses as "debtors-in-possession" under the jurisdiction of the Bankruptcy Court and in accordance with the applicable provisions of the Bankruptcy Code and orders of the Bankruptcy Court.

We claim the protection of the safe-harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. This report contains various forward-looking statements which represent our expectations or beliefs concerning future events, including, without limitation, our future performance, our ability to comply with the covenant in the agreements governing our indebtedness and the availability of capital and terms thereof. Statements expressing expectations and projections with respect to future matters are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. We caution that these forward-looking statements involve a number of risks and uncertainties and are subject to many variables which could impact our future performance. These statements are made on the basis of management's views, estimates, projections, beliefs, and assumptions, as of the time the statements are made, regarding future events and results. There can be no assurance, however, that management's expectations will necessarily come to pass. Actual future events and our results may differ materially from those expressed in these forward-looking statements as a result of a number of important factors. A wide range of factors could cause actual results to differ materially from those contemplated in our forward-looking statements, including, but not limited to risks and uncertainties relating to the Chapter 11 Cases, including completion of our Chapter 11 Cases; our ability to pursue our business strategies during the pendency of the Chapter 11 Cases; our ability to generate sufficient cash to fund our operations during the pendency of the Chapter 11 Cases; our ability to implement a business plan during the pendency of the Chapter 11 Cases; the diversion of management's attention as a result of the Chapter 11 Cases; increased levels of employee attrition as a result of the Chapter 11 Cases; our ability to obtain Bankruptcy Court approval with respect to our motions filed in the Chapter 11 Cases from time to time; our ability to continue as a going concern; volatility of our financial results as a result of the Chapter 11 Cases; the conditions to which our debtor-in-possession financing is subject to and the risk that these conditions may not be satisfied for various reasons, including for reasons outside of our control; our ability to obtain confirmation of a Chapter 11 plan of reorganization and the effective date of any confirmed plan; the impact of a protracted restructuring on our business; the impact of any challenge by creditors or other parties to previously completed transactions; risks associated with third-party motions in the Chapter 11 Cases; the potential adverse effects of the Chapter 11 Cases on our liquidity or results of operations and increased legal and other professional costs necessary to execute our reorganization; trading price and volatility of our common stock, including the stock trading on the OTC Pink Sheets as maintained by the OTC Market Group, Inc.; the risk of protracted litigation in our Chapter 11 Cases with third parties and/or our creditors; our substantial debt could adversely affect our cash flow and impair our ability to raise additional capital on favorable terms; the cost savings and expected synergies from the mergers with Earthlink and Broadview may not be fully realized or may take longer to realize than expected; the integration of Windstream and Earthlink and Broadview may not be successful, may cause disruption in relationships with customers, vendors and suppliers and may divert attention of management and key personnel; the potential for incumbent carriers to impose monetary penalties for failure to meet specific volume and term commitments under their special access pricing and tariff plans, which Windstream uses to lease last-mile connections to serve its retail business; data service customers, without Federal Communications Commission ("FCC") action; the impact of the FCC's comprehensive business data services reforms that were confirmed by an appellate court, which may result in greater capital investments and customer and revenue churn because of possible price increases by our incumbent local exchange carrier ("ILEC") suppliers for certain services we use to serve customer locations where we do not have facilities; the impact of new, emerging or competing technologies and our ability to utilize these technologies to provide services to our customers; unanticipated increases or other changes in our future cash requirements, whether caused by unanticipated increases in capital expenditures, increases in pension funding requirements, or otherwise; for certain operations where we utilize facilities owned by other carriers, adverse effects on the availability, quality of service, price of facilities and services provided by other carriers on which our services depend; our election to accept statewide offers under the FCC's Connect America Fund, Phase II, and the impact of such election on our future receipt of federal universal service funds and capital expenditures, and any return of support received pursuant to the program or future versions of the program implemented by the FCC; our ability to make payments under the arrangement with Uniti, which may be affected by results of operations, changes in our cash requirements, cash tax payment obligations, or overall financial position; adverse changes in economic conditions in the markets served by us; the extent, timing and overall effects of competition in the communications business; unfavorable rulings by state public service commissions in current and future proceedings regarding universal service funds, intercarrier compensation or other matters that could reduce revenues or increase expenses; material changes in the communications industry that could adversely affect vendor relationships with equipment and network suppliers and customer relationships with wholesale customers; earnings on pension plan investments significantly below our expected long term rate of return for plan assets or a significant change in the discount rate or other actuarial assumptions; unfavorable results of litigation or intellectual property infringement claims asserted against us; the risks associated with noncompliance by us with regulations or statutes applicable to government programs under which we receive material amounts of end-user revenue and government subsidies, or noncompliance by us, our partners, or our subcontractors with any terms of our government contracts; the effects of federal and state legislation and rules and regulations, and changes thereto, governing the communications industry; loss of consumer households served; the impact of equipment failure, natural disasters or terrorist acts; the effects of work stoppages by our employees or employees of other communications companies on whom we rely for service; and other risks and uncertainties referenced from time to time in our Annual Report on Form 10-K for the year ended December 31, 2018, including those additional factors under "Risk Factors" in Item 1.A, and in other filings of ours with the SEC at [www.sec.gov](http://www.sec.gov) or not currently known to us or that we do not currently deem to be material.

In addition to these factors, actual future performance, outcomes and results may differ materially because of more general factors including, among others, general industry and market conditions and growth rates, economic conditions, and governmental and public policy changes.

We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

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# Supplemental Financial Information

WINDSTREAM HOLDINGS, INC.  
UNAUDITED ADJUSTED RESULTS OF OPERATIONS (NON-GAAP) (A)  
QUARTERLY SUPPLEMENTAL INFORMATION  
for the quarterly periods in the years 2019 and 2018  
(In millions)

	2019			2018				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
ADJUSTED RESULTS OF OPERATIONS:								
Revenues and sales:								
Total service revenues	\$ 2,572.4	\$ 1,270.2	\$ 1,302.2	\$ 5,466.8	\$ 1,336.4	\$ 1,358.5	\$ 1,381.3	\$ 1,390.6
Product sales	34.7	16.3	18.4	75.4	16.6	20.3	19.7	18.8
Total revenues and sales	<u>2,607.1</u>	<u>1,286.5</u>	<u>1,320.6</u>	<u>5,542.2</u>	<u>1,353.0</u>	<u>1,378.8</u>	<u>1,401.0</u>	<u>1,409.4</u>
Costs and expenses:								
Cost of services	1,296.9	633.1	663.8	2,787.4	678.3	685.4	705.3	718.4
Cost of products sold	32.1	15.2	16.9	69.1	14.4	19.8	18.1	16.8
Selling, general and administrative	380.9	187.8	193.1	839.7	203.9	216.7	206.4	212.7
Costs and expenses excluding pension and share-based compensation expense	<u>1,709.9</u>	<u>836.1</u>	<u>873.8</u>	<u>3,696.2</u>	<u>896.6</u>	<u>921.9</u>	<u>929.8</u>	<u>947.9</u>
Adjusted OIBDAR (B)	897.2	450.4	446.8	1,846.0	456.4	456.9	471.2	461.5
Cash payment under contractual arrangement with Uniti	<u>328.9</u>	<u>164.7</u>	<u>164.2</u>	<u>655.7</u>	<u>164.2</u>	<u>164.2</u>	<u>163.9</u>	<u>163.4</u>
Adjusted OIBDA (C)	<u>\$ 568.3</u>	<u>\$ 285.7</u>	<u>\$ 282.6</u>	<u>\$ 1,190.3</u>	<u>\$ 292.2</u>	<u>\$ 292.7</u>	<u>\$ 307.3</u>	<u>\$ 298.1</u>
Margins (D):								
Adjusted OIBDAR margin	34.4%	35.0%	33.8%	33.3%	33.7%	33.1%	33.6%	32.7%
Adjusted OIBDA margin	21.8%	22.2%	21.4%	21.5%	21.6%	21.2%	21.9%	21.2%
Adjusted capital expenditures (E)	\$ 407.4	\$ 214.6	\$ 192.8	\$ 782.6	\$ 206.7	\$ 187.6	\$ 180.6	\$ 207.7
Adjusted free cash flow:								
Adjusted OIBDA	\$ 568.3	\$ 285.7	\$ 282.6					
Adjusted capital expenditures	(407.4)	(214.6)	(192.8)					
Cash paid for interest on long-term debt obligations	(184.6)	(81.0)	(103.6)					
Cash (paid) refunded for income taxes, net	-	(1.6)	1.6					
Adjusted free cash flow	<u>\$ (23.7)</u>	<u>\$ (11.5)</u>	<u>\$ (12.2)</u>					
Available liquidity as of June 30, 2019:								
Cash and cash equivalents	\$ 462.7							
Available capacity under DIP credit facility	500.0							
Available liquidity	<u>\$ 962.7</u>							

(A) Operating results for the Consumer CLEC business sold on December 31, 2018 have been excluded in all prior periods presented.

(B) Adjusted OIBDAR is adjusted OIBDA before the annual cash payment due under the contractual arrangement with Uniti.

(C) Adjusted OIBDA is operating income (loss) before depreciation and amortization and goodwill impairment, excluding straight-line expense under the contractual arrangement with Uniti, share-based compensation expense, restructuring charges, merger, integration and certain other costs.

(D) Margins are calculated by dividing the respective profitability measures by total revenues and sales.

(E) Adjusted capital expenditures excludes post-merger integration capital expenditures for Broadview Networks Holdings, Inc. ("Broadview") and EarthLink Holdings Corp. ("EarthLink").

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# Supplemental Financial Information

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for the quarterly periods in the years 2019 and 2018  
(In millions)

REVENUE SUPPLEMENT	2019			2018				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
Kinetic:								
High-speed Internet bundles	\$ 506.3	\$ 253.2	\$ 253.1	\$ 1,012.0	\$ 251.0	\$ 251.6	\$ 254.3	\$ 255.1
Voice only	56.7	28.1	28.6	120.5	28.7	29.7	30.7	31.4
Video and miscellaneous	20.2	10.1	10.1	44.3	10.5	11.1	11.3	11.4
Consumer	583.2	291.4	291.8	1,176.8	290.2	292.4	296.3	297.9
Small business	158.3	78.4	79.9	335.7	81.5	83.3	84.5	86.4
Wholesale	104.6	52.3	52.3	229.6	56.2	57.9	57.8	57.7
Switched access	12.5	6.2	6.3	28.4	6.6	6.7	7.0	8.1
CAF Phase II funding	89.8	44.4	45.4	182.5	45.1	45.3	46.1	46.0
State USF and ARM support	43.8	21.7	22.1	93.3	22.5	22.7	23.9	24.2
End user surcharges	30.1	14.3	15.8	67.7	17.0	16.6	16.8	17.3
Kinetic	1,022.3	508.7	513.6	2,114.0	519.1	524.9	532.4	537.6
Enterprise:								
Core (B)	630.2	308.8	321.4	1,401.7	334.9	348.2	358.6	360.0
Strategic (C)	132.5	69.5	63.0	203.9	58.2	53.0	48.7	44.0
Legacy (D)	273.9	133.4	140.5	642.3	149.7	161.2	164.7	166.7
Other (E)	275.3	134.8	140.5	590.2	147.6	144.3	147.6	150.7
End user surcharges	57.5	26.9	30.6	129.9	33.0	30.7	32.2	34.0
Enterprise	1,369.4	673.4	696.0	2,968.0	723.4	737.4	751.8	755.4
Wholesale:								
Core wholesale (F)	165.6	80.5	85.1	349.9	86.2	87.8	87.7	88.2
Switched access	15.1	7.6	7.5	34.9	7.7	8.4	9.4	9.4
Wholesale	180.7	88.1	92.6	384.8	93.9	96.2	97.1	97.6
Total service revenues	2,572.4	1,270.2	1,302.2	5,466.8	1,336.4	1,358.5	1,381.3	1,390.6
Product sales:								
Kinetic	16.0	8.0	8.0	26.5	6.9	7.5	6.6	5.5
Enterprise	18.7	8.3	10.4	48.9	9.7	12.8	13.1	13.3
Total product sales	34.7	16.3	18.4	75.4	16.6	20.3	19.7	18.8
Total revenues and sales	\$ 2,607.1	\$ 1,286.5	\$ 1,320.6	\$ 5,542.2	\$ 1,353.0	\$ 1,378.8	\$ 1,401.0	\$ 1,409.4

- (A) Operating results for the Consumer CLEC business sold on December 31, 2018 have been excluded in all prior periods presented.  
 (B) Core revenues consist of dynamic Internet protocol, dedicated Internet access, multi-protocol label switching services, integrated voice and data, long distance, and managed services.  
 (C) Strategic revenues consist of Software Defined Wide Area Network ("SD-WAN"), Unified Communications as a Service ("UCaaS"), OfficeSuite, and associated network access products and services.  
 (D) Legacy revenues consist of TDM voice and data services.  
 (E) Other revenues primarily consist of administrative service fees, subscriber line charges, and non-recurring usage-based long-distance revenues.  
 (F) Core wholesale revenues primarily include revenues from providing fiber connections, data transport and wireless backhaul services.

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# Supplemental Financial Information

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for the quarterly periods in the years 2019 and 2018  
(In millions)

	2019			2018				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
<b>Kinetic</b>								
Revenues and sales:								
Service revenues	\$ 583.2	\$ 291.4	\$ 291.8	\$ 1,176.8	\$ 290.2	\$ 292.4	\$ 296.3	\$ 297.9
Product sales	16.0	8.0	8.0	26.5	6.9	7.5	6.6	5.5
Total Consumer	599.2	299.4	299.8	1,203.3	297.1	299.9	302.9	303.4
Small business	158.3	78.4	79.9	335.7	81.5	83.3	84.5	86.4
Wholesale	104.6	52.3	52.3	229.6	56.2	57.9	57.8	57.7
Switched access	12.5	6.2	6.3	28.4	6.6	6.7	7.0	8.1
CAF Phase II funding	89.8	44.4	45.4	182.5	45.1	45.3	46.1	46.0
State USF and ARM support	43.8	21.7	22.1	93.3	22.5	22.7	23.9	24.2
End user surcharges	30.1	14.3	15.8	67.7	17.0	16.6	16.8	17.3
Total revenues and sales	1,038.3	516.7	521.6	2,140.5	526.0	532.4	539.0	543.1
Costs and expenses	426.2	213.4	212.8	884.4	218.0	224.7	224.0	217.7
Kinetic contribution margin	\$ 612.1	\$ 303.3	\$ 308.8	\$ 1,256.1	\$ 308.0	\$ 307.7	\$ 315.0	\$ 325.4
Kinetic contribution margin %	59.0%	58.7%	59.2%	58.7%	58.6%	57.8%	58.4%	59.9%
<b>Enterprise</b>								
Revenues and sales:								
Service revenues	\$ 1,369.4	\$ 673.4	\$ 696.0	\$ 2,968.0	\$ 723.4	\$ 737.4	\$ 751.8	\$ 755.4
Product sales	18.7	8.3	10.4	48.9	9.7	12.8	13.1	13.3
Total revenues and sales	1,388.1	681.7	706.4	3,016.9	733.1	750.2	764.9	768.7
Costs and expenses	1,116.3	542.5	573.8	2,454.9	589.9	605.2	618.3	641.5
Enterprise contribution margin	\$ 271.8	\$ 139.2	\$ 132.6	\$ 562.0	\$ 143.2	\$ 145.0	\$ 146.6	\$ 127.2
Enterprise contribution margin %	19.6%	20.4%	18.8%	18.6%	19.5%	19.3%	19.2%	16.5%
<b>Wholesale</b>								
Revenues and sales:								
Service revenues	\$ 180.7	\$ 88.1	\$ 92.6	\$ 384.8	\$ 93.9	\$ 96.2	\$ 97.1	\$ 97.6
Total revenues and sales	180.7	88.1	92.6	384.8	93.9	96.2	97.1	97.6
Costs and expenses	53.0	23.1	29.9	111.1	28.2	28.0	27.0	27.9
Wholesale contribution margin	\$ 127.7	\$ 65.0	\$ 62.7	\$ 273.7	\$ 65.7	\$ 68.2	\$ 70.1	\$ 69.7
Wholesale contribution margin %	70.7%	73.8%	67.7%	71.1%	70.0%	70.9%	72.2%	71.4%



# Supplemental Financial Information

WINDSTREAM HOLDINGS, INC.  
UNAUDITED ADJUSTED SEGMENT RESULTS (NON-GAAP) (A)  
QUARTERLY SUPPLEMENTAL INFORMATION  
for the quarterly periods in the years 2019 and 2018  
(In millions)

	2019			2018				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
<b>Total segment revenues and expenses</b>								
Revenues and sales:								
Service revenues	\$ 2,572.4	\$ 1,270.2	\$ 1,302.2	\$ 5,466.8	\$ 1,336.4	\$ 1,358.5	\$ 1,381.3	\$ 1,390.6
Product sales	34.7	16.3	18.4	75.4	16.6	20.3	19.7	18.8
Total segment revenues and sales	2,607.1	1,286.5	1,320.6	5,542.2	1,353.0	1,378.8	1,401.0	1,409.4
Total segment costs and expenses	1,595.5	779.0	816.5	3,450.4	836.1	857.9	869.3	887.1
Segment contribution margin	\$ 1,011.6	\$ 507.5	\$ 504.1	\$ 2,091.8	\$ 516.9	\$ 520.9	\$ 531.7	\$ 522.3
Segment contribution margin %	38.8%	39.4%	38.2%	37.7%	38.2%	37.8%	38.0%	37.1%
<b>Consolidated revenues and sales</b>								
Service revenues	\$ 2,572.4	\$ 1,270.2	\$ 1,302.2	\$ 5,466.8	\$ 1,336.4	\$ 1,358.5	\$ 1,381.3	\$ 1,390.6
Product sales	34.7	16.3	18.4	75.4	16.6	20.3	19.7	18.8
Consolidated revenues and sales	\$ 2,607.1	\$ 1,286.5	\$ 1,320.6	\$ 5,542.2	\$ 1,353.0	\$ 1,378.8	\$ 1,401.0	\$ 1,409.4
Consolidated costs and expenses								
Segment costs and expenses	\$ 1,595.5	\$ 779.0	\$ 816.5	\$ 3,450.4	\$ 836.1	\$ 857.9	\$ 869.3	\$ 887.1
Shared expenses (B)	114.4	57.1	57.3	245.8	60.5	64.0	60.5	60.8
Consolidated costs and expenses	\$ 1,709.9	\$ 836.1	\$ 873.8	\$ 3,696.2	\$ 896.6	\$ 921.9	\$ 929.8	\$ 947.9
Consolidated								
Adjusted OIBDAR	\$ 897.2	\$ 450.4	\$ 446.8	\$ 1,846.0	\$ 456.4	\$ 456.9	\$ 471.2	\$ 461.5
Adjusted OIBDAR margin	34.4%	35.0%	33.8%	33.3%	33.7%	33.1%	33.6%	32.7%

(A) Operating results for the Consumer CLEC business sold on December 31, 2018 have been excluded in all prior periods presented.

(B) Shared expenses are not allocated to the segments and primarily consist of accounting and finance, information technology, engineering, network optimization, legal, human resources, investor relations, and outsourcing activities that are centrally managed and are not monitored by management at a segment level.





# Supplemental Financial Information

WINDSTREAM HOLDINGS, INC.  
QUARTERLY SUPPLEMENTAL INFORMATION  
for the quarterly periods in the years 2019 and 2018  
(Units in thousands, Dollars in millions, except per unit amounts)

	2019			2018				
	Total	2nd Qtr.	1st Qtr.	Total	4th Qtr.	3rd Qtr.	2nd Qtr.	1st Qtr.
<b>Kinetic Operating Metrics:</b>								
Households served	1,244.0	1,244.0	1,250.6	1,247.9	1,247.9	1,250.5	1,251.3	1,257.3
YOY change in households served	-0.6%	-0.6%	-0.5%	-1.6%	-1.6%	-2.9%	-4.3%	-6.0%
Average revenue per household served per month	\$ 78.01	\$ 77.87	\$ 77.86	\$ 77.93	\$ 77.44	\$ 77.92	\$ 78.74	\$ 78.62
High-speed Internet customers	1,034.3	1,034.3	1,032.4	1,021.0	1,021.0	1,015.0	1,006.7	1,004.4
Net customer additions (losses)	13.3	1.9	11.4	14.4	6.0	8.3	2.3	(2.2)
YOY change in high-speed Internet	2.7%	2.7%	2.8%	1.4%	1.4%	-0.2%	-1.9%	-4.1%
Small business customers	112.6	112.6	115.4	118.1	118.1	120.5	123.2	125.0
YOY change in customers	-8.6%	-8.6%	-7.7%	-7.8%	-7.8%	-8.2%	-8.1%	-8.6%
Average revenue per customer per month	\$ 228.72	\$ 229.24	\$ 228.12	\$ 227.25	\$ 227.72	\$ 227.88	\$ 226.97	\$ 227.58
<b>Enterprise:</b>								
Strategic sales as a percentage of total Enterprise sales (A)	61.2%	69.4%	55.1%	48.4%	50.7%	53.8%	50.1%	39.5%
<b>Service Revenues Used in Average Revenue Per Month Computations Above (per page 3):</b>								
Kinetic service revenue	\$ 583.2	\$ 291.4	\$ 291.8	\$ 1,176.8	\$ 290.2	\$ 292.4	\$ 296.3	\$ 297.9
Small business service revenue	\$ 158.3	\$ 78.4	\$ 79.9	\$ 335.7	\$ 81.5	\$ 83.3	\$ 84.5	\$ 86.4
<b>Capital expenditures by segment:</b>								
Kinetic	\$ 204.1	\$ 105.7	\$ 98.4	\$ 369.8	\$ 110.5	\$ 101.6	\$ 84.7	\$ 73.0
Enterprise	78.6	36.5	42.1	187.6	53.3	44.0	50.3	40.0
Wholesale	10.7	5.5	5.2	31.3	6.3	10.8	8.0	6.2
Corporate/shared (B)	114.0	66.9	47.1	193.9	36.6	31.2	37.6	88.5
Adjusted capital expenditures	407.4	214.6	192.8	782.6	206.7	187.6	180.6	207.7
Integration capital expenditures	-	-	-	37.6	10.3	9.3	8.1	9.9
Total capital expenditures	\$ 407.4	\$ 214.6	\$ 192.8	\$ 820.2	\$ 217.0	\$ 196.9	\$ 188.7	\$ 217.6

(A) Enterprise strategic sales consist of SD-WAN, UCaaS, OfficeSuite and associated network access products and services.

(B) Corporate/shared capital expenditures are not directly assigned to the segments and primarily consist of capital outlays for network enhancements and information technology-related projects benefitting Windstream as a whole.



Message

**From:** Mitchell, Lisa [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=LMITCHELL1]  
**Sent:** 2/27/2019 1:38:24 PM  
**To:** Dobrich, Jacqueline A [jacqueline.dobrich@charter.com]; Clifton, Keven L [keven.clifton@charter.com]  
**CC:** Grotz, Scott E [scott.grotz@charter.com]  
**Subject:** FW: Windstream bankruptcy article  
**Attachments:** image001.jpg; image002.jpg; image001.png; image003.jpg; image004.jpg

Hi Jackie,

Per the email below from Brian, below please find the plan to prioritize these leads for the Agents to start working. Would you like your directors to communicate this or would you like us to?

We have identified 369 Zip Codes where Windstream is a competitor.

- Leads that are new to March Lead List File. These Zip2s were previously assigned and due to the lock down would not see new leads.
  - We created a SF Record for each lead
  - We added a "Windstream" Flag Agents can search by to find these leads
  - Reps can view My Leads in Windstream Zips here: <https://na71.salesforce.com/0001G000002Ottx>
  - Leads will keep original Zip2 lockdown dates and expire based on previously assigned date
  - 8,960 leads
  - 4,432 for December (Expire end of fMarch)
  - 2,874 for January (Expire end of fApril)
  - 1,354 for February (Expire end of fMay)
  - 300 Unassigned (March) (Expire end of fJune)
  - Due to this Agents will be assigned more than the previously established 250 leads/mo
  - Managers can view My Team's Leads in Windstream Zips here: <https://na71.salesforce.com/0001G000002Ottx>
  - Leads that are new to the March Lead List File and Zip2 has not been assigned. Please note, lead list closes Friday March 1<sup>st</sup>.
    - These leads have been marked with a "Windstream" Flag
    - Managers should be told to prioritize/assign these leads and should try not to assign more than 250 leads for the month.
    - 64,923 previously created leads tagged with Sales Code = Windstream
  - Layers have also been added in Geopointe where they can search for leads within Windstream Zip Codes.
    - For Managers:
      - ✦ \*\*BHN - USE THIS TO ASSIGN SM BY ZIP - WS Leads ☆ ⓘ
      - ✦ \*\*CHTR - USE THIS TO ASSIGN SM BY ZIP - WS Leads
      - ✦ \*\*TWC - USE THIS TO ASSIGN SM BY ZIP - WS Leads
    - For Reps
      - ✦ 1ab. BAE My Leads in Windstream Zips Dec/Jan/Feb/Mar19
      - ✦ 3bc. BAE Mar 2019 - WS Leads

Please let me know if you have any questions. Thank you,

Lisa S. Mitchell | Director, Sales Planning Operations | 203.905.7922 | Mobile: 203.253.9572  
400 Atlantic St | Stamford, CT 06901

**From:** Miller, Brian S <Brian.Miller18@charter.com>  
**Sent:** Tuesday, February 26, 2019 10:18 AM  
**To:** Mitchell, Lisa <Lisa.Mitchell@charter.com>  
**Cc:** Clifton, Keven L <Keven.Clifton@charter.com>  
**Subject:** FW: Windstream bankruptcy article

Can we find a way to prioritize leads in Windstream areas?



Brian Miller | GVP, SMB Direct Sales  
400 Atlantic Street, 5<sup>th</sup> Fl | Stamford, CT | 06901  
(o) 203.905.7945 | (m) 952-210-2718 | [brian.miller18@charter.com](mailto:brian.miller18@charter.com)

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**From:** Dobrich, Jacqueline A <[Jacqueline.Dobrich@charter.com](mailto:Jacqueline.Dobrich@charter.com)>  
**Sent:** Tuesday, February 26, 2019 10:16 AM  
**To:** Miller, Brian S <[Brian.Miller18@charter.com](mailto:Brian.Miller18@charter.com)>  
**Subject:** FW: Windstream bankruptcy article

This wasn't in the Charter Daily Clips

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**From:** Dobrich, Jacqueline A  
**Sent:** Tuesday, February 26, 2019 7:02 AM  
**To:** Bordeaux, Jason P  
**Subject:** Re: Windstream bankruptcy article

Will be interesting to see how they navigate the bankruptcy protection.

They likely can operate BAU for some time if they reposition assets but it is not a great sign.

<https://finance.yahoo.com/news/why-uniti-group-apos-stock-212500041.html>

Thanks,  
Jackie Dobrich  
VP SMB Sales- Northeast  
636-578-6663

On Feb 26, 2019, at 5:41 AM, Bordeaux, Jason P <[Jason.Bordeaux@charter.com](mailto:Jason.Bordeaux@charter.com)> wrote:

It is pretty big news. They say they will be running BAU, but it seems there would have to be some impact. Thanks for sharing, Chris!

<image001.jpg>

Jason Bordeaux | Senior Director of Sales - SMB Central Region  
Office 608.467.9245 | Mobile 906.458.6662  
5133 W. Terrace Dr, Suite 100 | Madison, WI 53718

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**From:** Dalton, Christopher G  
**Sent:** Monday, February 25, 2019 11:17 PM  
**To:** Bordeaux, Jason P <[Jason.Bordeaux@charter.com](mailto:Jason.Bordeaux@charter.com)>; Hoskins, Roger K

<[Roger.Hoskins@charter.com](mailto:Roger.Hoskins@charter.com)>; Dobrich, Jacqueline A <[Jacqueline.Dobrich@charter.com](mailto:Jacqueline.Dobrich@charter.com)>

**Subject:** Windstream

I am sure we have people monitoring this and therefore may not be news to you but during research tonight I found this. This will be huge for our teams!!!!

Windstream has filed for bankruptcy protection.

<https://www.bloomberg.com/news/articles/2019-02-25/windstream-files-bankruptcy-after-losing-aurelius-default-fight>

Regards,

*Christopher Dalton*

<image002.jpg>

Christopher Dalton | Business Account Executive-SMB Sales | 314.303.6377  
13736 Riverport Drive, Suite 180 | Maryland Heights, MO 63043

[christopher.dalton@charter.com](mailto:christopher.dalton@charter.com)

Message

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**From:** Smith, Jennifer L [/O=CHARTER COMMUNICATIONS/OU=CHARTER US/CN=RECIPIENTS/CN=JLLYON]  
**Sent:** 3/5/2019 3:33:20 PM  
**To:** Novasel, Allison J [allison.novasel@charter.com]  
**Subject:** Windstream Direct Mail  
**Attachments:** WINDSTREAM\_OE\_v1.pdf; WINDSTREAM\_INCREMENTAL\_LTR\_v3.pdf; image001.png

Hi Allison-

Attached please find the direction I'm going in for the Windstream mail.  
We will be versioning for 2 more offers but wanted to get thoughts on direction before we version.

The OE utilizes Windstream's Kinetic color palette, similar to Google.  
It is a little bit of added expense so if Geoff is okay with the added expense, the OE is due tomorrow.

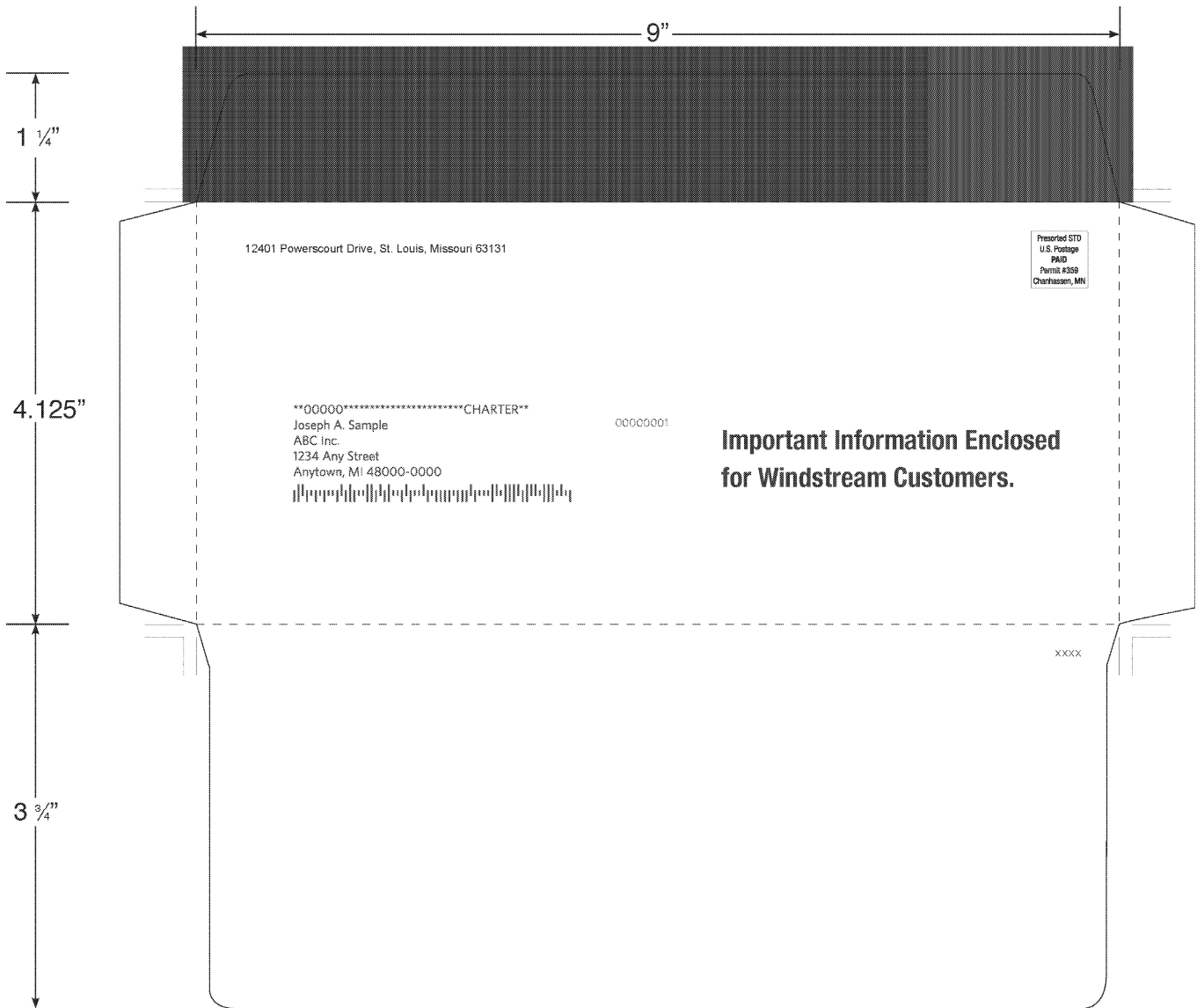
I heard Joe asking about this earlier so please let me know if you want to me to send.

Thanks,  
Jen



Jen Smith | Sr Director, Marketing & Creative Strategy | 203.905.7835  
400 Atlantic Street, 9th Floor | Stamford, CT 06901





**RAPP** WINDSTREAM\_OE\_v1.indd Round: 1

Saved on: 3-4-2019 5:53 PM By: Delacruz, Arquimedes / McCarthy, Andrew Printed at: None

Job	075391	Approvals	Initials	Date
Client	Charter	Proofreader		
Project	Google Fiber	Client Svcs	Tom M.	
Type	OE	Creative Svcs	Tom M.	
Safety	0" x 0"	Copywriter	Frank C.	
Trim	14" x 12"	Project Mgr	Shelley O/Michelle P.	
Bleed	0" x 0"	Production	Joe L.	
Colors	4C	Studio Mgr	Andrew M.	
Release Date:	2/21/19	Vendor	WDCO	

Inks Used: Cyan, Magenta, Yellow, Black, GREEN\_VARIABLE

Fonts: Whitney (OpenType), Helvetica Neue (TrueType), Arial (OpenType), Bellam (OpenType)  
Images: (WCO\_LC.eps) [100%], Charter\_AddressBlock\_WCO\_FPO\_GREEN.eps [90.44%], 4.125x9\_Closed\_Face\_RW\_OSE\_TSD\_BLANK.pdf [100%]

**PDF** Initials Date

☐ Make  
☐ Made

**RELEASE** OK to Release ☐

CS Initials	Date
<input type="checkbox"/> Pkg'd InDesign	<input type="checkbox"/> FTP
<input type="checkbox"/> Hi-Res PDF	<input type="checkbox"/> Rendezvous
<input type="checkbox"/> Low-Res PDF	<input type="checkbox"/> WeTransfer
<input type="checkbox"/> HR Cmpsd PDF	<input type="checkbox"/> Basecamp
<input type="checkbox"/> LR Cmpsd PDF	<input type="checkbox"/> CS Server

Studio Initials Date

CONFIDENTIAL

Charter\_000999

Message

**From:** Smith, Jennifer L [/O=CHARTER COMMUNICATIONS/OU=CHARTER US/CN=RECIPIENTS/CN=JLLYON]  
**Sent:** 3/5/2019 3:58:09 PM  
**To:** Novasel, Allison J [allison.novasel@charter.com]; Leonard, Joe [joe.leonard@charter.com]  
**Subject:** RE: Windstream Direct Mail  
**Attachments:** WINDSTREAM\_OE\_v3.pdf; image001.png

Attached are a few more OE options that were put together. The gradient OE stands out against nothing and the green. Don't you think?

---

**From:** Novasel, Allison J  
**Sent:** Tuesday, March 5, 2019 4:56 PM  
**To:** Leonard, Joe <Joe.Leonard@charter.com>; Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Subject:** RE: Windstream Direct Mail

We can actually afford the colors on the flap if we change the OE message to black – Geoff was just over here

Joe – you came up with “WORRIED ABOUT WINDSTREAM?” – do you want to pursue options like that?

---

**From:** Leonard, Joe  
**Sent:** Tuesday, March 05, 2019 4:49 PM  
**To:** Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Cc:** Novasel, Allison J <Allison.Novasel@charter.com>  
**Subject:** RE: Windstream Direct Mail

These look good. I would like to get a few more opinions on the way we are positioning Windstream's situation, but I can't think of a better way to do it. “Uncertainty” feels most right, I suppose.

I don't think we need their colors on the envelope....not sure we even really want them (for \$10K). I think calling out Windstream customers on the front OE gets the job done.

Thx.  
JL

Joe Leonard | O: 203-905-7991  
400 Atlantic Street, Stamford, CT 06901

---

**From:** Smith, Jennifer L  
**Sent:** Tuesday, March 05, 2019 4:41 PM  
**To:** Leonard, Joe <Joe.Leonard@charter.com>  
**Cc:** Novasel, Allison J <Allison.Novasel@charter.com>  
**Subject:** Windstream Direct Mail

Hi Joe-

Attached please find the direction we are going in for the Windstream mail.  
We will be versioning for 2 more offers but wanted to get thoughts on direction before we version.

The OE utilizes Windstream's Kinetic color palette, similar to Google.

Message

**From:** Czekaj, Chris [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FD206691E574BBBB7A92FBD8F850977-C]  
**Sent:** 2/26/2019 4:24:37 PM  
**To:** Dardis, Keith [keith.dardis@charter.com]  
**Subject:** FW: Windstream

Fyi...

**Chris Czekaj**  
Vice President, Strategic Channels  
Spectrum Business / Charter Communications  
O: 203.428.0614 | M: 973.332.3550  
400 Atlantic Street, 6<sup>th</sup> Floor  
Stamford, CT 06901

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**From:** Ingram, Jennifer S  
**Sent:** Monday, February 25, 2019 6:39 PM  
**To:** Czekaj, Chris <Chris.Czekaj@charter.com>; Kim, Amy H <Amy.Kim@charter.com>; Hebbard, Christopher A <Christopher.Hebbard@charter.com>  
**Cc:** Sokolowski, William P <William.Sokolowski@charter.com>; Adgate, John <John.Adgate@charter.com>; Lare, Chris <Chris.LaRe@charter.com>; Gallagher, Keith G <Keith.Gallagher@charter.com>  
**Subject:** RE: Windstream

Hi Chris –

I understand that you and Amy connected earlier today. Kelly Atkinson has asked the Marketing team to develop a plan to leverage this situation, so we've started thinking about this in partnership with the Residential team (as they have developed similar-ish campaigns targeting Google Fiber given they're shutting down operations in some areas). In addition, we're exploring SMB specific messages (e.g., talking points for Sales teams) and marketing (e.g., SMB competitive to Windstream areas). More to come as we quickly formulate a game plan.

Thanks,  
Jennifer



Jennifer Ingram | Vice President, SMB Marketing | 203.428.0566  
400 Atlantic Street, 9<sup>th</sup> Floor | Stamford, CT 06901

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**From:** Czekaj, Chris  
**Sent:** Friday, February 22, 2019 6:03 PM  
**To:** Kim, Amy H <Amy.Kim@charter.com>; Hebbard, Christopher A <Christopher.Hebbard@charter.com>  
**Cc:** Ingram, Jennifer S <Jennifer.Ingram@charter.com>; Sokolowski, William P <William.Sokolowski@charter.com>; Adgate, John <John.Adgate@charter.com>; Lare, Chris <Chris.LaRe@charter.com>; Gallagher, Keith G <Keith.Gallagher@charter.com>  
**Subject:** Windstream

Amy/Jennifer:

As you may know, Windstream is in challenging market position and I'd like to target a marketing program specifically targeting their remaining customers...

This would apply for my Channel Partners and National Accounts Channels.

Can you take the lead on this initiative and define targets and potential incentives within the next week?

Chris Czekaj  
Vice President, Strategic Channels  
Charter Communications  
973-332-3550

Message

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**From:** Blechner, Sarah [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=842882B083CA47FF9160D55122C10AEC-B]  
**Sent:** 3/8/2019 1:19:39 PM  
**To:** Lauren McGarry [laurenm@wearelift.com]; Jon Fast [jon@wearelift.com]  
**CC:** Smith, Jennifer L [jennifer.smith@charter.com]  
**Subject:** April Email : Windstream  
**Attachments:** 075391\_4-22\_Windstream\_Letters\_PDFs.zip; Charter\_2019 APRIL\_Email Calendar\_03.08.18.xlsx

Lauren/Jon,

We are adding a new segment for the April emails, to go after the Windstream customers in anticipation of their bankruptcy.

Counts are pretty low for Email, so given that there are a few offers these customers could be eligible for, our thought in email is to use aggressive language/messaging, but not include the actual offer information. Then when they click and localize, they will get the offer appropriate to their location.

No speed mentions, just "Fast Internet" as we couldn't be consistent as far as FLG or ULT. And No Mobile Mention, just Home Phone, to be consistent with our other local competitive offers.

Incremental DM released last night is attached for reference.

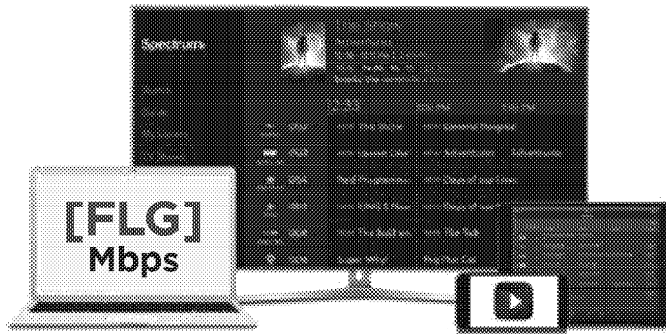
Shout with any questions – these will be due 3/22 for the April Send 1 ACQ deployment.

Thanks,  
Sarah



Sarah Blechner | Sr Manager, Marketing & Creative Strategy | 203.428.0200  
400 Atlantic Street, 9th Floor | Stamford, CT 06901





## Windstream Customers, Don't Risk Losing Your TV and Internet Services.

Windstream has filed for Chapter 11 bankruptcy, which means uncertainty. To ensure you are not left without vital TV and Internet services, switch to Spectrum. With a network built for the future, Spectrum is here for the long haul—with our best deal for TV and Internet services from **\$44.99/mo each for 12 mos.\***

- **FREE** HD and **FREE** On Demand with instant access up to 50,000 On Demand titles.
- Download the **Spectrum TV® App** to stream up to 180 live channels and access up to 50,000 On Demand titles on your devices, anywhere in your home and everywhere on-the-go.
- **Fastest speeds** up to **[FLG] Mbps**. Everyone at home can stream, game and download at the same time with no data caps.
- **Spectrum is the top-performing Internet provider**, delivering more speed, more consistently.\*\*\*
- **FREE** modem; Windstream charges \$5.99/month for an Internet modem.†

Windstream has a 2-year contract.† With Spectrum there are no contracts.  
**Plus, we will buy you out of your current contract up to \$500.\*\***

Goodbye, Windstream.  
**Hello, Spectrum.**

Call 1-XXX-XXX-XXXX  
or visit Spectrum.com

Limited-time offer! Expires XX/XX/XX

TV + Internet  
**\$44.99**  
/mo each  
for 12 mos\*  
**NO CONTRACTS**

Row Labels	Count of So Nmbr
<b>BUS</b>	<b>1653</b>
<b>Feb</b>	<b>234</b>
4-Feb	2
5-Feb	4
6-Feb	5
7-Feb	6
8-Feb	5
9-Feb	3
11-Feb	6
12-Feb	10
13-Feb	18
14-Feb	11
15-Feb	13
16-Feb	2
18-Feb	13
19-Feb	12
20-Feb	13
21-Feb	19
22-Feb	15
23-Feb	2
25-Feb	14
26-Feb	18
27-Feb	22
28-Feb	21
<b>Mar</b>	<b>393</b>
1-Mar	18
2-Mar	2
4-Mar	17
5-Mar	18
6-Mar	16
7-Mar	12
8-Mar	19
11-Mar	11
12-Mar	20
13-Mar	19
14-Mar	9
15-Mar	24

16-Mar	2
18-Mar	16
19-Mar	23
20-Mar	13
21-Mar	16
22-Mar	36
25-Mar	16
26-Mar	27
27-Mar	29
28-Mar	12
29-Mar	18
<b>Apr</b>	<b>438</b>
1-Apr	9
2-Apr	18
3-Apr	35
4-Apr	29
5-Apr	29
6-Apr	3
8-Apr	15
9-Apr	18
10-Apr	16
11-Apr	21
12-Apr	17
15-Apr	16
16-Apr	20
17-Apr	25
18-Apr	18
19-Apr	23
22-Apr	22
23-Apr	18
24-Apr	16
25-Apr	17
26-Apr	22
29-Apr	20
30-Apr	11
<b>May</b>	<b>363</b>
1-May	19
2-May	15
3-May	19
4-May	1

6-May	19
7-May	27
8-May	12
9-May	22
10-May	14
13-May	9
14-May	21
15-May	19
16-May	18
17-May	16
18-May	1
20-May	14
21-May	14
22-May	19
23-May	12
24-May	17
25-May	1
28-May	11
29-May	18
30-May	16
31-May	9
<b>Jun</b>	<b>203</b>
1-Jun	1
3-Jun	8
4-Jun	11
5-Jun	16
6-Jun	12
7-Jun	13
8-Jun	1
10-Jun	14
11-Jun	18
12-Jun	15
13-Jun	15
14-Jun	12
17-Jun	9
18-Jun	11
19-Jun	19
20-Jun	8
21-Jun	7
24-Jun	3

25-Jun	4
26-Jun	1
27-Jun	3
28-Jun	2
<b>Jul</b>	<b>21</b>
1-Jul	2
2-Jul	5
3-Jul	6
5-Jul	3
8-Jul	3
9-Jul	2
<b>Aug</b>	<b>1</b>
<b>RES</b>	<b>4651</b>
<b>Feb</b>	<b>789</b>
1-Feb	2
2-Feb	1
4-Feb	5
5-Feb	22
6-Feb	18
7-Feb	18
8-Feb	37
9-Feb	3
11-Feb	44
12-Feb	52
13-Feb	40
14-Feb	37
15-Feb	46
16-Feb	3
18-Feb	54
19-Feb	40
20-Feb	38
21-Feb	54
22-Feb	57
23-Feb	5
24-Feb	1
25-Feb	59
26-Feb	72
27-Feb	43
28-Feb	38
<b>Mar</b>	<b>1008</b>



1-Mar	38
2-Mar	2
4-Mar	39
5-Mar	61
6-Mar	54
7-Mar	37
8-Mar	46
9-Mar	5
11-Mar	65
12-Mar	61
13-Mar	31
14-Mar	30
15-Mar	31
16-Mar	3
18-Mar	67
19-Mar	63
20-Mar	38
21-Mar	43
22-Mar	39
23-Mar	1
25-Mar	61
26-Mar	54
27-Mar	50
28-Mar	47
29-Mar	41
30-Mar	1
<b>Apr</b>	<b>1276</b>
1-Apr	68
2-Apr	75
3-Apr	70
4-Apr	43
5-Apr	72
6-Apr	4
8-Apr	75
9-Apr	70
10-Apr	42
11-Apr	62
12-Apr	54
13-Apr	5
15-Apr	57

16-Apr	73
17-Apr	56
18-Apr	53
19-Apr	36
20-Apr	7
22-Apr	48
23-Apr	66
24-Apr	42
25-Apr	52
26-Apr	30
27-Apr	7
29-Apr	56
30-Apr	53
<b>May</b>	<b>1026</b>
1-May	47
2-May	41
3-May	34
4-May	5
6-May	52
7-May	66
8-May	30
9-May	38
10-May	40
11-May	1
13-May	44
14-May	75
15-May	47
16-May	62
17-May	34
18-May	5
20-May	47
21-May	64
22-May	45
23-May	49
24-May	35
25-May	1
28-May	47
29-May	57
30-May	31
31-May	29

<b>Jun</b>	<b>536</b>
1-Jun	1
3-Jun	49
4-Jun	52
5-Jun	41
6-Jun	46
7-Jun	32
8-Jun	3
10-Jun	41
11-Jun	70
12-Jun	43
13-Jun	45
14-Jun	23
17-Jun	43
18-Jun	27
19-Jun	4
20-Jun	6
21-Jun	5
24-Jun	3
25-Jun	2
<b>Jul</b>	<b>16</b>
1-Jul	2
2-Jul	1
3-Jul	4
5-Jul	2
8-Jul	3
9-Jul	4
<b>Grand Total</b>	<b>6304</b>

TaskID	TaskSourceID	StatusName	TaskCreateDate	LastModifiedDate
	836	Complete	2019-01-11 13:02:06.917	2019-01-14 02:58:02.390
	836	Complete	2019-01-16 11:03:01.603	2019-01-31 08:46:11.123
	836	Complete	2019-02-06 09:20:00.067	2019-02-08 14:42:49.900
	836	Complete	2019-02-11 14:44:16.133	2019-02-11 14:46:01.900
	836	Complete	2019-03-14 17:47:34.317	2019-03-18 13:22:16.577
	836	Complete	2019-04-03 15:31:52.930	2019-04-22 12:06:34.657
	836	Complete	2019-04-08 16:32:52.933	2019-04-22 13:11:34.650
	836	Complete	2019-04-19 13:56:41.670	2019-04-28 11:16:22.287
	836	Complete	2019-05-02 17:48:11.953	2019-05-06 15:51:18.160
	836	Complete	2019-05-13 10:04:42.180	2019-05-15 16:47:09.417
	836	Complete	2019-05-21 10:29:52.150	2019-05-30 09:45:08.137
	836	Complete	2019-07-17 20:58:25.457	2019-07-18 11:53:30.960
	836	Complete	2019-07-19 09:32:09.557	2019-07-22 10:41:17.550
	836	Complete	2019-07-22 12:38:13.610	2019-07-23 15:40:17.220
	836	Complete	2019-07-30 14:09:45.730	2019-07-31 10:08:08.137
	836	Complete	2019-08-07 11:06:58.153	2019-08-08 10:14:26.990
	185	Complete	2019-01-09 18:43:18.693	2019-02-06 09:06:33.130
	185	Complete	2019-02-12 17:25:00.577	2019-02-15 12:15:15.107
	185	Complete	2019-02-21 13:36:04.177	2019-02-26 08:09:13.297
	185	Complete	2019-02-28 09:56:40.070	2019-03-01 12:49:53.237
	185	Complete	2019-03-01 12:51:04.363	2019-03-13 12:48:56.477
	185	Complete	2019-03-07 09:17:13.147	2019-03-11 10:51:04.620
	185	Complete	2019-03-28 12:15:03.100	2019-04-11 12:14:07.230
	185	Complete	2019-04-02 17:13:06.610	2019-04-26 13:47:42.970
	185	Complete	2019-04-09 12:30:13.883	2019-04-22 12:31:58.603
	185	Complete	2019-04-16 12:24:47.433	2019-04-24 10:46:49.307
	185	Complete	2019-05-01 13:10:48.667	2019-05-01 13:30:57.897
	185	Complete	2019-05-02 17:24:19.587	2019-05-09 10:43:30.080
	185	Complete	2019-05-03 20:26:35.127	2019-05-14 13:18:50.513
	185	Complete	2019-05-10 08:52:06.613	2019-05-12 13:11:01.420
	185	Complete	2019-06-13 14:42:05.337	2019-06-17 08:53:56.270
	185	Complete	2019-08-12 13:18:46.537	2019-08-13 11:13:56.160

CompleteDate	AssignedUser	Legacy Company	1st Previous Competitor Name
2019-01-14 02:58:02.390		L-Charter/CSG	Windstream
2019-01-31 08:46:11.123		L-TWC/ICOMS	Windstream
2019-02-08 14:42:49.900		L-TWC/ICOMS	Windstream
2019-02-11 14:46:01.900		L-TWC/ICOMS	Windstream
2019-03-18 12:55:21.370		L-Charter/CSG	Windstream
2019-04-22 12:06:34.657		L-Charter/CSG	Windstream
2019-04-22 13:11:34.650		L-TWC/ICOMS	Windstream
2019-04-28 11:16:22.287		L-TWC/ICOMS	Windstream
2019-05-06 15:51:18.160		L-Charter/CSG	Windstream
2019-05-15 16:47:09.417		L-BHN/ICOMS	Windstream
2019-05-30 09:45:08.137		L-TWC/ICOMS	Windstream
2019-07-18 11:53:30.960		L-BHN/ICOMS	Windstream
2019-07-22 10:41:17.550		L-TWC/CSG	Windstream
2019-07-23 15:40:17.220		L-BHN/ICOMS	Windstream
2019-07-31 10:08:08.137		L-Charter/CSG	Windstream
2019-08-08 10:14:26.990		L-BHN/ICOMS	Windstream
2019-02-06 09:06:33.130		L-TWC/ICOMS	Windstream
2019-02-15 12:15:15.107		L-TWC/ICOMS	Windstream
2019-02-26 08:09:13.297		L-TWC/ICOMS	Windstream
2019-03-01 12:49:53.237		L-TWC/ICOMS	Windstream
2019-03-13 12:48:56.477		L-TWC/ICOMS	Windstream
2019-03-11 10:51:04.620		L-Charter/CSG	Windstream
2019-04-11 12:14:07.230		L-TWC/ICOMS	Windstream
2019-04-26 13:47:42.970		L-Charter/CSG	Windstream
2019-04-16 10:38:44.043		L-TWC/ICOMS	Windstream
2019-04-24 10:46:49.307		L-TWC/ICOMS	Windstream
2019-05-01 13:30:57.897		L-TWC/ICOMS	Windstream
2019-05-09 10:43:30.080		L-Charter/CSG	Windstream
2019-05-14 13:18:50.513		L-Charter/CSG	Windstream
2019-05-12 13:11:01.420		L-TWC/ICOMS	Windstream
2019-06-17 08:53:56.270		L-TWC/ICOMS	Windstream
2019-08-13 11:13:56.160		L-TWC/CSG	Windstream



Number	Date of Call	Account#	State	Type of Contact	Call Pulled ?	Customer Care Screen Shot
1	4/3/2019	Pending	Pending	Call	Pending	Pending
2	3/27/2019	126542899	TX	Call	Yes	Yes
3	4/5/2019	126784260	TX	Call	Pending	Pending
4	3/22/2019	126609546	TX	Call	Yes	Yes
5	3/22/2019	160455874	KY	Call	Pending	Pending
6	3/22/2019	160419449	KY	Call	Yes	-
7	3/22/2019	160737750	KY	Call	Yes	Yes
8	3/22/2019	160835621	KY	Call	Pending	Pending
9	3/27/2019	160785004	KY	Call	Yes	Yes
10	3/22/2019	160855002	KY	Call	Yes	Yes
11	3/22/2019	160985708	KY	Call	Yes	Yes
12	3/22/2019	162079483	KY	Call	Yes	Yes
13	3/22/2019	161103169	KY	Call	Yes	Yes
14	3/27/2019	162145597	KY	Call	Yes	Yes
15	4/5/2019	162226644	KY	Call	Yes	-
16	3/27/2019	162389615	KY	Call	Yes	Yes
17	4/1/2019	162674720	KY	Call	Yes	Yes
18	3/27/2019	162676922	KY	Call	Yes	Yes
19	3/22/2019	162679134	KY	Call	Yes	Yes
20	3/27/2019	162700642	KY	Call	Yes	Yes
21	3/27/2019	162747597	KY	Call	Yes	Yes
22	3/22/2019	162785841	KY	Call	Yes	Yes
23	3/22/2019	162834261	KY	Call	Yes	Yes
24	4/5/2019	-	OH	Call	Pending	Pending
25	4/8/2019	162856706	KY	Call	Yes	Yes
26	3/26/2019	001008012	OH	Tweet	tweet	tweet
27	3/27/2019	002487466	OH	Call	Yes	Yes
28	3/29/2019	001016873	OH	Call	Yes	Yes
29	4/3/2019	001032957	OH	Call	Yes	Yes
30	3/22/2019	001072257	OH	Call	Yes	Yes
31	3/25/2019	001148847	OH	Call	Yes	Yes
32	3/26/2019	001149428	OH	Call	Yes	Yes
33	3/22/2019	001153626	OH	Call	Yes	Yes
34	4/9/2019	001185232	OH	Call	Yes	Yes
35	3/27/2019	001204491	OH	Call	Yes	Yes
36	3/27/2019	001207926	OH	Call	Yes	Yes
37	3/29/2019	001214996	OH	Call	Yes	Yes
38	3/29/2019	001253605	OH	Call	-	Yes
39	3/22/2019	001224577	OH	Call	Yes	-

40	3/26/2019	001270403	OH	Call	Yes	Yes
41	3/26/2019	001271311	OH	Call	Yes	Yes
42	3/27/2019	001300915	OH	Call	Yes	Yes
43	3/25/2019	001512825	OH	Call	Yes	Yes
44	3/27/2019	001610613	OH	Call	Yes	Yes
45	3/29/2019	002096512	OH	Call	Yes	Yes
46	3/29/2019	002194527	OH	Call	-	Yes
47	3/27/2019	002120699	OH	Call	Yes	Yes
48	3/26/2019	002298658	OH	Call	Yes	Yes
49	3/26/2019	002803835	OH	Call	Yes	Yes
50	3/27/2019	002804603	OH	Call	Yes	-
51	3/26/2019	002809268	OH	Call	Yes	Yes
52	3/29/2019	002815304	OH	Call	-	Yes
53	4/9/2019	002810141	OH	Call	Yes	Yes
54	3/26/2019	002817654	OH	Call	Yes	Yes
55	4/11/2019	002820725	OH	Call	Yes	Yes
56	3/27/2019	002821184	OH	Call	Yes	Yes
57	4/25/2019	002828235	OH	Call	Yes	Yes
58	3/23/2019	002828338	OH	Call	Yes	Yes
59	3/29/2019	002835890	OH	Call	Yes	-
60	3/25/2019	002838815	OH	Call	Yes	Yes
61	3/29/2019	002844102	OH	Call	Yes	Yes
62	3/30/2019	020110135	PA	Call	Yes	Yes
63	3/26/2019	020387910	NY	Call	Yes	Yes
64	3/26/2019	020641351	KY	Call	Yes	-
65	3/27/2019	021447663	NY	Call	Yes	Yes
66	3/26/2019	021686037	NY	Call	Yes	Yes
67	3/26/2019	021791256	NY	Call	Yes	-
68	4/5/2019	041831444	TX	Call	Yes	-
69	3/26/2019	060084769	SC	Call	Yes	Yes
70	4/3/2019	060108458	SC	Call	Yes	Yes
71	3/26/2019	060137305	NC	Call	Yes	Yes
72	3/26/2019	060138163	NC	Call	Yes	Yes
73	3/26/2019	060223716	NC	Call	Yes	-
74	3/26/2019	060227884	NC	Call	Yes	Yes
75	3/26/2019	060232129	NC	Call	Yes	Yes
76	3/29/2019	060241151	NC	Call	Yes	-
77	3/26/2019	060279416	NC	Call	Yes	Yes
78	3/25/2019	060481584	AL	Call	Yes	Yes
79	3/26/2019	060815839	NC	Online Chat	Online Chat	Yes
80	3/28/2019	060599139	NC	Call	Yes	Yes

81	3/27/2019	060732535	NC	Call	Yes	Yes
82	3/28/2019	060815942	NC	Call	Yes	Yes
83	3/29/2019	060896163	NC	Call	Yes	Yes
84	3/26/2019	060919337	NC	Call	Yes	Yes
85	3/28/2019	061039880	NC	Call	Yes	Yes
86	3/27/2019	061298143	NC	Call	Yes	Yes
87	3/27/2019	061347971	NC	Call	Yes	Yes
88	3/27/2019	061594761	NC	Call	Yes	-
89	3/29/2019	061810880	NC	Call	Yes	-
90	4/3/2019	061845634	NC	Call	-	Yes
91	3/27/2019	061811169	NC	Call	Yes	Yes
92	3/26/2019	061811921	NC	Call	Yes	Yes
93	4/23/2019	061853964	NC	Call	Yes	Yes
94	3/27/2019	061854337	NC	Call	Yes	Yes
95	3/29/2019	061880464	NC	Call	Yes	Yes
96	4/5/2019	061896474	NC	Call	Yes	Yes
97	4/3/2019	061911377	NC	Call	Yes	Yes
98	3/26/2019	061919873	NC	Call	Yes	-
99	3/27/2019	061950009	NC	Call	Yes	Yes
100	4/3/2019	061950517	NC	Call	Yes	Yes
101	3/29/2019	061978996	NC	Call	Yes	Yes
102	3/25/2019	061982722	SC	Call	Yes	Yes
103	3/29/2019	062016428	NC	Call	Yes	Yes
104	4/15/2019	062053323	AL	Call	Yes	Yes
105	3/26/2019	062223720	NC	Call	Yes	Yes
106	4/3/2019	062283271	NC	Call	Yes	Yes
107	3/29/2019	062292348	NC	Call	Yes	Yes
108	4/3/2019	062292350	NC	Call	Yes	-
109	3/29/2019	062388889	SC	Call	Yes	Yes
110	4/3/2019	062422220	NC	Call	Yes	-
111	4/11/2019	062426554	SC	Call	Yes	Yes
112	3/23/2019	062569982	NC	Call	Yes	Yes
113	4/3/2019	062571125	NC	Call	Yes	Yes
114	3/29/2019	062583478	NC	Call	Yes	Yes
115	3/26/2019	062605086	NC	Call	Yes	Yes
116	3/27/2019	062637307	NC	Call	Yes	Yes
117	4/3/2019	062666173	NC	Call	Yes	-
118	3/29/2019	062666512	NC	Call	Yes	Yes
119	3/29/2019	062670102	NC	Call	Yes	Yes
120	3/27/2019	062765215	NC	Call	Yes	Yes
121	3/26/2019	062770705	NC	Call	Yes	Yes

122	3/27/2019	062772085	NC	Call	Yes	Yes
123	4/3/2019	062883876	NC	Online Chat	Chat Conversation	Yes
124	3/29/2019	062789504	NC	Call	Yes	Yes
125	3/26/2019	062864311	NC	Call	Yes	Yes
126	3/29/2019	062869410	NC	Call	yes	Yes
127	4/3/2019	062999981	NC	Call	-	Yes
128	3/27/2019	062918705	NC	Call	Yes	Yes
129	4/15/2019	062946976	NC	Call	Yes	Yes
130	3/22/2019	062958973	AL	Call	Yes	Yes
131	4/22/2019	062972013	NC	Call	Yes	Yes
132	3/26/2019	063004726	NC	Call	Yes	-
133	3/26/2019	063007517	NC	Call	Yes	Yes
134	3/29/2019	063017008	NC	Call	Yes	Yes
135	3/26/2019	063017679	SC	Call	Yes	Yes
136	3/29/2019	063025732	NC	Call	Yes	-
137	4/11/2019	063035883	CO	Call	Yes	Yes
138	3/27/2019	063041119	NC	Call	Yes	Yes
139	3/29/2019	063041883	NC	Call	Yes	Yes
140	3/29/2019	063044945	NC	Call	Yes	-
141	3/29/2019	063046492	NC	Call	Yes	-
142	3/29/2019	063049205	NC	Call	Yes	Yes
143	3/27/2019	063056378	NC	Call	Yes	Yes
144	4/3/2019	063085778	NC	Call	Pending	Pending
145	3/29/2019	063074259	NC	Call	Yes	-
146	3/29/2019	063074667	NC	Call	Yes	-
147	3/29/2019	063077074	NC	Call	Yes	Yes
148	3/26/2019	063083010	NC	Call	Yes	Yes
149	3/29/2019	070018713	GA	Call	yes	-
150	3/27/2019	070054693	GA	Call	Yes	Yes
151	3/27/2019	070070458	GA	Call	-	Yes
152	4/10/2019	070092746	GA	Call	Yes	Yes
153	3/29/2019	072905460	GA	Call	Pending	Pending
154	3/27/2019	070255681	GA	Call	Yes	Yes
155	3/27/2019	071796970	GA	Call	Yes	-
156	3/29/2019	072440199	GA	Call	Yes	Yes
157	3/21/2019	072476384	GA	Call	Yes	Yes
158	3/29/2019	073147749	GA	Call	Yes	-
159	3/29/2019	073227215	GA	Call	yes	Yes
160	3/27/2019	073435893	GA	Call	Yes	Yes
161	3/26/2019	073591899	GA	Call	Yes	-
162	3/27/2019	073639019	GA	Call	Yes	Yes

163	3/26/2019	073645595	GA	Call	Yes	Yes
164	3/26/2019	090143852	NE	Call	Yes	Yes
165	3/25/2019	090153833	NE	Call	Yes	-
166	3/25/2019	090253538	NE	Call	Yes	Yes
167	4/8/2019	090306070	NE	Call	Yes	Yes
168	4/12/2019	090900652	NE	Call	-	Yes
169	3/22/2019	090372928	NE	Call	Yes	Yes
170	3/22/2019	090425185	NE	Call	Yes	Yes
171	3/21/2019	090563313	NE	Call	Yes	-
172	3/26/2019	090785316	NE	Call	Yes	-
173	3/27/2019	091526554	NE	Call	Yes	Yes
174	3/25/2019	091586345	NE	Call	Yes	Yes
175	4/3/2019	091678171	NE	Call	yes	Yes
176	3/22/2019	091738753	NE	Call	Yes	Yes
177	3/25/2019	091751391	NE	Call	Yes	Yes
178	3/29/2019	091777234	NE	Call	Yes	Yes
179	4/5/2019	091809961	NE	Call	Yes	Yes
180	4/3/2019	091815868	NE	Call	Yes	Yes
181	3/23/2019	091893243	NE	Call	Yes	-
182	3/26/2019	091902973	NE	Call	Yes	-
183	3/26/2019	126529822	TX	Call	Yes	-
184	3/19/2019	160954748	KY	Call	Pending	Pending
185	3/29/2019	126680859	TX	Call	Yes	Yes
186	4/9/2019	126720964	TX	Call	Yes	Yes
187	4/8/2019	162056706	KY	Call	Pending	Pending
188	3/26/2019	126745728	TX	Call	Yes	Yes
189	3/29/2019	160856914	KY	Call	yes	Yes
190	3/22/2019	161344672	KY	Call	Yes	-
191	3/22/2019	161881051	KY	Call	Yes	Yes
192	3/26/2019	162245573	KY	Call	Yes	-
193	3/26/2019	162279760	KY	Call	Yes	Yes
194	4/3/2019	162333593	KY	Call	Yes	Yes
195	4/3/2019	162347566	KY	Call	Yes	Yes
196	4/15/2019	162731776	KY	Call	Yes	Yes
197	4/5/2019	162732177	KY	Call	Yes	Yes
198	4/3/2019	162754445	KY	Call	Yes	Yes
199	4/5/2019	162765636	KY	Call	Yes	Yes
200	3/29/2019	208745049	NC	Call	Pending	Pending
201	4/8/2019	n/a	n/a	Employee Account of Events	-	-
202	3/26/2019	Pending	NE	Call	Pending	Pending
203	4/15/2019	162766696	KY	Call	Yes	Yes



204	4/4/2019	Pending	Pending	Door to Door	door to door	door to door
205	4/8/2019	Pending	NE	Call	Pending	Pending
206	4/8/2019	Pending	OH	Call	Pending	Pending
207	4/11/2019	Pending	NC	Call	Pending	Pending
208	4/11/2019	Pending	NC	Call	Pending	Pending
209	4/11/2019	Pending	Pending	Call	Pending	Pending
210	4/10/2019	162786781	KY	Call	Yes	Yes
211	Pending	160712243	KY	Retail Store Report	Retail Store Report	Retail Store Report
212	3/27/2019	162794114	KY	Call	Yes	Yes
213	4/26/2019	001163222	OH	Call	-	Yes
214	3/26/2019	162851565	KY	Call	Yes	Yes
215	4/26/2019	Pending	Pending	Call	Pending	Pending

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VOLUME I-1  
RECORDED PHONE CALLS  
RE WINDSTREAM HOLDINGS, INC.

072219 ACT 06307288 BTN1751145095 SANFORD NC  
082319 BTN8598856708 NICHOLASVILLE KY

TRANSCRIBED BY: MELANIE M. FAULCONER  
CSR NO. 6420  
PAGES 1 - 36

1 072219 ACT 06307288 BTN1751145095 SANFORD NC  
2 (Beginning of recording.)  
3 RECORDING: Save opportunity.  
4 ASSOCIATE: Thank you for calling Windstream.  
5 CUSTOMER: (Unintelligible).  
6 ASSOCIATE: My name is Jessica.  
7 Can I get your first and last name, please?  
8 CUSTOMER'S HUSBAND: (Unintelligible).  
9 CUSTOMER: Ma'am?  
10 ASSOCIATE: My name is Jessica.  
11 Who am I speaking with?

13 ASSOCIATE. How are you today?  
14 CUSTOMER: (Unintelligible). How is the  
15 weather where you live?  
16 ASSOCIATE: I think the weather is great today.  
17 How is it where you're at?  
18 CUSTOMER: Hot, hot. About 100 degrees here.  
19 What state are you in?  
20 ASSOCIATE: I'm in Iowa. It's the first day in  
21 a long time it hasn't been --  
22 CUSTOMER: Yeah.  
23 ASSOCIATE: -- over 100 degrees, so I'll let  
24 you keep it --  
25 CUSTOMER: Yes.

Page 2

1 ASSOCIATE: -- (unintelligible) today.

2 (Laughter).

3 CUSTOMER: (Laughter). That sounds good.

4 Look, I've been paying my bill. My husband  
5 misplaced his debit card, and he had to go this morning  
6 at Carter Bank and put a stop on it. He had to send out  
7 for another one. And somebody, they found it, but they  
8 told him that he had to cut up anyway since they ordered  
9 a new one, and that's why I never paid my bill, and I  
10 was going to stop right here at the Dollar Tree and get  
11 one of those --

12 CUSTOMER'S HUSBAND: Prepaid.

13 CUSTOMER: -- prepaid cards.

14 Can I pay it on that or what options do you  
15 have so it can be paid today?

16 ASSOCIATE: It doesn't like we can do -- or  
17 don't do them off prepaid cards. Um, it looks like  
18 we --

19 CUSTOMER: You don't?

20 ASSOCIATE: It has to be like --

21 CUSTOMER: Golly.

22

23

24

25 Is that account still active?

Page 3

1 CUSTOMER: What (unintelligible) --

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10 CUSTOMER: Uh-huh.

11 CUSTOMER'S HUSBAND: (Unintelligible).

12 CUSTOMER: Hold on. He's going to check,  
13 ma'am. He cut it up and he threw it in the trash can  
14 here.

15 ASSOCIATE: (Laughter).

16 CUSTOMER'S HUSBAND: No. I was getting the  
17 account number.

18 CUSTOMER: Oh. He got the account number on a  
19 piece of paper.

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24 ASSOCIATE: You said that's the last four of  
25 it?

Page 4



1 CUSTOMER: Yes, ma'am.

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8 CUSTOMER: I used to pay off it, but, uh, I  
9 have to go out of town to put money in an account for  
10 this --

11 ASSOCIATE: Okay.

12 CUSTOMER: -- in another town, but my husband,  
13 I need to give him money and put it in his account.

14 ASSOCIATE: Okay. Are you wanting to use a  
15 bank account? Because we can use a bank account, like a  
16 routing number --

17 CUSTOMER: Uh-huh.

18 ASSOCIATE: -- an account number.

19 CUSTOMER: That's what I'm saying. I've been  
20 using my husband's thing until they told him to cut it  
21 up this morning since he lost his card, and I can't put  
22 it in there because (unintelligible) because we don't  
23 have no card number to get it off of.

24 ASSOCIATE: Okay. And you don't have a  
25 checking account or anything that you could put it --

Page 5

1 CUSTOMER: Yes, ma'am. I'd have to go out of  
2 town to put it in -- in the (unintelligible). I'd have  
3 to do that. Uh, except that I can't go down there  
4 today, out of town today.

5 ASSOCIATE: Okay.

6 CUSTOMER: And that's why I was going to stop  
7 right here at a Dollar Tree and get a prepaid card, but  
8 you told me not to get it.

9 ASSOCIATE: (Laughter).

10 CUSTOMER: Oh. Is there any other way? Is  
11 Windstream anywhere around in Sanford, you know what I'm  
12 saying, in North Carolina?

13 ASSOCIATE: Give me just a second here.

14 CUSTOMER: Thank you.

15 CUSTOMER'S HUSBAND: Ask her if I put it into  
16 the account, can they pay it off of the account.

17 CUSTOMER: Okay.

18 (Pause in conversation.)

19 CUSTOMER: (Unintelligible).

20 CUSTOMER'S HUSBAND: (Unintelligible).

21 CUSTOMER: What were you saying a while ago?  
22 You can put it in the checking account.

23 CUSTOMER'S HUSBAND: Yeah, but how -- how do  
24 you pay it once you put it in there?

25 CUSTOMER: True. (Unintelligible).

Page 6

1 ASSOCIATE: Okay. So it looks like, um, at  
2 City Pawn [phonetic] you can make payments there because  
3 there's a Western Union there. Anywhere where there's a  
4 Western --

5 CUSTOMER: They went out of business.

6 ASSOCIATE: Okay. Otherwise that's the only  
7 thing in Sanford that I am seeing is available.

8 CUSTOMER: Question. Uh, my husband's got a --

9 CUSTOMER'S HUSBAND: A bank account.

10 CUSTOMER: -- a bank account and he want to  
11 know if he put the money in there how you still can get  
12 the money out of there, but he's (unintelligible) on the  
13 cards. You can get a card for five or six days, but  
14 he --

15 ASSOCIATE: So if we have like the routing  
16 number and the account number, we can still get it out  
17 of there.

18 CUSTOMER: She said if you have a routing  
19 number and account number she'll do that.

20 CUSTOMER'S HUSBAND: (Unintelligible).

21 CUSTOMER: You -- you (unintelligible).

22 Do you have an extension number or how do you  
23 do that or what (unintelligible) talk -- you doing it or  
24 what?

25 ASSOCIATE: Um, so you can talk to any

Page 7

1 representative. I'll make sure to note your account  
2 really well with what you're planning on doing, and then  
3 from there any representative should be able to help  
4 you. If they can't, then I'll get you to somebody who  
5 can. Okay?

6 CUSTOMER: Okay. And it's \$64?

7 ASSOCIATE: Um, so the past due amount, um, the  
8 one I'm seeing is \$91.32.

9 CUSTOMER: \$91? Where did \$91 come from?

10 ASSOCIATE: It's the past due amount on the  
11 account. There's a total of 156.17 on the account.

12 CUSTOMER: But the thing they sent me last week  
13 (unintelligible) and the thing I'm looking at now is,  
14 uh, 7/8 is -- um, let me see. Amount premium due  
15 immediately \$64.57.

16 ASSOCIATE: Um, so there's been another bill  
17 printed and sent out. It was sent out on the 18th of,  
18 um -- or it's actually e-mailed out. Yeah. It was  
19 mailed out on Thursday. So the past due amount, the  
20 47 -- or the 54.57 was (unintelligible). There is  
21 \$91.32 that is now past due.

22 CUSTOMER: So what you trying to tell me that  
23 I -- I don't have (unintelligible) that. I can't pay  
24 the \$64. I have to pay \$91?

25 ASSOCIATE: Correct.

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1 CUSTOMER'S HUSBAND: (Unintelligible).

2 CUSTOMER: \$64.84 credit.

3 I'm still not understanding this. I'm really  
4 not understanding because that's what I had -- that's  
5 what I put (unintelligible) on my other bill.

6 ASSOCIATE: I'd have to set up a payment  
7 arrangement to do that. That way your services don't  
8 get interrupted.

9 CUSTOMER: That's what I'm saying, if I can pay  
10 the 60-some dollars, uh, give me time to pay the other,  
11 whatever it is, the \$80 or \$27 or something. I just  
12 have the \$65.

13 ASSOCIATE: Okay.

14 CUSTOMER: And because (unintelligible).

15 ASSOCIATE: Um, they shouldn't. I'll put in  
16 the notes don't charge.

17 (Typing.)

18 "Do not charge the" --

19 CUSTOMER'S HUSBAND: Tell her to stay on the  
20 phone and we have the money and (unintelligible).

21 ASSOCIATE: So if you pay 65 today, um, then  
22 91.17 will be due on the 6th of August.

23 CUSTOMER'S HUSBAND: I'll pay the  
24 (unintelligible).

25 CUSTOMER: Okay. 64 -- \$64 I can pay today.

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1 ASSOCIATE: Okay.

2 CUSTOMER: And then you say I got to pay 91  
3 more dollars instead of the, uh -- ma'am?

4 ASSOCIATE: So, um, if you're paying 64  
5 today --

6 CUSTOMER: Yes, ma'am.

7 ASSOCIATE: -- then it was \$92.17 that will be  
8 due on the 6th.

9 CUSTOMER: The thing that I'm saying is, you  
10 say I need to pay 91 today and that 60 -- that leaves  
11 about 20-some dollars from the 91, correct, and then the  
12 other bill, it will be due before the month is out.

13 That's what I'm trying to understand. I'm not  
14 understanding it correctly.

15 ASSOCIATE: It's like --

16 CUSTOMER: Um, 64 --

17 ASSOCIATE: Um, you have two bills that --

18 CUSTOMER: (Unintelligible). Okay. So the 91,  
19 like I said, I can pay, but the money that's after 91 --

20 CUSTOMER'S HUSBAND: No. The (unintelligible).

21 CUSTOMER: Oh. The money after the 91 -- the  
22 balance of the 91 -- uh, from the 91 (unintelligible).

23 ASSOCIATE: So the past due is 91. You said  
24 today you could only pay like \$64, so --

25 CUSTOMER: \$64. Okay. \$64 he can put put in

Page 10



1 there now.

2 ASSOCIATE: Okay.

3 CUSTOMER: So 64. \$91, that's what I was  
4 saying I could pay the balance at \$91 next week.

5 ASSOCIATE: Okay.

6 CUSTOMER: What would that be like, 20-some  
7 dollars?

8 ASSOCIATE: So it would be \$27.32.

9 CUSTOMER: Okay. Let me write that down.  
10 Okay. 27.92.

11 ASSOCIATE: 32.

12 CUSTOMER: Okay. 32. Okay. I just put an  
13 extra dollar on there.

14 Okay. And then I still have a (unintelligible)  
15 of August to pay the rest of my --

16 ASSOCIATE: So 54.85 is due on the 6th of  
17 August, which is, um -- one, two -- two weeks from  
18 tomorrow.

19 CUSTOMER: Okay. So you all -- you all have a  
20 new company. Right?

21 ASSOCIATE: What do you mean?

22 CUSTOMER: You all have a new company. You  
23 all -- you all not Windstream any more. Right?

24 ASSOCIATE: Yeah. No.

25 CUSTOMER: You all --

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1 ASSOCIATE: We're still Windstream. We just  
2 re-branded. So in instead of just like being like plain  
3 Windstream, we are Kinetic and Windstream. Um, it's  
4 just a re-brand of Windstream. It's still Windstream  
5 and everything. Um, it's just, um, we're upgrading and  
6 getting new names and everything for all of our services  
7 and we went with Kinetic instead of just Windstream.

8 CUSTOMER: What's the name, some -- what's the  
9 name said that they were buying you all out. Uh, what  
10 you call them. Uh. (Unintelligible).

11 ASSOCIATE: Spectrum. Yeah. Spectrum is not  
12 buying us. (Laughter). No.

13 CUSTOMER: They haven't bought (unintelligible)  
14 yet?

15 ASSOCIATE: They're not going to buy us out.

16 CUSTOMER: (Laughter).

17 ASSOCIATE: So they're silly. They're not  
18 going to buy us out.

19 CUSTOMER: Okay. Because I've been getting a  
20 lot of things that -- on this, that they, uh -- that we  
21 need to switch with them and because they are buying you  
22 all out.

23 So I didn't didn't know if I should pay my bill  
24 or what I should do because of they was just buying you  
25 all out.

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1 ASSOCIATE: No, they're not buying us.

2 (Laughter).

3 Did you get something in the mail saying that  
4 they were buying us?

5 CUSTOMER'S HUSBAND: (Unintelligible).

6 CUSTOMER: Uh, they -- they work in Walmart, so  
7 they was telling me.

8 ASSOCIATE: Okay.

9 CUSTOMER: Okay. Ma'am --

10 ASSOCIATE: Yeah.

11 CUSTOMER'S HUSBAND: (Unintelligible).

12 CUSTOMER: Oh. Ma'am, uh, this money that we  
13 get posted with you right now --

14 Yeah. They working in Walmart and, uh, they  
15 stopping people and asking people who they, uh, deal  
16 with and got internet and stuff, and they was saying  
17 something about they was buying you all out or they were  
18 going to buy your contract or something like that.

19 ASSOCIATE: (Laughter).

20 CUSTOMER: Yes. So anyway, I said, "Well, who  
21 do I pay?"

22 Uh, I got a thing in the mail saying that it's  
23 (unintelligible), and he said they're sending all that  
24 in the mail for (unintelligible), so I think I remember,  
25 you know, they're buying your contract out.

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1 I said, "My bill is due Monday." Right now  
2 it's been a few weeks ago, and I told him, "My bill is  
3 due," and he said, "Well, you can pay us and  
4 (unintelligible), but you have to pay us until the next  
5 five months."

6 And I said to him, I said -- I said, "Well, if  
7 I pay them, that mean when I pay (unintelligible) that's  
8 (unintelligible)."

9 ASSOCIATE: Right.

10 CUSTOMER: So, you know.

11 ASSOCIATE: And they have data caps, and like  
12 to have Wi-Fi, it's an additional separate fee and  
13 (unintelligible) \$5 and their taxes and fees are higher  
14 than Windstream's.

15 So, yeah. I don't know. They're very sneaky.

16 CUSTOMER: Uh-huh.

17 What, ma'am?

18 ASSOCIATE: They're very sneaky with what  
19 they're doing.

20 CUSTOMER: Oh.

21 Hello? Are you still on?

22 ASSOCIATE: Sorry. What was that?

23 CUSTOMER: (Unintelligible). Hold on right  
24 now, ma'am. There's (unintelligible) right now.

25 (Unintelligible).

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1 CUSTOMER'S HUSBAND: (Unintelligible).

2 CUSTOMER: Ma'am, I'm giving you the account  
3 number for this bill right now.

4 ASSOCIATE: Okay.

5

6 ASSOCIATE: Okay. You said that was the  
7 account number. Right?

8 CUSTOMER: Yes, ma'am.

9

10

11 ASSOCIATE: Okay.

12 Okay. Give me just a quick --

13 CUSTOMER: Okay.

14 ASSOCIATE: -- second here.

15 CUSTOMER'S HUSBAND: (Unintelligible).

16 CUSTOMER: Well, you do. Yes, you do.

17 Hello?

18 ASSOCIATE: I'm still here.

19 CUSTOMER: Oh. I keep dropping

20 (unintelligible).

21 ASSOCIATE: Okay. So when did you say that  
22 you're going to be able to pay the \$27.32?

23 CUSTOMER: Um, probably Friday. No later than  
24 Friday, ma'am.

25 ASSOCIATE: Okay. It sounds good. I just want

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1 to make sure I got it in the system so that your  
2 services don't get suspended.

3 Just make sure you call in on Friday to pay  
4 that. Okay?

5 CUSTOMER: Yes, ma'am. I sure will.

6 ASSOCIATE: Pay --

7 CUSTOMER: (Unintelligible).

8 ASSOCIATE: I'm going to put it my system. I'm  
9 going to make a payment arrangement and that way they  
10 see that it's going to be in there and everything.  
11 Okay?

12 CUSTOMER: Yes, ma'am.

13 ASSOCIATE: And I have your permission to  
14 submit this payment of \$64. Is that correct?

15 CUSTOMER: Yes, ma'am. Yes, ma'am.

16 ASSOCIATE: Okay. Sounds good.

17 And do you want (unintelligible) this bank  
18 account information (unintelligible) for any future  
19 payments?

20 CUSTOMER: Yes, ma'am.

21 ASSOCIATE: Do you want to store this payment  
22 method like the bank account information  
23 (unintelligible) for any future payments?

24 CUSTOMER'S HUSBAND: No.

25 CUSTOMER: No, ma'am.

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1 ASSOCIATE: All right.

2 CUSTOMER: When he get his card, I'll just file  
3 that payment off that.

4 ASSOCIATE: Okay. Sounds good.

5 CUSTOMER: Yes, ma'am.

6 ASSOCIATE: Okay. And give me just a quick  
7 second. (Unintelligible).

8 Okay. So I have the payment arrangement in  
9 there for Friday, and then I just -- I just submitted  
10 that payment for \$64 (unintelligible). So that will  
11 probably end up going through tomorrow most likely  
12 because it is later in the day today yet.

13 Would you like a confirmation number for that  
14 payment?

15 CUSTOMER: Yes, ma'am.

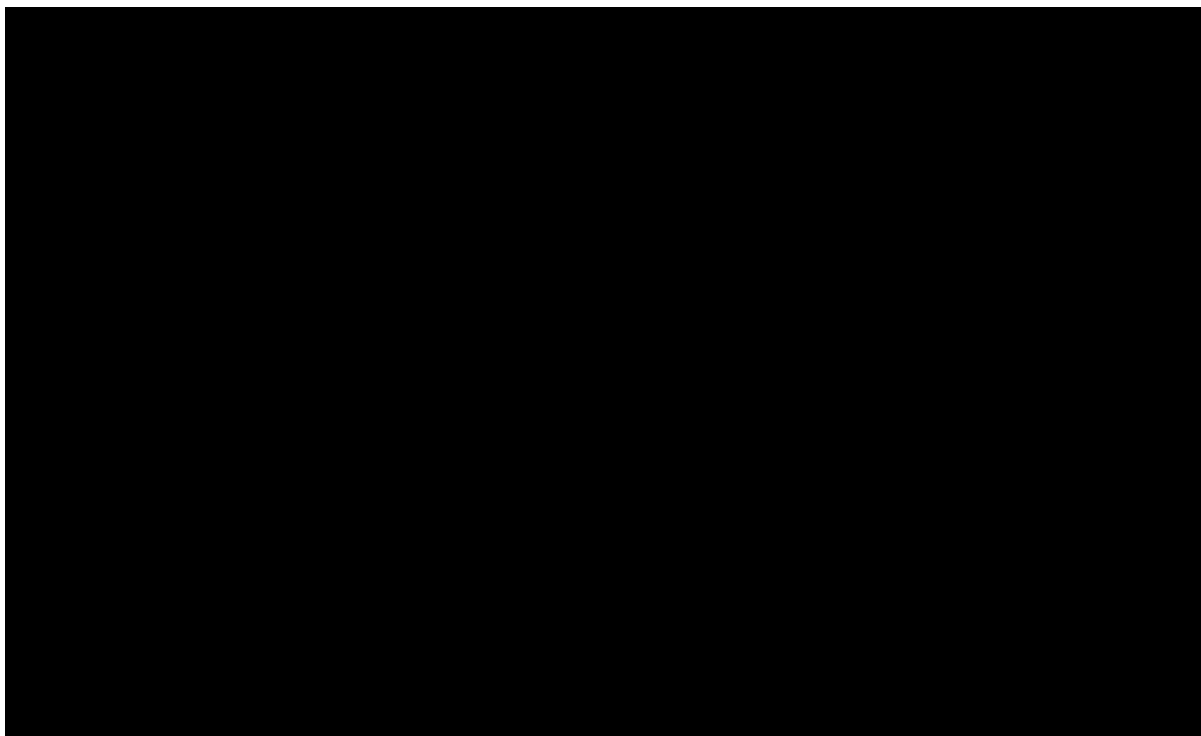
16 ASSOCIATE: Okay. Whenever you're ready, let  
17 me know.

18 CUSTOMER: I'm ready, ma'am.

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Thank you so much for your patience.

ASSOCIATE: Yeah. Not a problem.

Is there anything else I can help you with?

CUSTOMER: That would be all, ma'am, and thank  
you so much, and stay cool.

ASSOCIATE: You too.

CUSTOMER: Thank you.

ASSOCIATE: Thank you.

CUSTOMER: Okay. Bye.

ASSOCIATE: Yeah. Bye-bye.

(End of recording.)

082319 BTN8598856708 NICHOLASVILLE KY

(Beginning of recording.)

1 RECORDING: Already verified.

2 WINDSTREAM REPRESENTATIVE: Thank you for  
3 calling Windstream, a proud partner of DirectTV.

4 This is Robin.

5 May I have --

6 CUSTOMER: Oh.

7 WINDSTREAM REPRESENTATIVE: -- your telephone  
8 number or account number that you're calling in about  
9 today?

10 CUSTOMER: Oh. Well, Robin, how are you?

11 WINDSTREAM REPRESENTATIVE: I am fine.

12 CUSTOMER: Good.

13

14

15

16

17

18

19

20 WINDSTREAM REPRESENTATIVE: All right. Thank  
21 you.

22 I see that the service has been active for  
23 about a year. We do thank you for that.

24

25

1 CUSTOMER: That's correct.

2 WINDSTREAM REPRESENTATIVE: All right. Just a  
3 moment. Let me see if you have text notifications.

4 All right. Is the telephone number  
5 [REDACTED] a good number to receive texts?

6 CUSTOMER: That is correct.

7 WINDSTREAM REPRESENTATIVE: All right. Thank  
8 you.

9 How can I assist you today, sir?

10 CUSTOMER: All right. So the service was  
11 established at my father's house. We moved him from  
12 Spectrum over to you.

13 WINDSTREAM REPRESENTATIVE: Okay.

14 CUSTOMER: You extended to me -- I'm on a fixed  
15 income, military retired.

16 WINDSTREAM REPRESENTATIVE: Yeah.

17 CUSTOMER: And you extended -- you -- you  
18 extended a loyalty discount to me that will remain in  
19 effect at least about -- the last senior representative  
20 that I spoke with said it would stay in effect probably  
21 forever until you have a rate increase. And when I  
22 established service with dad, I've already seen one  
23 increase halfway through the year that went to 76,  
24 whatever it is now.

25 WINDSTREAM REPRESENTATIVE: Okay.

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1 CUSTOMER: And at the end of this month then  
2 there will be a \$10 credit for the end of the year that  
3 will disappear.

4 WINDSTREAM REPRESENTATIVE: Okay.

5 CUSTOMER: So dad's on a fixed income.

6 WINDSTREAM REPRESENTATIVE: Okay.

7 CUSTOMER: So the other lady that I spoke with  
8 said, "So what is his exact needs?"

9 Well, here are his exact needs.

10 He has dementia. He doesn't make phone calls.  
11 He does get phone calls from family members that call to  
12 check on him.

13 WINDSTREAM REPRESENTATIVE: Okay.

14 CUSTOMER: I have the need for emergency,  
15 people that I have in his residence taking care of him  
16 24 hours/seven day a week that they have a phone  
17 available to them.

18 WINDSTREAM REPRESENTATIVE: Okay.

19 CUSTOMER: We're using the internet with a  
20 smart TV for him to watch TV.

21 There's two things that he wants to do. He  
22 wants to eat and he wants to watch TV.

23 WINDSTREAM REPRESENTATIVE: Okay.

24 CUSTOMER: Can't take -- you can't take either  
25 one of those away from him.

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1 WINDSTREAM REPRESENTATIVE: Okay.

2 CUSTOMER: So how can we reduce his cost?

3 Instead of getting a \$10 increase at the end of the  
4 year, can -- what can we do to reduce his cost?

5 WINDSTREAM REPRESENTATIVE: Um, okay. Let's  
6 see here. I can take off that \$10 credit that's going  
7 to expire and replace it with a \$20 credit that's good  
8 for a year and I can remove the modem credit that's \$5  
9 and increase that to 9.99. That makes his modem rental  
10 free. Short of putting him in a different plan, that is  
11 as low -- that's as low as I can get him on this current  
12 plan.

13 Now, you --

14 CUSTOMER: Okay.

15 WINDSTREAM REPRESENTATIVE: -- said he doesn't  
16 make phone calls out.

17 Does he make local calls?

18 CUSTOMER: No.

19 WINDSTREAM REPRESENTATIVE: Okay.

20 CUSTOMER: No. He's --

21 WINDSTREAM REPRESENTATIVE: He doesn't?

22 CUSTOMER: The only reason that the phone is in  
23 there is, once again, for my caregivers that if their  
24 cell phone dies and they have an emergency, you know, a  
25 way to call out.

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1 WINDSTREAM REPRESENTATIVE: Okay.

2 CUSTOMER: I have two brothers. One rarely  
3 ever visits him, rarely ever calls him. The other one  
4 is in Colorado. He doesn't call him. Um, so there's --  
5 I mean, you could even look at the service. There's  
6 very few times that even a local call is made on that  
7 phone and no long-distance calls.

8 WINDSTREAM REPRESENTATIVE: Okay. So, um, if  
9 I switched you into what is referred to as "the solo  
10 plan" -- it's designed as an internet plan -- the  
11 internet would stay the same with the same speed, none  
12 of that would drop, but the phone calling capability,  
13 there would be no long-distance calling, um, and the  
14 local calling going out would be 10 cents a minute. You  
15 could still receive incoming calls --

16 CUSTOMER: Uh-huh.

17 WINDSTREAM REPRESENTATIVE: -- from anywhere.  
18 As long as they're not collect, they're free, but  
19 there's no caller ID on that. That --

20 CUSTOMER: Okay.

21 WINDSTREAM REPRESENTATIVE: That plan -- let me  
22 see what -- what area you're in. That plan would run  
23 you about \$40 a month. That's with the modem being  
24 free. It would cost you \$40 a month, but it -- it  
25 really -- if you've got caregivers that make

Page 23

1 long-distance calls out, that's going to hamper that  
2 because there is no long distance out and what is out  
3 does cost you. You can call --

4 CUSTOMER: Yeah. No.

5 WINDSTREAM REPRESENTATIVE: -- 911.

6 CUSTOMER: Yeah. Well, and that's the --  
7 that's the important part. And, no, the -- the  
8 caregivers are restricted from making long-distance  
9 calls.

10 WINDSTREAM REPRESENTATIVE: Okay.

11 CUSTOMER: So that's -- that's not an issue.

12 WINDSTREAM REPRESENTATIVE: Okay. So you can  
13 call -- you can call 911 with that. You can --

14 CUSTOMER: Okay.

15 WINDSTREAM REPRESENTATIVE: -- receive calls on  
16 that. Those are --

17 CUSTOMER: Okay.

18 WINDSTREAM REPRESENTATIVE: -- free. Um, you  
19 can call 1 (800) numbers, but if you call any other  
20 local numbers, they are 10 cents a minute, and --

21 CUSTOMER: Okay.

22 WINDSTREAM REPRESENTATIVE: -- if you're -- if  
23 you're wanting to change to that plan, we can certainly  
24 do that, and that would run you about \$40 a month.

25 CUSTOMER: Yeah. That sounds like the best

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1 plan of action --

2 WINDSTREAM REPRESENTATIVE: Okay.

3 CUSTOMER: -- um, to keep his costs low.

4 WINDSTREAM REPRESENTATIVE: Okay.

5 CUSTOMER: And of course we're now on the --  
6 the initial one-year contract -- or not a contract but  
7 the one year, and of course that's getting ready to  
8 expire. So, yeah, I have to keep his costs low. Uh,  
9 he is on a fixed income and --

10 WINDSTREAM REPRESENTATIVE: Okay. Okay.

11 (Pause in conversation.)

12 I'm going to make a quick note here.

13 The system is being a little slow today, so I  
14 do apologize.

15 CUSTOMER: I'll tell you, the other thing  
16 that -- that, um, I'm hearing from people that have your  
17 service, uh, Spectrum has convinced people that you're  
18 going out of business and --

19 WINDSTREAM REPRESENTATIVE: I know.

20 CUSTOMER: -- and that you're going to cease  
21 to exist, and they're really marketing this area  
22 heavily.

23 As a matter of fact, a Spectrum individual in  
24 Walmart that is trying to sell their system personally  
25 told me or asked me who I had, and of course I said I

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1 had Windstream at two locations.

2 "Oh, you know that they're going out of  
3 business."

4 I said, "Well, I think you're misinforming the  
5 public there, young man."

6 So it's not only the e-mailings and the -- the  
7 literature, which you're getting prolifically in the  
8 mailbox, but now they're telling their people to -- to  
9 verbally tell people that.

10 WINDSTREAM REPRESENTATIVE: See, and we're not  
11 going out of business. It was a restructuring type  
12 situation. Windstream lost a court case, and because --

13 CUSTOMER: Uh-huh.

14 WINDSTREAM REPRESENTATIVE: -- of all the --  
15 the debt and the cost, they de- -- they declared  
16 bankruptcy. It's chapter -- um, what is it, Chapter 11?  
17 That's just --

18 CUSTOMER: Uh-huh.

19 WINDSTREAM REPRESENTATIVE: They're just  
20 restructuring is what it is, and that's the only --

21 CUSTOMER: Oh, I know why.

22 WINDSTREAM REPRESENTATIVE: -- reason.

23 CUSTOMER: Yeah. I'm fully --

24 WINDSTREAM REPRESENTATIVE: Yeah.

25 CUSTOMER: Yeah, I'm fully --

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1 WINDSTREAM REPRESENTATIVE: So -- all right.

2 Let me see here.

3 No, we -- we are not.

4 And how long ago did that -- that fella tell  
5 you that?

6 Hello?

7 CUSTOMER: Hello.

8 WINDSTREAM REPRESENTATIVE: Hi.

9 CUSTOMER: Did I lose you?

10 WINDSTREAM REPRESENTATIVE: Yeah. Well, it got  
11 real quiet, and I didn't know if you -- if you hit the  
12 "mute" button or not.

13 CUSTOMER: No. For some reason it transferred  
14 back to my handset.

15 WINDSTREAM REPRESENTATIVE: Oh, okay.

16 Um, how long ago did he tell you that?

17 CUSTOMER: Uh, within a month of going into  
18 Walmart.

19 WINDSTREAM REPRESENTATIVE: Okay.

20 CUSTOMER: They're always in Walmart trying to  
21 sell their system.

22 WINDSTREAM REPRESENTATIVE: Okay.

23 (Pause in conversation.)

24 Okay. Um, okay. Let me see here what needs to  
25 come off of this, and --

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1 (Pause in conversation.)

2 Do you have big plans for the weekend?

3 CUSTOMER: Uh, no, not really. I mean, my wife  
4 has got a niece that has a birthday party tomorrow, and  
5 I'm busy with business this weekend, but I don't get to  
6 participate in the happy birthday party.

7 WINDSTREAM REPRESENTATIVE: (Laughter). Are  
8 you happy about that or no?

9 CUSTOMER: Uh, you know --

10 WINDSTREAM REPRESENTATIVE: (Laughter).

11 CUSTOMER: -- I'm not -- a two-year-old,  
12 three-year-old birthday party I don't think at my age is  
13 really something I look forward to.

14 WINDSTREAM REPRESENTATIVE: Yeah.

15 CUSTOMER: But, you know, it's 20 little  
16 screaming meanies, but, uh --

17 WINDSTREAM REPRESENTATIVE: Yeah. I -- and you  
18 know, I love my family, but I don't want to spend a lot  
19 of time with them.

20 CUSTOMER: Uh-huh.

21 WINDSTREAM REPRESENTATIVE: I don't know if you  
22 feel that way sometimes too, um, but, you know, "I love  
23 ya, but please go away." (Laughter).

24 CUSTOMER: (Laughter).

25 WINDSTREAM REPRESENTATIVE: (Laughter).

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1 CUSTOMER: Well, you know, there's something to  
2 be said for company starts to stink after a -- a period  
3 of time.

4 And, you know, my wife and I retired from the  
5 military. We moved back to -- close to her hometown,  
6 built a big house so that we could entertain all the  
7 family at -- at the family gatherings, and --

8 WINDSTREAM REPRESENTATIVE: Uh-huh.

9 CUSTOMER: -- so at -- at this point, our home  
10 is where everybody gathers for the different --  
11 different gatherings.

12 WINDSTREAM REPRESENTATIVE: Uh-huh.

13 CUSTOMER: And, uh, it -- it -- I had this  
14 exact same conversation like three days ago with  
15 somebody else about cell phone issues. Um, we've become  
16 so inundated into the society with cell phone and  
17 especially the -- the "generation X" or the "me  
18 generation," whichever one you want to call it.

19 I work came upstairs two Christmases ago, and  
20 it got real quiet upstairs. I was down in my man cave  
21 watching a ballgame or whatever with my brother-in-law.  
22 It got real quiet upstairs. So I came upstairs to get  
23 myself another soft drink and to see what was going on.  
24 And my wife and her sisters and the nieces are all  
25 sitting around the -- the kitchen table texting each

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1 other.

2 WINDSTREAM REPRESENTATIVE: (Laughter). And  
3 they're sitting there texting the guy next to them.  
4 Right?

5 CUSTOMER: Exactly, and --

6 WINDSTREAM REPRESENTATIVE: Right.

7 CUSTOMER: And I -- and I go, "You got to be  
8 kidding me," you know?

9 WINDSTREAM REPRESENTATIVE: Yeah.

10 CUSTOMER: "Here's the opportunity to sit here  
11 and converse and -- and -- and enjoy each other and  
12 you're sitting there on the phone either playing a game  
13 or texting each other."

14 It just miraculous for me that that was  
15 occurring.

16 I don't have a smartphone. I got an old flip  
17 phone, and I just refuse to change to -- to the  
18 smartphone. You know, you're just on it -- my wife and  
19 daughter and everybody are just on it, you know, 24/7,  
20 and I got better and more important things to do with my  
21 life then get tied to a cell phone.

22 WINDSTREAM REPRESENTATIVE: Yeah. I've had,  
23 uh, my nieces that do that. They would go to my mom's  
24 and do that exact same thing.

25 CUSTOMER: Uh-huh.

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1 WINDSTREAM REPRESENTATIVE: And, uh, "So let's  
2 just -- let's just call each other and text each other"  
3 and --

4 CUSTOMER: Yeah.

5 WINDSTREAM REPRESENTATIVE: -- you know, and  
6 sitting in the same room.

7 CUSTOMER: Uh-huh.

8 WINDSTREAM REPRESENTATIVE: All right.

9 Now, you want this to go into effect today?

10 CUSTOMER: Well, if it can go in effect today  
11 for the next billing cycle, that would be fine.

12 WINDSTREAM REPRESENTATIVE: Yeah. Um.

13 CUSTOMER: Uh-huh.

14 WINDSTREAM REPRESENTATIVE: Well, your billing  
15 cycle started yesterday. Let me see if I can get you  
16 some credit because I know you're going to have a -- uh,  
17 this bill that's coming out has already gone to print,  
18 so I know I can't --

19 CUSTOMER: Uh-huh.

20 WINDSTREAM REPRESENTATIVE: -- change that, but  
21 I'll, um -- I'll get you some credit. So just --

22 CUSTOMER: Okay.

23 WINDSTREAM REPRESENTATIVE: -- a moment.

24 (Pause in conversation.)

25 Okay. Let me see if that's good what I wanted

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1 it to do.

2 Okay. It takes off the long distance,  
3 increase -- I -- I just increased that -- I put that \$20  
4 credit on there, so it should be -- it's going to be \$40  
5 or less --

6 CUSTOMER: Okay.

7 WINDSTREAM REPRESENTATIVE: -- for his -- for  
8 his service, and then that modem credit is an ongoing  
9 credit, but the \$20 credit is good for a year, and just  
10 give us a call back just like you did --

11 CUSTOMER: Okay.

12 WINDSTREAM REPRESENTATIVE: -- today, ask for  
13 an account specialist in the Loyalty Department. That's  
14 my department.

15 CUSTOMER: Okay.

16 WINDSTREAM REPRESENTATIVE: If --

17 CUSTOMER: All right.

18 WINDSTREAM REPRESENTATIVE: -- we're able to  
19 extend that \$20 credit, we will. Um.

20 CUSTOMER: Uh-huh.

21 WINDSTREAM REPRESENTATIVE: The regular care  
22 team cannot do that, so if you call in --

23 CUSTOMER: Yeah. I know.

24 WINDSTREAM REPRESENTATIVE: -- in, they go, "We  
25 can't do that," then, yeah, so just ask for an account

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1 specialist.

2 CUSTOMER: Okay.

3 WINDSTREAM REPRESENTATIVE: So let me -- let me  
4 get you credit, uh, for this upcoming bill.

5 Oh, let's see here.

6 Now, this may or may not show on the bill. I'm  
7 going to guess and say it will not.

8 CUSTOMER: Okay.

9 WINDSTREAM REPRESENTATIVE: So it -- it could  
10 be a regular bill, but just be aware that there will be  
11 credit sitting here --

12 CUSTOMER: All right.

13 WINDSTREAM REPRESENTATIVE: -- if it's not --  
14 if it does not appear on the bill.

15 CUSTOMER: Yeah.

16 WINDSTREAM REPRESENTATIVE: Well, let's see  
17 here. And your bill normally runs -- it normally  
18 runs -- let's give you -- yeah, let's do that.

19 (Pause in conversation.)

20 And --

21 (Pause in conversation.)

22 All right. Um, and as I said, this may or may  
23 not show on the bill, but I did put \$50 worth of credit  
24 on this account and --

25 CUSTOMER: Okay.

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1 WINDSTREAM REPRESENTATIVE: -- so you can  
2 re- -- um, subtract 50 if it is not showing on your  
3 bill.  
4 CUSTOMER: Okay. Well, I have automatic draft,  
5 so it will -- it will kick in --  
6 WINDSTREAM REPRESENTATIVE: Yeah.  
7 CUSTOMER: -- through --  
8 WINDSTREAM REPRESENTATIVE: Okay.  
9 CUSTOMER: I can't stop the auto draft --  
10 WINDSTREAM REPRESENTATIVE: It --  
11 CUSTOMER: -- once the bill hits.  
12 WINDSTREAM REPRESENTATIVE: It only draws what  
13 is due. So if --  
14 CUSTOMER: Uh-huh.  
15 WINDSTREAM REPRESENTATIVE: -- the bill is \$75,  
16 and I gave you 50 and -- and that leaves you a remaining  
17 balance of 25, it's only going to pull the adjusted  
18 balance, so --  
19 CUSTOMER: Okay.  
20 WINDSTREAM REPRESENTATIVE: Yeah.  
21 Is there anything else that I can assist you  
22 with today?  
23 CUSTOMER: No. As usual, you have been  
24 wonderful. I appreciate it. And you have a wonderful  
25 weekend.

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1 WINDSTREAM REPRESENTATIVE: Same to you, sir.  
2 Thank you for calling Windstream. You have a good  
3 weekend yourself.

4 CUSTOMER: All right. Thank you, dear.

5 WINDSTREAM REPRESENTATIVE: All right.  
6 Good-bye, sir.

7 CUSTOMER: Bye.

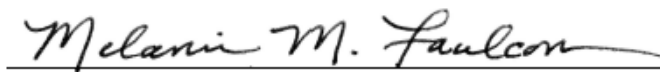
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CERTIFICATE

I, Melanie M. Faulconer, certify that the foregoing transcript is a true record of said proceedings, that I am not connected by blood or marriage with any of the parties herein, nor interested directly or indirectly in the matter in controversy, nor am I in the employ of counsel.

I have hereunto subscribed my name this 24th day of September, 2019.



MELANIE M. FAULCONER

CSR NO. 6420

[059403957 - beginning]

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[best - days]

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[husband's - okay]

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CHARTER COMMUNICATIONS	)	
HOLDING COMPANY, LLC, and	)	
CHARTER COMMUNICATIONS	)	
OPERATING, LLC,	)	Case No.
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
DIRECTV, INC.,	)	
	)	
Defendant.	)	

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’ MOTION FOR  
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

**INTRODUCTION**

Plaintiffs Charter Communications Holding Company, LLC and Charter Communications Operating, LLC (collectively, “Charter”) bring this action to enjoin a false and misleading advertising campaign initiated by Charter’s competitor, DirecTV, Inc. (“DirecTV”). DirecTV launched a national, multimedia advertising campaign that falsely states and deceptively implies that Charter’s Chapter 11 bankruptcy filing will adversely affect Charter’s customers and will result in Charter going out of business. Nothing could be further from the truth. Charter’s bankruptcy filing was the result of a pre-arranged, consensual plan of reorganization (the “Plan”) agreed to with certain of Charter’s debt holders. Charter is a thriving and growing company that entered into the Plan merely to de-leverage its balance sheet in light of the recent deteriorating conditions in the capital markets. Charter has no intention of liquidating. On the contrary, Charter’s trade creditors are continuing to receive full payment of 100 cents on the dollar in the ordinary course and Charter continues to service its customers as

usual, including by providing them with the latest technology, more High Definition (“HD”) television channels, and more exclusive programming.

DirecTV’s false and misleading advertising campaign seizes upon the fact that Charter “filed for bankruptcy” to deceive customers into thinking that the bankruptcy filing means that their cable services will be terminated or otherwise adversely affected – a contention that is utterly false, as DirecTV well knows. For example, one DirecTV ad asserts that “there’s no way” Charter will be able to provide “the latest technology, more channels in HD and new exclusive programming” to its customers because of its bankruptcy – even though Charter is continuing to do so. In addition, a number of ads claim that Charter’s customers must be “saved” from Charter’s bankruptcy, urge the customers to “get help while [they] can,” and depict DirecTV as their life-preserver or fire extinguisher – implying that Charter customers should switch to DirecTV’s competing service, because Charter is figuratively “sinking” or “going up in flames,” *i.e.*, that it is going out of business. In the context of a pre-arranged, consensual bankruptcy such as Charter’s – where there is no plan for liquidation, the business is growing, the bankruptcy case is moving forward at precedent-setting speed (Charter has already received Bankruptcy Court approval of its Disclosure Statement in support of the reorganization Plan and hearing date has been set), and all the relief required to continue business as usual has been granted, with trade creditors being paid in full – DirecTV’s advertisements are literally false, grossly misleading, cause consumer confusion, and are likely to deceive Charter’s current and prospective customers.

DirecTV’s advertising campaign constitutes false advertising under the Lanham Act, 15 U.S.C. § 1125(a), tortious interference with Charter’s contracts, tortious interference with Charter’s prospective business relationships, injurious falsehood, defamation, and violations of

various state consumer fraud and deceptive business practices laws. Despite efforts by Charter to persuade DirecTV to cease its false and misleading campaign, DirecTV persists in running demonstrably false advertisements through direct mailings, billboards, newspaper ads, and radio ads, thereby causing Charter irreparable harm. It appears DirecTV also inaugurated a personal solicitation program based on these same false messages.

This is not the first time that DirecTV has violated the Lanham Act in an advertising campaign. Just two years ago, two of the country's other major cable companies brought successful Lanham Act claims against DirecTV for false and deceptive advertising. In February 2007, the Honorable Laura Taylor Swain of the Southern District of New York entered a preliminary injunction in favor of Time Warner, holding that DirecTV's advertisements regarding the quality of the picture on cable television were false and misleading. *Time Warner Cable, Inc. v. DirecTV, Inc.*, 475 F. Supp.2d 299 (S.D.N.Y. 2007). The Second Circuit upheld that decision. *Time Warner Cable, Inc. v. DirecTV, Inc.*, 497 F.3d 144 (2d Cir. 2007). Later in 2007, the Honorable John F. Grady entered a preliminary injunction in favor of Comcast after DirecTV ran ads regarding television picture quality the court described as "obviously a misleading representation." *DirecTV, Inc. v. Comcast of Illinois III, Inc.*, No. 07 C 2568, 2007 WL 2808235, at \*2 (N.D. Ill. Aug. 15, 2007). In both instances, DirecTV's advertising was not only false, it was deliberately calculated to present the public with misleading information. DirecTV is a repeat offender. Its history of false and deceptive advertising leaves no doubt that its conduct here will continue in the absence of injunctive relief.

Charter is entitled to immediate injunctive relief because it is likely to succeed on its false advertising cause of action against DirecTV; Charter faces irreparable harm if this Court does not immediately enjoin these false advertisements; the irreparable harm to Charter outweighs any



possible financial injury to DirecTV resulting from the removal or modification of these ads; and public interest is best served by the removal of false and deceptive advertisements from the marketplace. To preserve the status quo and prevent irreparable harm to Charter, Charter requests that this Court immediately enjoin DirecTV from making any such false and deceptive claims about the effects of Charter's bankruptcy filing on its service offerings and ability to provide service to its customers. Charter also requests that this Court order the immediate removal of DirecTV's false and deceptive advertisements from the marketplace, whether written, electronic, audio, printed, or contained on DirecTV's web site.

## **I. FACTUAL BACKGROUND**

### **A. Charter and DirecTV Directly Compete to Provide Television Services.**

Charter offers analog and digital cable television services, as well as high-speed Internet and telephone services, to customers throughout the United States, including the Eastern District of Missouri. *See* Declaration of Ted W. Schremp, ("Decl. of T. Schremp") attached hereto as Exhibit 15, at ¶ 4. DirecTV is a significant competitor of Charter. *Id.* at ¶ 41. Charter and DirecTV compete directly with one another to provide television services to customers throughout the United States, including but not limited to customers located in St. Louis, Missouri. *Id.*

Charter, together with its subsidiaries and affiliates, constitutes the third largest publicly-held cable company in the United States, with approximately 5.5 million customers and 16,500 employees. *Id.* at ¶ 4. Similar to other cable companies, Charter operates through franchises granted by local or state government entities. *Id.* at ¶ 40. In the areas in the Eastern District of Missouri and elsewhere in which Charter is the franchisee, the majority of cable subscribers are Charter customers. *Id.* at ¶ 41.

**B. Charter's Bankruptcy Filings Make Clear that Charter Will Not Discontinue or Reduce Its Cable Services During Reorganization.**

Charter is a thriving and growing business, which generates significant positive cash flow before debt service and has achieved upward, favorable trends as an operating enterprise. *Id.* at ¶ 4. In the past three years, Charter has increased *pro forma* annualized revenue from approximately \$5.4 billion to approximately \$6.5 billion, and *pro forma* annualized adjusted earnings before interest, taxes, depreciation, and amortization (“EBITDA”) has grown from \$1.9 billion to approximately \$2.3 billion. *Id.* Over the past several months, recognizing the recent deteriorating capital market conditions and its significant debt load, Charter embarked on a plan to de-leverage its balance sheet to improve its already-strong competitive position. *Id.* at ¶ 8. To do so, Charter negotiated a financial restructuring with key bondholder constituencies and agreed upon a consensual, pre-arranged plan of reorganization (the “Plan”) under Chapter 11 of the Bankruptcy Code, 11 U.S.C. § 1101, *et seq.* *Id.* at ¶¶ 5 and 8.

On February 12, 2009 Charter and its subsidiaries announced that they had reached an agreement with certain Charter debt holders on the terms of a financial restructuring to reduce Charter's debt by approximately \$8 billion and raise approximately \$3 billion of capital and debt financing, and the continuation of Charter's business in the ordinary course with trade creditors receiving payment in full – 100 cents on the dollar. *Id.* at ¶ 9. To implement the restructuring, on March 27, 2009, Charter and its subsidiaries filed a voluntary, pre-arranged bankruptcy pursuant to Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York, Case No. 09-11435-jmp. *Id.* at ¶¶ 5 and 8. Charter's bankruptcy filings are publicly available online at: [www.kccllc.net/charter](http://www.kccllc.net/charter). *Id.* at ¶ 6.

Charter's bankruptcy was designed to allow Charter to continue operating as usual while it develops and implements a balance sheet restructuring that will leave its operations and the

senior portion of its capital structure intact, and while minimizing the amount of time Charter spends in Chapter 11 bankruptcy. *Id.* at ¶¶ 9-13. To that end, Charter sought and obtained authorization from the Bankruptcy Court to continue to pay its trade creditors in the ordinary course of business. *Id.* at ¶ 10. As of March 31, 2009, Charter had approximately \$836 million of cash on hand, and was producing more than \$2.5 billion of positive adjusted *pro forma* EBITDA on an annualized basis. *Id.* at ¶ 11. In addition, Charter's recent first quarter earnings release demonstrates its continued strong financials, and the release has received positive coverage in both industry press and other publications. *Id.*

Bankruptcy Court approvals and substantial available resources have permitted Charter to continue its operations without disruption during its bankruptcy, as it will do throughout that process. *Id.* at ¶ 12. Charter obtained Bankruptcy Court approval of the Disclosure Statement with respect to the Plan on May 5, 2009. *Id.* A hearing to confirm the Plan is currently scheduled for July 20, 2009. *Id.* Due to the consensual nature of the Plan, Charter's time in bankruptcy should be brief and will have no impact on Charter's ability to service its customers. *Id.*

Charter's public bankruptcy filings and its public statements have made clear that Charter is and will maintain its cable services and offerings during or after its reorganization. *Id.* at ¶¶ 12-15. Charter is not going out of business and is not reducing its services or offerings to its customers. *Id.* at ¶¶ 17-38. To the contrary, Charter has expanded its service offerings by offering additional HD channels, video on demand services, the launch of a new Internet sports service, and upgrades of its Internet service. *Id.* at ¶¶ 17-38.

**C. Charter Has Enhanced Its Services Following Its Bankruptcy Filing and Has Road Maps in Place for Continued Enhancement of Its Services.**

Charter's bankruptcy filing has not impacted its efforts to launch additional HD channels this spring and summer. *Id.* at ¶ 26. Charter is currently trialing "switched digital technology" in three markets. *Id.* at ¶ 28. This technology allows Charter to free-up additional bandwidth to allow it to launch additional HD channels and services. *Id.* Charter will expand its switched digital technology services to other markets. *Id.* Charter also launched its new NBC On Demand service on April 6, 2009, which provides its customers with NBC Primetime content accessible via On Demand. *See id.* at ¶ 24. This service was not available to Charter customers prior to Charter's March 27, 2009 bankruptcy filing. *Id.*

**D. DirecTV's Advertising Campaign is False and Misleading.**

DirecTV began its false and misleading national advertising campaign shortly after Charter filed its reorganization Plan. *See* Exhibits 1, and 3 through 10. DirecTV's advertisements state "there's no way" Charter can provide its customers with the latest technology, more channels in HD and new exclusive programming. *See id.* The ads also urge Charter's customers to switch to DirecTV to avoid the "mess" and before Charter's bankruptcy proceedings "affect" them. *Id.* Despite the above publicly-available facts regarding Charter's bankruptcy and the continuation of its operations as usual, DirecTV's advertisements falsely state and deceptively imply that Charter will not be able to provide services due to Charter's bankruptcy and that customers need to be "saved" by DirecTV from Charter's bankruptcy. *Id.* Some DirecTV advertisements use the imagery of customers needing a DirecTV life-preserver or a DirecTV fire extinguisher, implying the outright falsehood that Charter is a figurative "sinking ship" or is going up in flames. *See* Exhibits 3 through 7. True and accurate copies of DirecTV's advertisements are attached hereto as Exhibits 1, and 3 through 10.

## 1. Direct Mailers

DirecTV has sent and continues to send direct mail advertisements to Charter's customers and prospective customers that falsely state Charter will not be able to provide services due to its bankruptcy filing. The body of DirecTV's direct mail advertisements reads in part:

Dear [Charter Customer]:

It's official: Charter has filed for bankruptcy. As they focus on their problems, *there's no way they'll be able to bring you the latest technology, more channels in HD and new exclusive programming. But DIRECTV will.* So make the popular choice – join over 18 million families who have made the FREE and EASY switch to DIRECTV

...

*So instead of wondering how cable's problems will affect you, just switch to DIRECTV....*

(Emphasis added). A true and accurate redacted copy of one such advertisement is shown below. Decl. of T. Schremp at ¶ 61. Additional redacted copies of such advertisements are attached as Exhibit 1. *Id.* DirecTV is currently mailing this advertisement directly to Charter's customers in at least the following states: Connecticut, Louisiana, Michigan, Missouri, South Carolina, and Wisconsin. *See* Exhibit 1; *see also* Decl. of T. Schremp at ¶ 58.



2230 East Imperial Hwy.  
El Segundo, CA 90245

Important information about the television service in  
O Fallon

REDACTED

O Fallon, MO REDACTED

Dear REDACTED

It's official: Charter has filed for bankruptcy. As they focus on their problems, there's no way they'll be able to bring you the latest technology, more channels in HD and new exclusive programming. But DIRECTV will. So make the popular choice—join over 18 million families who have made the FREE and EASY switch to DIRECTV.

**Lock in your price for one full year and save \$21 a month.\***

Get over 150 channels for only \$34<sup>99</sup> a month.\* You'll get all your local channels\* and **3 FREE months of SHOWTIME®**. Switching is **FREE and EASY**, with no equipment to buy, no start-up costs and **FREE Professional Installation**. Plus, ask how to get a **FREE DIRECTV HD DVR Receiver** upgrade.\*

**Enjoy the best in HD,\* sports and technology:**

- **DIRECTV has the most channels in HD**—now over 130!†
- **NCAA® MEGA MARCH MADNESS,® NFL SUNDAY TICKET™** and **FREE NASCAR HotPass™**—only on DIRECTV‡
- **DIRECTV® DVR Scheduler**—set your home DVR from any cell phone or computer¹
- **100% digital picture** on every channel and Dolby® Digital 5.1 surround sound²
- **Worry-free 99.9% signal reliability**

**Get help while you can—get DIRECTV**

DIRECTV has been ranked #1 in customer satisfaction over cable 8 years running.†† So instead of wondering how cable's problems will affect you, just switch to DIRECTV. Call **1-877-912-3291** now to start getting more entertainment for your money. ††Among the largest national cable & satellite TV providers, 2000 American Customer Satisfaction Index, University of Michigan Business School.

Sincerely,

*Michael Rogers*

Michael Rogers, V.P. Marketing

**P.S. Why settle for less? Now's your chance to leave cable and get the best in TV with DIRECTV.**

**Switch now! 1-877-912-3291 or directv.com**

Offers end 7/7/09 & are based on approved credit; credit card req'd. New customers only. (Lease req'd. Must maintain programming, DVR service &/or HD Access.) Lease fee of \$5/mo. for 2nd & ea. add'l receiver. Complex/Custom installation extra. \$19.95 handling & delivery fee may apply. See add'l terms on back of letter. \*Price & savings reflected include a \$16 bill credit/mo. for 12 consecutive mos. after online or mail-in rebate, plus an add'l \$5 bill credit/mo. for 12 consecutive mos. when you register on directv.com prior to rebate redemption. Valid e-mail address & consent to receive e-mails req'd. †Among the largest national cable & satellite TV providers, 2000 American Customer Satisfaction Index, University of Michigan Business School.

**More TV. Less money.**  
Upgrade to DIRECTV now and get:

Over 150 channels for just **\$34<sup>99</sup> mo.** **FOR 12 MONTHS\***  
The CHOICE™ package

Plus, for a limited time,  
get all this:

**3 MONTHS FREE**  
28 premium movie channels.  
\$108 value!  
**HBO starz SHOWTIME**  
7 Channels 12 Channels 9 Channels  
With activation of CHOICE XTRA™ programming or higher.\*



**FREE**  
**DIRECTV® HD DVR**  
Receiver upgrade  
Ask how\*  
\$199 value!



**FREE**  
**Professional Installation**  
in up to 4 rooms

**Want to keep it simple?**

**\$29<sup>99</sup> mo.**  
**EVERYDAY LOW PRICE**  
The FAMILY™ package

301.00657456



In a further effort to confuse customers, DirecTV sent some of these mailers in envelopes that do not display DirecTV's name or logo. A true and accurate photocopy of one of these envelopes is attached as Exhibit 2; Decl. of T. Schremp at ¶ 101. The envelope only displays the address of the sender, not the sender's name or company information. Indeed, DirecTV deliberately designed the envelope to hide its status as a mere solicitation; it reads: "**Important information about the television service in [Charter customer's city].**" Exhibit 2; Decl. of T. Schremp at ¶¶ 58-60 (emphasis in original). These marketing tactics are employed typically to increase the opening rate of a mailer by conveying the impression that the mailer is "official" or otherwise critical to the customer's television service. Decl. of T. Schremp at ¶ 59.

## 2. Print Advertisements

A print advertisement ("the life-preserver print ad") published by DirecTV or on its behalf states in part:

With Charter Cable filing for bankruptcy, now's the time to save yourself.

Get help while you can. Get DIRECTV. It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, *do you really think they'll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting for Charter's bankruptcy to affect you, just switch to DIRECTV, America's #1 satellite provider.*

A true and accurate copy of the life-preserver print ad published on April 5, 2009, is below and attached as Exhibit 3 (emphasis added); Decl. of T. Schremp at ¶¶ 66 and 67.



**With Charter Cable filing  
for bankruptcy, now's the  
time to save yourself.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting for Charter's bankruptcy to affect you, just switch to DIRECTV, America's #1 satellite provider.

**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**\$34.99** <sup>150<sup>th</sup></sup>  
For 12 Months\*  
The CHOICE<sup>®</sup> Package

THE TV PACKAGE THAT BEATS CABLE

- ☒ OVER 150 Digital Channels
- 9 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** 7 Channels

**\$39.99** <sup>160<sup>th</sup></sup>  
For 12 Months\*  
The CHOICE XTRA<sup>®</sup> Package

MORE CHANNELS, MOVIES AND SPORTS!

- ☒ OVER 200 Digital Channels
- ☒ FREE DVR or HD DVR Receiver Upgrade\*
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** 7 Channels 12 Channels 9 Channels

**\$44.99** <sup>165<sup>th</sup></sup>  
For 12 Months\*  
The PLUS DVR<sup>®</sup> Package

WATCH WHAT YOU WANT. WHEN YOU WANT.

- ☒ OVER 200 Digital Channels
- ☒ FREE DVR or HD DVR Receiver Upgrade\*
- ☒ Monthly DVR Service Included
- 28 PREMIUM CHANNELS FOR 3 MONTHS
- FREE** 7 Channels 12 Channels 9 Channels

Free Next-Day Installation ■ No Equipment to Buy ■ No Start-Up Costs ■ 99.9% Digital Signal Reliability

This advertisement misleadingly instructs customers that they must “Get help *while they can*,” and depicts DirecTV as a life-preserver which can “save” Charter’s customers – thus implying that Charter is a “sinking ship” (*e.g.*, that it is going out of business). *See* Exhibit 3 (emphasis added). That is untrue – as DirecTV well knows. Likewise, the use of quotation marks around the words “restructure” implies that the term “restructure” is a euphemism for “liquidate” – again, completely false. Additional versions of this type of ad have been published by DirecTV since Charter filed for bankruptcy, including the following:

[illegible]



See Exhibit 5; Decl. of T. Schremp at ¶¶ 78 and 79; *see also*, Exhibit 4; Decl. of T. Schremp at ¶¶ 72 and 73 (an additional version of the this type of ad).

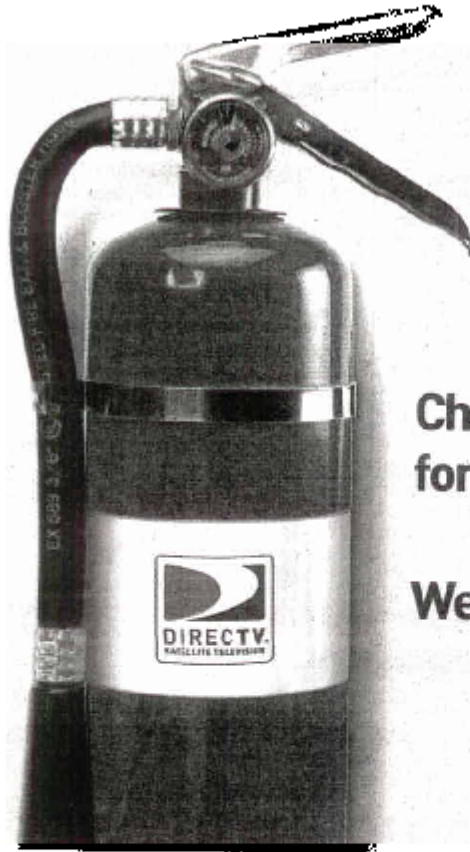
Another print advertisement (“the fire extinguisher print ad”) published by DirecTV or on its behalf states in part:

Charter Cable filed for bankruptcy. We’ll save the day.

Get help while you can. Get DIRECTV. It’s official. Charter Cable has filed for bankruptcy. And now that they’re going to be focused on trying to “restructure” their finances, *do you really think they’ll be able to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter’s bankruptcy might affect you*, just switch to DIRECTV, America’s #1 satellite TV service.

A true and accurate copy of the fire extinguisher print ad is below and attached as Exhibit 6 (emphasis added); Decl. of T. Schremp at ¶¶ 84 and 85.

This advertisement misleadingly instructs customers that they must “Get help *while they can*,” and depicts DirecTV as a fire extinguisher that will “save” Charter’s customers from Charter’s bankruptcy – implying the falsehood that Charter is going up in flames (*i.e.*, that it is going out of business). *See* Exhibit 6 (emphasis added). In addition, this advertisement again uses quotation marks around the term “restructure” to misleadingly imply that “restructuring” is not what is really occurring in Charter’s bankruptcy proceedings.



**Charter Cable filed  
for bankruptcy.**

**We'll save the day.**

**Get help while you can. Get DIRECTV.** It's official. Charter Cable has filed for bankruptcy. And now that they're going to be focused on trying to "restructure" their finances, do you really think they'll have the time to bring you the latest technology, more channels in HD or new exclusive programming? Probably not. So instead of waiting to see how Charter's bankruptcy might affect you, just switch to DIRECTV, America's #1 satellite TV service.



**LOCK IN YOUR PRICE AND SAVE \$21 PER MONTH FOR ONE FULL YEAR.**

**\$34.99** ~~\$54.99~~  
 For 12 Months! The CHOICE Package

**THE TV PACKAGE THAT BEATS CABLE**

- OVER 150 Digital Channels
- 1 PREMIUM CHANNEL FOR 3 MONTHS
- FREE** DVR (2 Channels)

**\$39.99** ~~\$69.99~~

**MORE CHANNELS, MOVIES AND SPORTS!**

- OVER 200 Digital Channels
- FREE DVR or HD DVR Receiver Upgrade\*
- 200+ CHANNELS FOR 3 MONTHS
- FREE** HD + HDX + 3D

**\$44.99** ~~\$59.99~~

**The PLUS DVR Package**

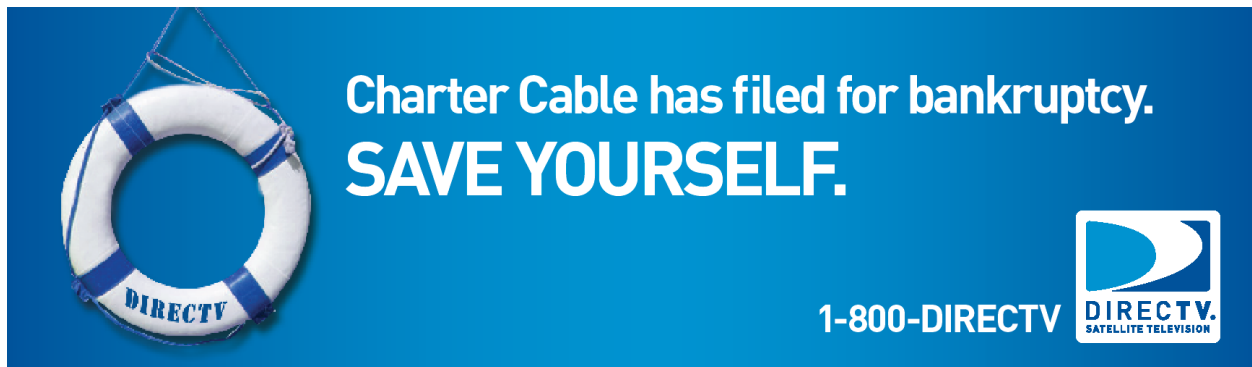
**WATCH WHAT YOU WANT WHEN YOU WANT.**

- OVER 200 Digital Channels
- FREE DVR or HD DVR Receiver Upgrade\*
- Monthly DVR Service Included



### 3. Billboard Advertisements

A billboard advertisement (“the life-preserver billboard”) published by DirecTV or on its behalf states, “Charter Cable has filed for bankruptcy. SAVE YOURSELF.” Some of these billboards are located along interstates in the St. Louis area, including two billboards located along Interstate 55 that were put up recently – after Charter sent a cease and desist letter to DirecTV. Decl. of T. Schremp at ¶¶ 90 and 91. The life-preserver billboards have been seen by countless numbers of Charter’s potential and current customers. A true and accurate copy of this billboard is shown below and is attached as Exhibit 7; Decl. of T. Schremp at ¶¶ 90-92. Similar to the life-preserver print ad, the billboards misleadingly depict DirecTV as a life-preserver to “save” Charter’s customers from Charter’s bankruptcy – thus, implying the falsehood that Charter’s bankruptcy will have severe negative consequences for its customers.



### 4. Radio Broadcasts

Radio broadcast ads were also aired in at least the St. Louis, Missouri, and Madison, Wisconsin, markets. Audio recordings of these three radio advertisements are contained on the CDs filed herewith as Exhibits 8 through 10. The DirecTV radio ad that aired in Madison, Wisconsin, states in part:

Announcer No. 1: Ok, Charter cable customers, time for some direct talk from DirecTV. *As you may know, Charter has filed for*

*bankruptcy. Uh-oh. And so now you're probably thinking "What does this mean for me? Will I miss my favorite shows? Lose my TV service? What about my HD channels?" I certainly don't know. But I do know you can avoid Charter's mess completely by switching to DirecTV. . . . So instead of waiting to see how Charter's bankruptcy will affect you, just switch to DirecTV, America's number one satellite TV service.*

. . . .

Exhibit 8 (emphasis added).<sup>1</sup>

There may be other DirecTV advertisements exploiting Charter's bankruptcy in a false and misleading way. Charter will seek all such advertisements published or aired by or on behalf of DirecTV in discovery.

**E. DirecTV Has Refused to Modify its Conduct.**

Charter attempted to resolve this matter short of a lawsuit. After being alerted to DirecTV's false and misleading advertising, Charter's counsel sent a cease and desist letter to DirecTV on April 10, 2009 seeking "to resolve this matter amicably and on a business basis, if possible." *See* Charter's April 10, 2009 Cease and Desist Letter, p. 2, attached hereto as Exhibit 11. The letter requested "that DirecTV immediately cease and desist from continuing to make any such false or misleading claims about Charter and its bankruptcy filing in its advertisements" and "immediately remove all such false or misleading claims from DirecTV's promotional materials, whether written, electronic, audio, printed, or contained on DirecTV's web site." *Id.* In response, DirecTV assured Charter it would modify its advertisements to address Charter's concerns. DirecTV's in-house counsel, Takehiko Suzuki, stated in a letter dated April 15, 2009, that "[n]evertheless, to alleviate any concerns you may have, we are in the process of modifying

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<sup>1</sup> DirecTV has aired at least two additional similar types of radio ads claiming that Charter's bankruptcy is a "mess" and is "not going to help [Charter's] customer service one bit." *See* Exhibits 9 and 10.

the print advertising (including the billboard). The new creative will be in the marketplace in short order. We believe the foregoing addresses your concerns, and as such, we consider this matter closed.” *See* Letter from DirecTV to Charter, April 15, 2009, p. 2, attached as Exhibit 12. Based on Mr. Suzuki’s promise, Charter held off filing a lawsuit until the new advertisements appeared.

DirecTV’s promise was apparently meaningless. During the week of April 27, 2009, DirecTV began directly contacting Charter’s customers through a direct mail campaign in the St. Louis area and other areas throughout the country. *See* Exhibit 1. This direct mailer contains even stronger language than the print, billboard, and radio ads, and contains statements that are in direct contrast to Charter’s publicly available bankruptcy filings. *See* Decl. of T. Schremp at ¶¶ 60-63.

**F. DirecTV’s Advertisements Have Caused and Continue to Cause Consumer Confusion and Deception Among Charter’s Current and Potential Customers.**

DirecTV’s false advertising has caused consumer confusion and deception. *Id.* at ¶¶ 49-55. Since DirecTV began its false and misleading advertising campaign, Charter customers have contacted Charter regarding the statements in DirecTV’s ads. *Id.* at ¶¶ 50-55. Charter has received inquiries from customers asking whether the bankruptcy filing will affect Charter’s ability to provide technology and programming to its customers as claimed in DirecTV’s ads. *Id.*

When a Charter customer calls Charter’s customer service line, a customer service representative (“CSR”) answers the call and sometimes makes contemporaneous notes regarding the nature and details of the call. *Id.* at ¶ 49. The following is a redacted portion of contemporaneous notes made by a CSR regarding a customer’s confusion resulting from DirecTV’s advertisement:

The following customer who received the letter from DIRECTV advising that they were losing services unless they switched due to Charter's bankruptcy. Phone Number [REDACTED]; Customer Name: [REDACTED]; Site 500, Romulus MI.

She received letter in the mail from DIRECT TV. *This letter was on DIRECT TV letterhead regarding television service in Romulus. It stated Charter has filed for bankruptcy, and you will be losing your services as a result. If you wish to avoid the interruption of service, they can call DIRECT TV to get their services switched.*

I have assured customer that is not the case, but there are other people in that market who may be receiving the same mailing. *The customer says the wording is very clear that their Charter services will be lost.*

*Id.* at ¶ 50 (emphasis added). According to other CSR notes, other Charter customers, like the customer above, have sought clarification about the statements in DirecTV's advertisements at issue and whether Charter's services will be discontinued. *Id.* at ¶¶ 53-55.

Additionally, a Charter customer of over eighteen years visited a Charter office located in Eunice, Louisiana, on April 29, 2009 to find out when Charter's office would be closing. Declaration of Telly Burnett, ("Decl. of T. Burnett") attached hereto as Exhibit 16, at ¶¶ 3-8. The customer said she received a flyer from DirecTV stating that Charter would no longer be able to provide her with service. *Id.* and Exhibit A to Decl. of T. Burnett.

Another Charter customer visited that same Charter office during the week of April 27, 2009 with questions about the effects of Charter's bankruptcy on her services. Decl. of T. Burnett at ¶¶ 14-17. This Charter customer told the Charter CSR that a DirecTV representative at a Sam's Club located in Lafayette, Louisiana, told the customer that Charter filed for bankruptcy and would no longer be able to provide her services. *Id.*

## II. LAW AND ARGUMENT

### A. The Standard for Issuing a Temporary Restraining Order and Preliminary Injunction Against DirecTV's False and Misleading Advertising.

The Lanham Act reflects Congressional intent to encourage competitors to seek injunctions as a method of combating false advertising, and injunctive relief is not to be issued reluctantly. *See Black Hills Jewelry Mfg. Co. v. Gold Rush, Inc.*, 633 F.2d 746, 753 n.7 (8th Cir. 1980) (citation omitted). The Eighth Circuit specifically recognized this intent in *Black Hills Jewelry*, stating, “under [section] 43(a), Congressional policy appears to encourage commercial companies to act as the ‘vicarious avenger’ of consumer rights. An injunction, as opposed to money damages, is no windfall to the commercial plaintiff.” *Id.* (citation omitted).

A temporary restraining order is appropriate where “immediate and irreparable injury, loss, or damage will result to the movant” if the order does not issue. Fed. R. Civ. P. 65(b). The standard for the issuance of a temporary restraining order and preliminary injunction is the same and well-established. *Jackson v. NFL*, 802 F. Supp. 226, 229 (D. Minn. 1992) (citing *Dataphase Sys., Inc. v. C.L. Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981) (en banc) (preliminary injunction); *S.B. McLaughlin & Co. v. Tudor Oaks Condominium Project*, 877 F.2d 707, 708 (8th Cir. 1989) (temporary restraining order)). This Court must weigh the following factors in determining whether to issue a temporary restraining order or preliminary injunction: (1) the probability that the movant will succeed on the merits; (2) the threat of irreparable harm to the movant; (3) the balance between this harm and any injury that granting the injunction will inflict on the non-movant; and (4) the public interest. *Id.*; *see* Fed. R. Civ. P. 65. No single factor in itself is dispositive. *Charter Commc'ns, Inc. v. Southwestern Bell Tel. Co.*, 202 F. Supp.2d 918, 928 (E.D. Mo. 2001) (citation omitted). Instead, this Court must flexibly weigh the particular circumstances to determine whether a balance of equities favors Charter requiring the Court to

intervene to preserve the status quo until the merits are determined. *See id.* (quoting *Dataphase*, 640 F.2d at 113-14).

As set forth below, each of the factors the Court must weigh in determining whether to issue a temporary restraining order and a preliminary injunction support issuance of injunctive relief.

**B. There Is a Substantial Likelihood that Charter Will Prevail on the Merits of Its False Advertising Claim Against DirecTV.**

The Lanham Act's purpose is, in part, to protect persons engaged in commerce against false advertising and unfair competition. *See* 15 U.S.C. § 1125; 5 J. THOMAS MCCARTHY, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 27:25 (4th ed. 2009). To establish a claim for false or deceptive advertising under the Lanham Act,<sup>2</sup> Charter must prove: (1) a false statement of fact by DirecTV in a commercial advertisement about its own or Charter's product; (2) the statement actually deceived or has the tendency to deceive a substantial segment of the advertisement's audience; (3) the deception is material, in that it is likely to influence the purchasing decision; (4) DirecTV caused its false statement to enter interstate commerce; and (5) Charter has been or is likely to be injured as a result of the false statement. *Southwestern Bell*, 202 F. Supp.2d at 928 (citation omitted); *see* 15 U.S.C. § 1125(a).

When weighing the first factor in determining whether to enjoin DirecTV's ad campaign – the probability that Charter will succeed on the merits – it is not necessary for the Court to determine that Charter's chances of success are more likely than not. *Dataphase*, 640 F.2d at 113-14 (rejecting the notion that a movant must show “a greater than fifty per cent likelihood” of

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<sup>2</sup> Because Charter only needs to demonstrate the probability of success on one of its claims against DirecTV, *Sensient Tech. Corp. v. SensoryFlavors, Inc.*, No. 4:08CV00336, 2008 WL 762092, at \*3 (E.D. Mo. Mar. 21, 2008), Charter limits this analysis to its claim for false advertising under the Lanham Act.



prevailing). Rather, it is sufficient to determine “that after a trial on the merits, with formal procedures and complete evidence, [Charter] has a fair chance of prevailing.” *Heartland Acad. Cmty. Church v. Waddle*, 335 F.3d 684, 690 (8th Cir. 2003) (affirming Eastern District of Missouri decision to grant preliminary injunction). Further, “[i]f the balance [of the relative hardships] tips decidedly towards the plaintiffs and the plaintiffs have raised questions serious enough to require litigation, ordinarily the injunction should issue.” *Fennell v. Butler*, 570 F.2d 263, 264 (8th Cir. 1978) (vacating and remanding an order denying preliminary injunction because the court held that “there is some possibility that an injunction may issue” despite finding “that there is no probability that the plaintiffs will succeed on the merits”); *see also*, *Universal Underwriters Serv. Corp. v. Mech. Breakdown Prot., Inc.*, No. 05-0415-CV-W-GAF, 2005 WL 1429759, at \*7-8 (W.D. Mo. June 14, 2005) (enjoining the dissemination of false statements and finding it unnecessary to engage in an exhaustive analysis of likelihood of success because “the balance of other factors tips decidedly towards” granting the injunction).

**1. DirecTV Made False Statements about Charter in Its Advertising.**

A plaintiff can establish a false statement under the Lanham Act by showing an advertisement is literally false or is likely to mislead consumers. *Time Warner*, 497 F.3d at 153. Literal falsity exists if the advertisement contains a false statement or if the advertisement’s message implicitly conveys a false message. *See Rhone-Poulenc Rorer Pharm., Inc. v. Marion Merrell Dow, Inc.*, 93 F.3d 511, 516 (8th Cir. 1996). In assessing whether a message is literally false, “a court must analyze the message conveyed in full context.” *Id.* at 516 (*quoting Castrol, Inc. v. Pennzoil Co.*, 987 F.2d 939, 946 (3d Cir. 1993)). In fact, this Court can assess the images in DirecTV’s advertisements in determining whether such advertisements are literally false. *Time Warner*, 497 F.3d at 159. If an advertisement is shown to be literally false, the second

element of a Lanham Act false advertising claim is presumed and the plaintiff need not show evidence of consumer confusion. *Id.* at 153; *Rhone-Poulenc*, 93 F.3d at 516.

The second avenue of recovery for a Lanham Act plaintiff is to show that an advertisement, while not literally false, is likely to mislead or confuse consumers. *Time Warner*, 497 F.3d at 153. An advertisement is likely to mislead or confuse if – despite the literal truth of its statements – it leaves an impression on the listener or viewer that conflicts with reality. *Id.* If an advertisement is not literally false because of its explicit statements or implicit message, a plaintiff can prevail with evidence of consumer confusion. *Id.*

**a. DirecTV's Ads Contain Literally False Statements.**

As part of its national advertising campaign directed at Charter's bankruptcy filing, DirecTV is sending direct mail advertisements to Charter's existing customers in the form of a letter from DirecTV's Vice President of Marketing, Michael Rogers. *See* Exhibit 1. The advertisements state: "It's official: Charter has filed for bankruptcy. As they focus on their problems, **there's no way they'll be able to bring you the latest technology, more channels in HD and new exclusive programming.**" *Id.* (emphasis added). The direct mailer instructs Charter's customers to switch to DirecTV because Charter's bankruptcy will affect its customers. *Id.* ("So instead of wondering how **cable's problems will affect you**, just switch to DIRECTV.").

DirecTV's statement is literally false. With respect to the latest technology, Charter recently rolled out NBC Primetime On Demand, which was not available to Charter's customers prior to March 27, 2009, the date of Charter's bankruptcy filing. Decl. of T. Schremp at ¶ 24. This service allows customers to access NBC Primetime television shows whenever the customer chooses to view them and utilizes an advanced technology. *Id.* With respect to more channels in

HD, Charter has added additional HD channels since filing for bankruptcy. *Id.* at ¶¶ 26 and 27. For example, on April 1, 2009, Charter made two additional HD channels available to its customers in the Osage Beach, Missouri, area. *Id.* at ¶ 27. The first channel made available to these customers was the HD counterpart of a standard definition feed from KOMU, a local NBC affiliate located in Columbia, Missouri. *Id.* The second channel made available was the HD counterpart of a standard definition feed from KSPR, a local ABC affiliate located in Springfield, MO. *Id.* Charter will launch additional HD channels in other areas later this spring and summer. *Id.* at ¶ 26.

Charter has also launched telephone service to additional markets and faster-speed Internet services during its bankruptcy. *Id.* at ¶ 32. For example, Charter recently launched 60 Meg Internet access, one of the fastest in the industry, utilizing recently announced “DOCSIS 3.0” technology. *Id.* DirecTV’s claim is literally false – during the bankruptcy period, Charter is providing the latest technology and adding HD television channels.

Not only are DirecTV’s statements false, they are willful. DirecTV’s conduct is all the more egregious given its status as a direct competitor of Charter. *Id.* at ¶¶ 64 and 65. It is obvious from DirecTV’s advertisements that DirecTV is monitoring Charter’s financial status. *See* Exhibits 1, and 3 through 10. As with anyone with Internet access, DirecTV could have reviewed the content and details of Charter’s bankruptcy filing online by going to [www.kccllc.net/charter](http://www.kccllc.net/charter). Decl. of T. Schremp at ¶ 6. DirecTV had public notice that Charter’s reorganization will not affect Charter’s ability to provide customers with cable services. *Id.* at ¶¶ 6 and 7. Contrary to the statements in DirecTV’s direct mailers, Charter’s services and offerings to its customers and prospective customers have not and will not decrease during the pre-arranged reorganization. *Id.* at ¶¶ 17-38. After the bankruptcy filing, Charter offered new

services to its customers using the latest technology. *Id.* at ¶¶ 21-32. DirecTV cannot maintain that its ads are innocent or mistaken or simply fail to nuance a complicated situation when it has had a plethora of easily accessible information at its fingertips that demonstrates its claims are false.

**b. DirecTV's Ads Are Literally False By Implication.**

DirecTV's advertisements are also literally false by implication. The images and words used in DirecTV's advertisements, when considered in context, deliver a false message and are likely to deceive Charter's current and prospective customers. The advertisements falsely imply that Charter's ability to provide cable services will be impaired or that Charter is going out of business. For example, DirecTV's print and billboard advertisements depict the image of DirecTV as a life-preserver or a fire extinguisher and state: "Get help *while you can*," "[w]ith Charter Cable filing for bankruptcy, now's the time to save yourself," and "Charter Cable has filed for bankruptcy. SAVE YOURSELF." *See* Exhibits 3 through 7 (emphasis added). These advertisements falsely suggest that Charter is a figurative "sinking ship" or a "burning building," *i.e.*, that it is going out of business. Moreover, DirecTV's use of quotation marks around the words "restructure" in the advertisements falsely implies that "restructure" is a euphemism for "liquidate."

Rather, Charter is a thriving and growing business, that filed a bankruptcy petition only to de-leverage its balance sheet. Decl. of T. Schremp at ¶¶ 4-15. Before filing the Petition, Charter reached a consensual, pre-arranged Plan designed to ensure that its stay in Chapter 11 would be successful and brief. *Id.* at ¶ 8. Charter will emerge from Chapter 11 an even stronger company with less of a debt burden. *Id.* at ¶¶ 8-9 and 13-15. Charter will not liquidate. *See id.* at ¶¶ 4-15. Indeed, its trade creditors are continuing to receive and will continue to receive payment in full

for their obligations. *Id.* at ¶ 10. In addition, Charter has undertaken substantial efforts to ensure that its services to its customers have been and will continue to be unaffected by its restructuring. *Id.* at ¶¶ 13-15. New service offerings and more HD channels and offerings are evidence that these efforts have been successful. *Id.* at ¶¶ 17-38.

DirecTV furthers its false message by using language and imagery suggesting harm to the consumer. DirecTV uses the phrase “save yourself” in the print advertisements and employs a life-preserver and fire extinguisher to suggest that the consumer will suffer much more than mere inconvenience if he or she stays a Charter customer. *See* Exhibits 3 through 6. These extreme words and imagery further DirecTV’s false message that Charter is either going out of business or will not be able to provide its customers with the latest technology, more HD channels, or new exclusive programming. *Id.* In fact, the advertisements specifically instruct Charter’s current customers that “instead of waiting for Charter’s bankruptcy *to affect you*, just switch to DirecTV.” *Id.* (emphasis added). A customer viewing or hearing these advertisements is likely to take away the message that Charter is either going out of business or that he or she will be adversely impacted by the recent bankruptcy filings. In fact, several customers viewing DirecTV’s ad have reached that conclusion. Decl. of T. Schremp at ¶¶ 49-55; Decl. of T. Burnett at ¶¶ 3-18. DirecTV’s advertisements are literally false because their words and images, when considered in context, imply a false message to the customer.

DirecTV’s literally false messages extend to its broadcast ads. One broadcast ad states “[d]id you know Charter just filed for bankruptcy? I’d suggest you avoid this mess altogether and switch to DirecTV.” Exhibit 9. Just like the life-preserver and fire extinguisher ads, the broadcast ad employs words that suggest the customer will be harmed by Charter’s restructuring. Another DirecTV broadcast ad claims that the bankruptcy proceedings are “not going to help

[Charter's] customer service one bit." Exhibit 10. These assertions are not based in fact and convey false messages that are likely to mislead the consuming public by falsely asserting that the quality of Charter's services will decrease as a result of the bankruptcy proceedings. In reality, Charter's services have not decreased and Charter will further enhance its service offerings going forward. Decl. of T. Schremp at ¶¶ 17-38.

Implicit messages in advertisements, such as the ones used by DirecTV's ongoing ad campaign may be literally false. *See Rhone-Poulenc*, 93 F.3d at 516 (affirming a permanent injunction for false advertising under the Lanham Act where the implicit message of a competitor's advertisement, when conveyed in full context, was literally false). A statement may be literally false by implication if the intended audience would recognize the claim "as readily as if it had been explicitly stated." *Medtox Scientific, Inc. v. Tamarac Med., Inc.*, No. 06-3546, 2007 WL 37793, at \*2-3 (D. Minn Jan. 4, 2007) (citation omitted) (granting preliminary injunction, after temporary restraining order expired, for statements in advertisement that were false by necessary implication). In fact, when an implicit message is literally false, the issue becomes one of remedy. *Rhone-Poulenc*, 93 F.3d at 516. Thus, the central message conveyed by the words and images in DirecTV's ads is literally false and must be remedied by this Court.

## **2. DirecTV's Advertisements Are Likely to Deceive Customers.**

When an advertisement is shown to be literally false, consumer deception is presumed, and relief may be granted without reference to the advertisement's actual impact on the buying public. *Id.*; *Time Warner*, 497 F.3d at 153. Even if not literally false, willful and bad faith statements are presumed to deceive. *Porous Media Corp. v. Pall Corp.*, 110 F.3d 1329, 1337 (8th Cir. 1997). As set forth above, DirecTV's advertisements are literally false, both by their explicit statements and by implicit messages. They are also willful. Thus, this second element



for a cause of action under the Lanham Act for false advertising is presumed. *Id.*; *Rhone-Poulenc*, 93 F.3d at 516; *Porous Media*, 110 F.3d at 1337; *Time Warner*, 497 F.3d at 153.

Charter need not present a survey evidencing confusion when seeking immediate injunctive relief. *Abbott Labs. v. Mead Johnson & Co.*, 971 F.2d 6, 15 (7th Cir. 1992) (reversing district court denial of preliminary injunction and noting that “full-blown consumer surveys to prove actual consumer confusion . . . are not required at the preliminary injunction stage”). The Court may grant the injunctive relief requested without considering whether consumers are likely to be deceived, confused, or misled by DirecTV’s advertisements. But there should not be any issue on this point – Charter has evidence of *actual* consumer confusion as set forth above in Section I, Subsection F. Not only is the buying public likely to be deceived by DirecTV’s ad campaign directed at Charter’s bankruptcy filings, Charter has cited to several instances when its existing customers have been and continue to be deceived by DirecTV. For these reasons, Charter is likely to prevail on its claims under the Lanham Act and DirecTV should be enjoined from continuing to run its advertising campaign regardless of whether DirecTV’s advertisements are deemed literally false.

**3. DirecTV’s False Advertisements are Likely to Influence the Purchasing Decision of Customers.**

DirecTV’s advertisements are targeted at Charter’s customers and prospective customers of both Charter and DirecTV. In fact, DirecTV instructs Charter’s customers: “instead of wondering how cable’s problems *will affect you*, just switch to DIRECTV.” Exhibits 1 and 3 (emphasis added). Charter and DirecTV directly compete to provide television services to customers throughout the United States. Decl. of T. Schremp at ¶ 41. The competition among television service providers is high. *Id.* at ¶ 42; *see also Time Warner*, 497 F.3d at 149. This is especially true in light of the limited number of television service provider options for customers

and because customers typically subscribe to only one subscription television service provider at a given time. *Id.* at 41-44. The acquisition of a customer by any one subscription television service provider likely eliminates a potential or current customer for all competing subscription television service providers. *Id.* at ¶ 43. Likewise, the loss of a customer or potential customer by any subscription television service provider is likely a gain for a competing subscription service provider. *Id.* at ¶ 44.

These advertisements are material to customers' purchasing decisions. If Charter customers believe Charter is going out of business, they may very well decide to buy television services elsewhere. The intent of the DirecTV advertising campaign is to convince the viewer that Charter's bankruptcy proceedings would negatively affect its services and drive those customers to DirecTV. *Id.* at ¶ 45. In fact, Charter has evidence that several customers have contacted Charter regarding the continuation of its services due to DirecTV's false and deceptive assertions in its advertising. *Id.* at ¶¶ 49-55; Section I, Subsection F.

DirecTV's deception is material, in that it is likely to influence customers' purchasing decisions. *See Southwestern Bell*, 202 F. Supp.2d at 930 (citation omitted) (finding a false advertisement of a direct competitor likely to influence customers' purchasing decisions). Because DirecTV's advertisements at issue are material to the purchasing decision, this element of Charter's false advertising claim is met and DirecTV should be ordered to cease its false ad campaign.

#### **4. DirecTV's False Advertisements Entered Interstate Commerce.**

There should be no dispute on this point. DirecTV is engaged in a national advertising campaign. DirecTV has sent direct mailings, published print ads and billboards, and broadcast radio ads containing false and misleading statements. *See Exhibits 1, and 3 through 10.*

DirecTV continues to aggressively implement its false and misleading advertising campaign in various states, including but not limited to Connecticut, Illinois, Louisiana, Michigan, Missouri, Nevada, South Carolina, and Wisconsin. *See* Decl. of T. Schremp at ¶ 57; *see generally* 15 U.S.C. §1125(a); *Laurel Capital Group, Inc. v. BT Fin. Corp.*, 45 F. Supp.2d 469, 477-80 (W.D. Pa. 1999).

**5. Charter Has Been or Is Likely to Be Injured as a Result of DirecTV's False Advertising.**

“[I]njury is presumed when a Lanham Act plaintiff shows that the defendant's statements are literally false.” *Medtox Scientific*, 2007 WL 37793, at \* 4. If DirecTV's advertisements are literally false, injury to Charter is presumed. *Id.*; *Time Warner*, 497 F.3d at 149, 161-62.

Even if the Court does not presume injury or the likelihood of injury, this element is met. Injury under the false advertising prong of the Lanham Act can be shown either by direct diversion of sales from Charter to DirecTV or by loss of goodwill associated with Charter's products.

[A]ctual damages under section 35(a) can include: profits lost by the plaintiff on sales actually diverted to the false advertiser, profits lost by the plaintiff on sales made at prices reduced as a demonstrated result of the false advertising, the costs of any completed advertising that actually and reasonably responds to the defendant's offending ads, and quantifiable harm to the plaintiff's good will, to the extent that completed corrective advertising has not repaired that harm.

*Alpo Petfoods, Inc. v. Ralston Purina Co.*, 997 F.2d 949, 954 (D.C. Cir. 1993) (citation omitted).

As detailed above, Charter and DirecTV directly compete to provide television services to customers. Decl. of T. Schremp at ¶ 41. Customers typically use one service provider or another at a given time. *Id.* at ¶ 42. If Charter's customers believe DirecTV's false and deceptive messages in its advertisements, they likely will switch to DirecTV.

Additionally, Charter's goodwill associated with its television services and its ability to provide television services to customers will be damaged if an injunction is not granted. "The goodwill of a company is an intangible business value which reflects the basic human tendency to do business with a merchant who offers products of the type and quality which the customer desires and expects." *Porous Media*, 173 F.3d at 1121-23. If customers viewing or hearing DirecTV's advertisements believe that Charter is going out of business or that its services are going to decline because of the bankruptcy proceedings, they may choose to take their business elsewhere resulting in a loss of goodwill to Charter. For these reasons, Charter is likely to be injured as a result of DirecTV's advertising.

**C. Absent a Temporary Restraining Order and Preliminary Injunction, Charter Faces a Threat of Immediate and Irreparable Harm.**

Charter easily meets the second requirement for obtaining injunctive relief. It will face irreparable injury through damage to its reputation and loss of customers unless the Court enjoins DirecTV from running its false advertisements.

Where, as here, a plaintiff has made a showing of likelihood of success under the Lanham Act, irreparable harm is presumed. *Southwestern Bell*, 202 F. Supp.2d at 929 (citation omitted); *Alternative Pioneering Sys., Inc. v. Direct Innovative Prods., Inc.*, 822 F. Supp. 1437, 1444 (D. Minn. 1993) ("[I]rreparable harm is presumed for purposes of a preliminary injunction motion on a false advertising claim once the moving party establishes a likelihood that the disputed [advertisements] are false."). When injunctive relief is sought under the Lanham Act, the finding of a tendency to deceive also satisfies the requisite showing of irreparable harm. *See Black Hills Jewelry*, 633 F.2d at 753 ("To obtain an injunction under section 43(a) appellees need only show that the falsities complained of had a tendency to deceive."). Charter has shown a likelihood of

success on the merits and that DirecTV's ads have a tendency to deceive; therefore, irreparable harm to Charter is presumed. *Id.*

Even if the presumption did not apply, Charter can demonstrate irreparable harm. Decl. of T. Schremp at ¶¶ 40-55; *Time Warner*, 475 F. Supp.2d at 308 (*rev'd on other grounds*); see *Southwestern Bell*, 202 F. Supp.2d at 930; *Coca-Cola Co. v. Tropicana Prods., Inc.*, 690 F.2d 312, 316-17 (2d Cir. 1982) (*abrogated on other grounds*) (holding that the fact that plaintiff and defendant were direct competitors would make it likely that the defendant's false advertising would cause the plaintiff to lose customers and suffer an irreparable injury). And once these customers leave Charter, the costs associated with switching disincentivizes them to return. Decl. of T. Schremp at ¶ 46. DirecTV customers may have to lease a satellite dish and new receivers. *Id.* In addition, the discounts DirecTV offers in the very advertisements at issue here are contingent on the customer buying DirecTV service for a certain number of years. *Id.* at ¶¶ 46 and 47. The offer contained in the life-preserver ad, for example, is contingent on a two-year commitment by the customer. Exhibits 4 and 5. This Court has held that under similar circumstances, "measuring which customers have been lost and calculating money damages to compensate for them would not be possible with any degree of accuracy," warranting injunctive relief. *Southwestern Bell*, 202 F. Supp.2d at 930. The heightened potential for irreparable harm and difficulty in ascertaining actual damages warrants injunctive relief. *Id.*

**D. The Harm to Charter if Equitable Relief Is Denied Outweighs any Harm to DirecTV if the Requested Relief Is Granted.**

The balance of harm weighs strongly in favor of issuing a temporary restraining order and preliminary injunction. The relative inquiry, the threat to each party's rights in the absence or presence of equitable relief, favors Charter. *Baker Elec. Co-op, Inc. v. Chaske*, 28 F.3d 1466, 1472-73 (8th Cir. 1994). As made clear above, DirecTV has already caused Charter irreparable

harm by creating customer confusion. That damage, in the form of possible loss of customers and money to correct DirecTV's advertising will continue. *Time Warner*, 475 F. Supp.2d at 305, n.3. In contrast, the potential "harm" to DirecTV is merely the cost of removing these specific ads during the period of the injunction. *Comcast*, 2007 WL 2808235 at \*3.

One need only look to *Time Warner* and *Comcast* for a demonstration of how the equities come out here. Just as here, in those cases DirecTV engaged in false and misleading national advertising campaigns deliberately designed to create customer confusion. In *Time Warner*, the district court held that the fact that Time Warner had established a likelihood of success was, standing alone, sufficient to meet the required balancing of harm. *Time Warner*, 475 F. Supp.2d at 305 n.3. In *Comcast*, the district court held that the balance of harm favored Comcast because the irreparable harm to Comcast, including a lack of remedy at law, outweighed the harm DirecTV would suffer in not being able to run specific advertisements during the period the injunction ran. *Comcast*, 2007 WL 2808235 at \*3.

This case is no different, particularly given the limited nature of the relief Charter is requesting. Charter requests only that the Court enjoin DirecTV from further printing, airing, or otherwise using its advertisements directed at Charter's bankruptcy proceedings and removing all such existing advertisements. During the injunction, DirecTV is free to conduct business and compete with Charter – it certainly has many other advertisements at its disposal. However, it may not run advertisements that are false or deceptive. This narrow relief will be of little harm to DirecTV. Without it, however, Charter will suffer injury resulting from potential loss of current and prospective customers to DirecTV's services, as well as a potential loss of goodwill associated with Charter's reputation. This factor heavily favors granting the requested relief.



**E. Public Interest Will Be Best Served by Granting the Temporary Restraining Order.**

Public interest favors enjoining false statements. *Surdyk's Liquor, Inc. v. MGM Liquor Stores, Inc.*, 83 F. Supp.2d 1016, 1028 (D. Minn. 2000). In fact, “the public policy favors truth in advertising, so this factor must, of necessity, follow the determination that Charter is likely to succeed on the merits.” *Southwestern Bell*, 202 F. Supp.2d at 930. Because Charter has shown that it is likely to succeed on the merits of its false advertising claim against DirecTV, public policy favors an injunction. *Id.*

There is a significant societal interest in safeguarding businesses from unfair competitive practices. Indeed, Section 43(a) of the Lanham Act was “designed to protect the right of the consumer to be told the truth.” 5 J. THOMAS MCCARTHY, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 27:25 (4th ed. 2009). The public is entitled to rely on the truth when deciding which television service provider to use. The public will ultimately benefit from having access to accurate information in the marketplace so that customers can make untainted decisions regarding competing products and services. No restraint of trade or other impact harmful to public policy will result if the Court enjoins DirecTV’s false advertising. Considerations of the public interest weigh in favor of granting the requested relief, especially in light of the significant public interest in preserving and fostering fair business practices.

**CONCLUSION**

WHEREFORE Plaintiffs Charter Communications Holding Company, LLC and Charter Communications Operating, LLC request that this Court grant a temporary restraining order and a preliminary injunction enjoining DirecTV, Inc. from publishing or airing false and misleading advertisements directed at Charter’s recent bankruptcy filing. For the foregoing reasons, Charter respectfully requests that the Court enter the Proposed Order filed herewith against DirecTV.

Respectfully submitted,

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Attorneys for Plaintiffs

Charter Communications Holding Company, LLC,

and Charter Communications Operating, LLC

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a copy of the foregoing Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction was served upon the following individual via e-mail on May 11, 2009:

Takehiko Suzuki, Esq.  
2230 East Imperial Highway  
El Segundo, CA 90245  
Vice President and Associate General Counsel of DirecTV, Inc.

The undersigned counsel further certifies that a copy of the foregoing Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction was served upon the following entity via hand delivery on May 11, 2009:

CSC - Lawyers Incorporating Service Company  
221 Bolivar  
Jefferson City, MO 65101  
Registered Agent for DirecTV, Inc.

/s/ Dean L. Franklin \_\_\_\_\_

Message

**From:** Chancey, Rafael [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=940F85CA01DB41BE823517C3FCEE7523-C]  
**Sent:** 5/13/2019 8:54:36 AM  
**To:** DL-EnterpriseARMgmtReporting [dl-enterprisearmgmtreporting@charter.com]; Moone, Rhonda [rhonda.moone@charter.com]; Hill, Kelly [kelly.hill@charter.com]  
**CC:** Colindres, Sergio G [sergio.colindres@charter.com]; Martinez, Sandra G [sandra.martinez@charter.com]  
**Subject:** RE: ETS Soft Disco Completed-Enter Hard Disco on 5-02-19 for L-TWC, CHARTER & BHN  
**Attachments:** COMPLETED L-TWC & CHARTER & ICOMS Hard Disco Enter on 5-02-19.xlsx; image002.png; image003.png  
**Importance:** High

Hello All,

Completed 5/02 hard disco report is attached.

Thank you.



**Rafael Chancey** | Enterprise AR Analyst I | 210-510-3852  
1900 Blue Crest Lane | San Antonio, TX 78247  
Available: Monday Thru Friday: 7am-4pm CST

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**From:** Colindres, Sergio G  
**Sent:** Wednesday, May 1, 2019 12:44 PM  
**To:** White, Brandi S <Brandi.White@charter.com>  
**Cc:** Martinez, Sandra G <Sandra.Martinez@charter.com>; Moncada, Lisa <Lisa.Moncada@charter.com>; Payton, Irma Y <Irma.Payton@charter.com>; Ybarra, Erik J <Erik.Ybarra@charter.com>; Bosquez, Rosa R <Rosa.Bosquez@charter.com>; Delarosa, Crystal <Crystal.Delarosa1@charter.com>; DL-EnterpriseARMgmtReporting <DL-EnterpriseARMgmtReporting@charter.com>; Bickley, Cynthia <Cynthia.Bickley@charter.com>; Moone, Rhonda <Rhonda.Moone@charter.com>; Hill, Kelly <Kelly.Hill@charter.com>; Chancey, Rafael <Rafael.Chancey@charter.com>  
**Subject:** ETS Soft Disco Completed-Enter Hard Disco on 5-02-19 for L-TWC, CHARTER & BHN

Brandi, attached are accounts that ETS Soft Disco completed on 4/23/19. Please enter Hard Disco for the accounts on 5/02/19. Rafael returns on 5/8/19 and if you have any left he can assist upon his return. Any question let us know. Reply when completed.

Thank You



**Sergio Colindres** | Ent Acct Receivable SR Lead Analyst II | 210.582.9562  
1900 Blue Crest Lane | San Antonio, TX 78247

Message

**From:** Ingram, Jennifer S [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6A581ED699954238A64EEE47999A3602-I]  
**Sent:** 2/25/2019 8:44:05 AM  
**To:** Kim, Amy H [amy.kim@charter.com]; Bury, Matt [matt.bury@charter.com]  
**Subject:** RE: Windstream plan  
**Attachments:** 2019-02-19 General Market Residential Monthly Marketing Activity February 2019.pptx; image003.png; image004.png; image005.png

See page 33 for what Resi is doing in Louisville. Kelly is wanting to use this same kind of approach with Windstream. I'd say that Allison Novasel, Jen Smith, Jason Barone would be the best folks to partner with on this for Windstream. Now that they're back in the office today...



Jennifer Ingram | Vice President, SMB Marketing | 203.428.0566  
400 Atlantic Street, 9<sup>th</sup> Floor | Stamford, CT 06901

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**From:** Kim, Amy H  
**Sent:** Monday, February 25, 2019 9:04 AM  
**To:** Ingram, Jennifer S <Jennifer.Ingram@charter.com>; Bury, Matt <Matt.Bury@charter.com>  
**Subject:** RE: Windstream plan

Hi

Let us know when you have more info. Everything I've read said that they can pay off the \$330M debt but that they would have to go into Chapter 11 to do it, but nothing is firm.

If there are 235K Resi HP, Business might be 20-40K in the Windstream overlap – I can start looking into this unless you already have this data.

I don't believe we break out any specific Windstream segments today but we could evaluate:

- **DR:** Email/DM segmentation with Windstream messaging – may not be worth the size or get too expensive to break out
- **Media:** An ROP? - But with Resi combined? Customizing Radio with Windstream messaging, maybe in DJ live read?
- **Digital:** Don't think there is anything on the site but for SEM – maybe competitive terms on Windstream for a period of time, although we don't have any digital assets
- **Sales enablement:** Talking points or SS – we can see what the sales team may want

Thanks,  
Amy



Amy Kim | Sr. Director of Marketing | 203.705.0858  
400 Atlantic St | Stamford, CT 06901



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**From:** Ingram, Jennifer S  
**Sent:** Friday, February 22, 2019 6:35 PM

**To:** Kim, Amy H <[Amy.Kim@charter.com](mailto:Amy.Kim@charter.com)>; Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Subject:** Windstream plan

Hi -

Please see the string below. Let's discuss how we want to leverage this opportunity and message in SMB.

The Resi team has been working on something similar — developing Google Fiber messaging and an associated marketing plan (e.g., Google Fiber is leaving St Louis, don't be left out in the cold, Leave Google Fiber before they leave you, etc). I think we can leverage some of the thinking that's already been done.

Thanks,  
Jennifer

Begin forwarded message:

**From:** "Obermeyer, Jim" <[Jim.Obermeyer@charter.com](mailto:Jim.Obermeyer@charter.com)>  
**Date:** February 22, 2019 at 3:08:33 PM EST  
**To:** "Kantrowitz, Amy" <[Amy.Kantrowitz@charter.com](mailto:Amy.Kantrowitz@charter.com)>, "Bury, Matt" <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>, "Ingram, Jennifer S" <[Jennifer.Ingram@charter.com](mailto:Jennifer.Ingram@charter.com)>  
**Subject:** Fw: Windstream may be headed for bankruptcy

FYI

Jim Obermeyer

---

**From:** Atkinson, Kelly C  
**Sent:** Friday, February 22, 2019 2:43 PM  
**To:** Leonard, Joe; Obermeyer, Jim; Noonan, Chris; Peters, Sharon; Kumar, Rohan; Novasel, Allison J  
**Subject:** FW: Windstream may be headed for bankruptcy

Ok folks —

Let's look at these markets and how we can push on switch messaging in these areas. Similar to Google efforts.

thx



Kelly Atkinson | Head of Marketing, Consumer & SMB | 203.658.4477  
400 Atlantic Street, 9th Floor | Stamford, CT 06901

---

**From:** Andreski, David <[David.Andreski@charter.com](mailto:David.Andreski@charter.com)>  
**Sent:** Friday, February 22, 2019 1:18 PM  
**To:** Dardis, Keith <[Keith.Dardis@charter.com](mailto:Keith.Dardis@charter.com)>; Atkinson, Kelly C <[Kelly.Atkinson@charter.com](mailto:Kelly.Atkinson@charter.com)>; Niles, Scott R <[Scott.Niles@charter.com](mailto:Scott.Niles@charter.com)>; Hargis, Jonathan <[jon.hargis@charter.com](mailto:jon.hargis@charter.com)>  
**Subject:** Fwd: Windstream may be headed for bankruptcy

Per Jon's previous email attached are the DMA HP and estimated Windstream subs.



We have seen them upgrading with fiber to many competitive areas. This bankruptcy issue would slow their expansion down

Sent from my iPhone

Begin forwarded message:

**From:** "Andreski, David" <David.Andreski@charter.com>  
**Date:** February 20, 2019 at 8:36:16 AM EST  
**To:** "Hargis, Jonathan" <jon.hargis@charter.com>  
**Subject:** FW: Windstream may be headed for bankruptcy

Windstream dropped 60% in trading yesterday down to \$1.3

We estimate there are 235k Windstream Internet subscribers in our footprint as of 3Q18. Below are their largest markets (>=5k Internet subs)

**3Q18 Internet Subs in Charter Footprint**

DMA	Charter HP	Total Windstream
Lexington, KY	428	
Cleveland et al, OH	1,594	
Charlotte, NC	1,225	
Lincoln et al, NE	227	
Greensboro et al, NC	780	
Columbus, OH	1,042	
Louisville, KY	631	
Chattanooga, TN	139	
Charleston et al, WV	98	

**From:** Libretti, Brian J  
**Sent:** Monday, February 18, 2019 2:57 PM  
**To:** Schofield, Braddock A <Braddock.Schofield@charter.com>; Hellriegel, Scott <Scott.Hellriegel@charter.com>; Mason, Paula J <Paula.Mason@charter.com>  
**Cc:** Evelt, Erica <Erica.Evelt@charter.com>; Burns, Dennis G <Dennis.Burns@charter.com>; Wacker, Christopher T <Christopher.Wacker@charter.com>; Land, Jason S <Jason.S.Land@charter.com>; Wurst, Mike <Mike.Wurst@charter.com>  
**Subject:** Windstream may be headed for bankruptcy

**Windstream Woes: Hedge Fund Prevails in Bond Fight**

2/18/19

Windstream may be headed for bankruptcy -- or at least back to court to prevent it -- following a court ruling late Friday that said the company defaulted on its debts in 2015.

At issue was whether the carrier's bond provisions allowed it to spin off its Windstream Services subsidiary into a real estate investment trust (REIT) called Uniti Group -- a transaction that happened in 2015.

Light Reading reported on Windstream's plan back then. The carrier wanted to put its physical network assets — like its copper and fiber distribution networks — into a REIT, with the communications service providers using those assets as "tenants." The arrangement would give Windstream a way to reduce its debt, cut its dividend and, the company said, move more quickly to expand its broadband footprint.

**The hedge fund Aurelius Capital Management, a major holder of Windstream bonds, said that Windstream violated the condition of its bonds by forming the REIT.**

If the courts agree, the violation of the bond indentures that Aurelius has called out would trigger **a provision in the bond that makes the entire amount of the note, plus interest, due immediately.**

Unless it wins in appeal, **Windstream could be stuck owing more than \$310 million.** Windstream, which has more than 1,000 SD-WAN corporate customers and more than 1.4 million residential and small business broadband users, has a market capitalization of about \$144.7 million as of Friday afternoon.

The ruling spells it out: "And given that, Aurelius is entitled to a money judgment in the amount of the Notes it holds plus interest. **That figure, about which there is no dispute, is \$310,459,959.10, with an additional \$61,347.50 per day in interest after July 23, 2018.**"

US markets are closed today but when they open on Tuesday, Windstream shares are in for a ride.

Windstream shares closed on Friday up \$0.21 (6.65%) to \$3.37. In after-hours trading on Friday evening, the company's shares had fallen \$1.92 (56.97%) to \$1.45.

Shares of Uniti, the REIT that Windstream formed, closed up \$0.51 (2.62%) to \$19.98 in normal trading, and then quickly fell \$5.99 (29.98%) to \$13.99 in after-hours trading on Friday.

**Charter**  
COMMUNICATIONS

Brian Libretti | Manager, Market Intelligence | (203) 428-0749  
400 Atlantic Street | Stamford, CT 06901

Message

**From:** Novasel, Allison J [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=46CECD98CF794F15A101C470825D5D87-N]  
**Sent:** 2/28/2019 8:00:37 AM  
**To:** Smith, Jennifer L [jennifer.smith@charter.com]  
**Subject:** RE: Operation Windstream  
**Attachments:** image001.png

Jon wants print/radio like Google. Maybe Jim didn't brief her? Or didn't know more than that Jon wanted?

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**From:** Smith, Jennifer L  
**Sent:** Thursday, February 28, 2019 9:00 AM  
**To:** Novasel, Allison J <Allison.Novasel@charter.com>  
**Subject:** Re: Operation Windstream

Why is she asking for this?

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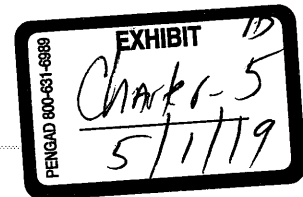
**From:** Novasel, Allison J  
**Sent:** Thursday, February 28, 2019 7:57:36 AM  
**To:** Kantrowitz, Amy; Noonan, Chris; Romano, Len; Barone, Jason; Smith, Jennifer L; Blechner, Sarah  
**Cc:** Stamos, Amy E; Macchia, Tony J; Ramos-Marcano, Luis S; Obermeyer, Jim  
**Subject:** RE: Operation Windstream

Here's what I know:

- Direct Mail is a for sure – we'll be including in the 4/22 drop, but there are rumors (unconfirmed) of incremental to hit sooner
  - We just got the agency started – no creative to share yet
- The only input re: messaging is that, while in tone it should be like Google, we can't say things like "abandoned" or "going away" – just because they declared Chapter 11 doesn't mean they won't re-org and stay in business
  - So the goal is to create doubt. Joe was thinking of lines like "Now's the time to switch" or "Worried about Windstream?"
- There is overlap with multiple "offer areas" so we will leveraging both the AT&T gig offer and the Google/Allo \$59 DP (version for each)

That's all I've got

Thanks!



---

**From:** Kantrowitz, Amy  
**Sent:** Thursday, February 28, 2019 8:49 AM  
**To:** Noonan, Chris <chris.noonan@charter.com>; Romano, Len <len.romano@charter.com>; Novasel, Allison J <Allison.Novasel@charter.com>; Barone, Jason <Jason.Barone@charter.com>; Smith, Jennifer L <jennifer.smith@charter.com>; Blechner, Sarah <Sarah.Blechner@charter.com>  
**Cc:** Stamos, Amy E <Amy.Stamos@charter.com>; Macchia, Tony J <Tony.Macchia@charter.com>; Ramos-Marcano, Luis S <Luis.Ramos-Marcano@charter.com>; Obermeyer, Jim <Jim.Obermeyer@charter.com>  
**Subject:** Operation Windstream

Morning,

Sorry if any of this has already been discussed...I'm catching up on this now.

If you have an update on the following, please send to me ASAP this morning.

Media: Markets? Mediums? Timing and specs?

Creative: Messaging points? Anything approved? Please send DM or any other pieces created.

Thanks  
AK



Amy Kantrowitz | Senior Director, Marketing & Creative Strategy | 203.905.7885  
400 Atlantic Street 9<sup>th</sup> Floor | Stamford, CT 06901

Message

**From:** Ingram, Jennifer S [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6A581ED699954238A64EEE47999A3602-I]  
**Sent:** 3/11/2019 4:42:14 PM  
**To:** Bury, Matt [matt.bury@charter.com]  
**Subject:** RE: SMB Monthly Marketing Review - is Sharon Peters on the meeting invite and distribution?  
**Attachments:** image001.png; image002.jpg

Hi Matt -

Was just thinking that we should add Sharon to the invite and distribution for the meeting as well - if she's not already there. And at some point we may want to ask Victoria for help too - looks like the meeting is growing!

Thanks,  
Jennifer



Jennifer Ingram | Vice President, SMB Marketing | 203.428.0566  
400 Atlantic Street, 9<sup>th</sup> Floor | Stamford, CT 06901

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**From:** Ingram, Jennifer S  
**Sent:** Monday, March 11, 2019 8:31 AM  
**To:** Bury, Matt <Matt.Bury@charter.com>  
**Subject:** Fwd: SMB Monthly Marketing Review

Hi Matt-

Would you please add Kelly to the monthly meeting invite and the distribution?

Thanks,  
Jennifer

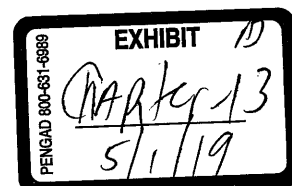
Begin forwarded message:

**From:** "Atkinson, Kelly C" <Kelly.Atkinson@charter.com>  
**Date:** March 8, 2019 at 7:14:22 PM EST  
**To:** "Ingram, Jennifer S" <Jennifer.Ingram@charter.com>  
**Cc:** "Leonard, Joe" <Joe.Leonard@charter.com>, "Bury, Matt" <Matt.Bury@charter.com>, "Kim, Amy H" <Amy.Kim@charter.com>, "Peters, Sharon" <Sharon.Peters@charter.com>  
**Subject:** RE: SMB Monthly Marketing Review: March

Very nice! I also believe that this information is extremely helpful for sales teams.

I would like to mirror for general market and multicultural.

Sharon/Joe lets discuss.





Kelly Atkinson | Head of Marketing, Consumer & SMB | 203.658.4477  
400 Atlantic Street, 9th Floor | Stamford, CT 06901

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**From:** Ingram, Jennifer S <[Jennifer.Ingram@charter.com](mailto:Jennifer.Ingram@charter.com)>  
**Sent:** Thursday, March 07, 2019 12:27 PM  
**To:** Atkinson, Kelly C <[Kelly.Atkinson@charter.com](mailto:Kelly.Atkinson@charter.com)>  
**Cc:** Leonard, Joe <[Joe.Leonard@charter.com](mailto:Joe.Leonard@charter.com)>; Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>; Kim, Amy H <[Amy.Kim@charter.com](mailto:Amy.Kim@charter.com)>  
**Subject:** SMB Monthly Marketing Review: March

Hi Kelly -

The SMB Marketing team hosts an "SMB Monthly Marketing Review" call for the SMB Sales teams and business partners, and we thought you might find this content helpful. The primary purpose of the call is educational -- to inform the Sales teams and business partners regarding marketing that's coming up in next month. By being better informed of the messages that will be in the market, we believe the Sales teams can be more confident and better able to leverage this content in their sales pitches as they deem appropriate.

Matt Bury hosts the call along with the members of the SMB team, and we'll include you on both the invite and the summary distribution. See below for the content that was discussed on the Feb 28<sup>th</sup> call.

Thanks,  
Jennifer

<< File: SB Monthly Marketing Update 03-Mar 2019.pdf >>

Jennifer Ingram | Vice President, SMB Marketing | 203.428.0566  
400 Atlantic Street, 9<sup>th</sup> Floor | Stamford, CT 06901

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**From:** Bury, Matt  
**Sent:** Thursday, February 28, 2019 11:22 AM  
**To:** Gonzalez, Imelda <[Imelda.Gonzalez1@charter.com](mailto:Imelda.Gonzalez1@charter.com)>; Lundstrom, Audrey L <[Audrey.Lundstrom@charter.com](mailto:Audrey.Lundstrom@charter.com)>; Franzen, Matthew K <[Matthew.Franzen@charter.com](mailto:Matthew.Franzen@charter.com)>; Williams, Larry O <[Larry.Williams3@charter.com](mailto:Larry.Williams3@charter.com)>; Despina, Tyler <[Tyler.Despins@charter.com](mailto:Tyler.Despins@charter.com)>; Zichichi, Joseph V <[Joseph.Zichichi@charter.com](mailto:Joseph.Zichichi@charter.com)>; Noonan, Chris <[chris.noonan@charter.com](mailto:chris.noonan@charter.com)>; Maxwell, Stacy B <[Stacy.Maxwell@charter.com](mailto:Stacy.Maxwell@charter.com)>; Taylor Anselmo, Jaimee <[Jaimee.TaylorAnselmo@charter.com](mailto:Jaimee.TaylorAnselmo@charter.com)>; Goode, Craig <[Craig.Goode@charter.com](mailto:Craig.Goode@charter.com)>; Reeves, Matt <[Matt.Reeves@charter.com](mailto:Matt.Reeves@charter.com)>; Garcia, Tim B <[Tim.Garcia@charter.com](mailto:Tim.Garcia@charter.com)>; Touchton, Kendall L <[Kendall.Touchton@charter.com](mailto:Kendall.Touchton@charter.com)>; Westerholm, Micael G <[Micael.Westerholm@charter.com](mailto:Micael.Westerholm@charter.com)>; Williams, Heather C <[Heather.Williams@charter.com](mailto:Heather.Williams@charter.com)>; Cornacchia, Dean R <[Dean.Cornacchia@charter.com](mailto:Dean.Cornacchia@charter.com)>; Gunn, Ellie A <[ellie.gunn@charter.com](mailto:ellie.gunn@charter.com)>; Acevedo, Albert <[Albert.Acevedo@charter.com](mailto:Albert.Acevedo@charter.com)>; Gunderson, Jodi A <[Jodi.Gunderson@charter.com](mailto:Jodi.Gunderson@charter.com)>; Johnson, Maisha <[Maisha.Johnson@charter.com](mailto:Maisha.Johnson@charter.com)>; Dardis, Keith <[Keith.Dardis@charter.com](mailto:Keith.Dardis@charter.com)>; DeLillo, Stephen <[Stephen.DeLillo@charter.com](mailto:Stephen.DeLillo@charter.com)>; DL SMB West Leadership <[DLSMBWestLeadership@charter.com](mailto:DLSMBWestLeadership@charter.com)>; Romano, Vincent A <[Vincent.Romano@charter.com](mailto:Vincent.Romano@charter.com)>;



Martinez, Carmen M <Carmen.Martinez@charter.com>; Fylling, Jeremy A <Jeremy.Fylling@charter.com>; Heitsman, Cindy A <Cindy.Heitsman@charter.com>; Kim, Greta L <Greta.Kim@charter.com>; Davis, Leah S <Leah.S.Davis@charter.com>; Hennings, Ryan <Ryan.Hennings@charter.com>; Shanahan, Kathleen <Kathleen.Shanahan@charter.com>; Hahn, Patrick P <Patrick.Hahn@charter.com>; Dube, Michael R <Michael.Dube@charter.com>; Zieleniec, Wlodek <Wlodek.Zieleniec@charter.com>; Cannon, Bradley M <Bradley.Cannon@charter.com>; Hall, Michael J <Michael.Hall@charter.com>; Libretti, Brian J <Brian.Libretti@charter.com>; Foley, Darragh <Darragh.Foley@charter.com>; Baldwin, Katherine A <Katherine.Baldwin@charter.com>; Urzua, Diana T <Diana.Urzua@charter.com>; Tokunaga, Robin <Robin.Tokunaga@charter.com>; Thomas, Shelley M <Shelley.Thomas@charter.com>; Googe, Edward <Edward.Googe@charter.com>; Blood, Steve L <Steve.Blood@charter.com>; Spicer, Clayton <Clayton.Spicer@charter.com>; Schofield, Braddock A <Braddock.Schofield@charter.com>; Arriola, Jose <C-Jose.Arriola@charter.com>; Hartsell, Will W <Will.Hartsell@charter.com>; Bliss, Carlina B <Carlina.Bliss@charter.com>; Felix, Josue <Josue.Felix@charter.com>; Tran, Vi <Vi.Tran@charter.com>; Frazee, Bob A <Bob.Frazee@charter.com>; Kim, Amy H <Amy.Kim@charter.com>; King, Stephanie <Stephanie.King@charter.com>; Dobrich, Jacqueline A <Jacqueline.Dobrich@charter.com>; Featherston, Karen <Karen.Featherston@charter.com>; Kodama, Gail <Gail.Kodama@charter.com>; Ebert, Josh E <Josh.Ebert@charter.com>; DeKalb, Dan P <Dan.DeKalb@charter.com>; Hughes, Willie L <Willie.Hughes@charter.com>; Kumar, Rohan <Rohan.Kumar@charter.com>; Stroup, Matthew <Matthew.Stroup@charter.com>; Schmeichel, Brandon <Brandon.Schmeichel@charter.com>; Volgende, Mike <Mike.Volgende@charter.com>; Fine, Cindy A <Cindy.Fine@charter.com>; Donegan, Paul V <Paul.Donegan@charter.com>; Wu, William <William.Wu@charter.com>; Castellanos, Nancy <Nancy.Castellanos@charter.com>; Mahoney, Jeff C <Jeff.Mahoney@charter.com>; Ruiz, Christian <Christian.Ruiz@charter.com>; James, Gregory O <Gregory.James@charter.com>; Heffelfinger, Curtis L <Curtis.Heffelfinger@charter.com>; Mansfield, Dina M <Dina.M.Mansfield@charter.com>; Pederson, Jacob D <Jacob.Pederson@charter.com>; Boytos, Geoff <Geoff.Boytos@charter.com>; Erickson, Tim J <Tim.Erickson@charter.com>; DL SB Care Managers <DLSCareManagers@charter.com>; Norris, Todd A <Todd.Norris@charter.com>; Kaatz, Shane <Shane.Kaatz@charter.com>; Scharf, Nathan J <Nathan.Scharf@charter.com>; Gonzalez, Aime <Aime.Gonzalez@charter.com>; Migirov, Nison Y <Nison.Migirov@charter.com>; Vanruden, Ila <Ila.Vanruden@charter.com>; Shumway, Kristen G <Kristen.Shumway@charter.com>; Gosniowski, Agnes K <Agnes.Gosniowski@charter.com>; Tanaka, Chad T <Chad.Tanaka@charter.com>; Davis, Lori <Lori.Davis@charter.com>; Chavez, Nancy <Nancy.Chavez@charter.com>; Wannomae, Bert H <Bert.Wannomae@charter.com>; Ramos, David E <David.Ramos@charter.com>; Traconis, Carlos D <Carlos.Traconis@charter.com>; Lampman, Dave W <David.Lampman@charter.com>; Miller, Brian S <Brian.Miller18@charter.com>; Ingram, Jennifer S <Jennifer.Ingram@charter.com>; De La Vega, Daniel <Daniel.DeLaVega@charter.com>; Reina, Stephanie A <Stephanie.Reina@charter.com>; Shanks, Jametra E <Jametra.Shanks@charter.com>; Martinez Arcila, Maria G <Maria.MartinezArcila@charter.com>; Ford, Kristy C <Kristy.Ford@charter.com>; Gray, David L <David.Gray@charter.com>; Crum, Scott S <Scott.Crum@charter.com>; Reed, Kasei C <Kasei.Reed@charter.com>; Wozniak, Kenneth M <Kenneth.Wozniak@charter.com>; Vitija, Vlora <Vlora.Vitija@charter.com>; Gadia, Isagani G <Isagani.Gadia@charter.com>; Morse, Lauren <Lauren.Morse@charter.com>; Restrepo, Alexander <Alexander.Restrepo@charter.com>; Amodeo, Michael P <Michael.Amodeo@charter.com>; Gilbert, Jeff R <Jeff.Gilbert@charter.com>; Rawden, Mark E <Mark.Rawden@charter.com>; Higa, Byron S <Byron.Higa@charter.com>; Saito, Chad K <Chad.Saito@charter.com>; Farbelow, James A <James.Farbelow@charter.com>; Mouser, Craig M <Craig.Mouser@charter.com>; Mendoza, Chris <Chris.Mendoza@charter.com>; Norris, Matthew <Matthew.Norris@charter.com>; Colafrancesco, Stephen M <Stephen.Colafrancesco@charter.com>; Davila, Mayte E <Mayte.Davila@charter.com>; Nieto, Liliana <Liliana.Nieto@charter.com>; Edwards, Michael D <Michael.D.Edwards@charter.com>; Abee, Anthonitte A <Anthonitte.Abee@charter.com>; Myers, Jessica J <jessica.myers@charter.com>; Rodriguez, Brody <Brody.Rodriguez@charter.com>; Luk, David D <David.Luk@charter.com>; Murrain, Linda <Linda.Murrain@charter.com>; Turnbill, Shawn A <Shawn.Turnbill@charter.com>; Yraola, Gene N <Gene.Yraola@charter.com>; Piperea, Georgiana R <Georgiana.Piperea@charter.com>; Hoffman, Sharon J <Sharon.Hoffman@charter.com>; Oru, Edirin E

<Edirin.Oru@charter.com>; Skul, John <John.Skul@charter.com>; Adams, Jen L  
<Jen.Adams@charter.com>; Bedolla, Leon <Leon.Bedolla@charter.com>; DuBois, Todd R  
<Todd.DuBois@charter.com>; Hatcher, Jeff L <jeff.hatcher@charter.com>; Hurst, Shauna  
<Shauna.Hurst@charter.com>; Swartz, Jeff A <Jeff.Swartz@charter.com>; Pierce, Essence M  
<Essence.Pierce@charter.com>; McSain, Matthew J <Matthew.McSain@charter.com>; Pappy, Beverly R  
<Beverly.Pappy@charter.com>; Hanekamp, John <John.Hanekamp@charter.com>; Pande, Varun  
<Varun.Pande@charter.com>; Welp, Katie A <katie.welp@charter.com>; Meeks, Brian J  
<Brian.Meeks@charter.com>; Charron, Adam M <Adam.Charron@charter.com>; Gray, Tye J  
<Tye.Gray@charter.com>; Lewis, Justin F <Justin.F.Lewis@charter.com>; Salbedo, Rachelcheryse C  
<Rachelcheryse.Salbedo@charter.com>; Tim Williamson <TWilliamson@cooper-smith.com>; Jena  
Grossman <JGrossman@cooper-smith.com>; Jon Goldstein <JGoldstein@cooper-smith.com>; Coye, Eric  
<Eric.Coye@charter.com>  
**Cc:** Hebbard, Christopher A <Christopher.Hebbard@charter.com>; Morrison, Matt D  
<Matt.Morrison@charter.com>; Valdez, Melissa <Melissa.Valdez@charter.com>; AlfaroHernandez,  
Leilani A <Leilani.AlfaroHernandez@charter.com>  
**Subject:** RE: SMB Monthly Marketing Review: March

Hello all,

Thank you for joining yesterday's call to discuss the Marketing activity for March. The deck that we reviewed is attached.

We also discussed the recent FCC report that found that Spectrum Internet delivers the fastest, most consistent download speeds. I have attached a couple of highlights from that report, but you can also view it on the FCC website: <https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-eighth-report>

Finally, Amy referenced the recent Windstream ruling and anticipated bankruptcy filing that is outlined in this article: <https://www.bloomberg.com/news/articles/2019-02-25/windstream-said-to-prepare-bankruptcy-after-losing-default-case>. We are working on some talking points and marketing plan to capitalize on this.

<< File: FCC Claim Highlights.pptx >> << OLE Object: Picture (Device Independent Bitmap) >>

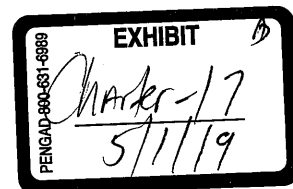
Message

**From:** Sheiner, Adam [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4CF5FC198CF84813B11056195EADED94-S]  
**Sent:** 3/20/2019 11:47:04 AM  
**To:** Webster, Stephen B [stephen.webster@charter.com]; Holmes, Mark L [mark.holmes@charter.com]; Gunzel, Rick J [rick.gunzel@charter.com]; McCarroll, Marybeth F [marybeth.mccarroll@charter.com]  
**Subject:** Windstream Gets Access to \$400 Million in Bankruptcy Financing | Broadcasting & Cable

Folks - I'm sure you're all aware WIN does have funding to continue its normal operations while it restructures.

<https://www.broadcastingcable.com/news/windstream-gets-access-to-400-million-in-bankruptcy-financing>

**Adam Sheiner | Director, National Carrier Sales**  
469.464.4327 O | 214.704.4651 M  
750 Canyon Drive, Suite 500 | Coppell, TX 75019



Message

**From:** Hargis, Jonathan [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JON.HARGIS]  
**Sent:** 4/5/2019 7:17:06 PM  
**To:** Atkinson, Kelly C [kelly.atkinson@charter.com]  
**Subject:** Re: Windstream

Yes let's discuss on Monday. [REDACTED]

[REDACTED] I would like to know when we get these. I would like to vote on when we take a risk. I could also help influence a more marketing friendly outcome.

Sent from my iPhone

On Apr 5, 2019, at 7:54 PM, Atkinson, Kelly C <[Kelly.Atkinson@charter.com](mailto:Kelly.Atkinson@charter.com)> wrote:

Jon- earlier Joe sent over the summary of what we still have planned for windstream mail this month- so no we did not stop.

We will regroup monday [REDACTED] to update on any challenges for the mail. I will circle back with you before making any change to the plan.

Let me know if you have additional questions.

K

**Kelly Atkinson** | Head of Marketing, Consumer & SMB | [203.658.4477](tel:203.658.4477)  
[400 Atlantic Street, 9th Floor | Stamford, CT 06901](#)

On Apr 5, 2019, at 3:12 PM, Hargis, Jonathan <[jon.hargis@charter.com](mailto:jon.hargis@charter.com)> wrote:

Did we stop our going out of business marketing in Windstream markets?

Sent from my iPhone



Message

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**From:** Hargis, Jonathan [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JON.HARGIS]  
**Sent:** 2/22/2019 12:06:35 PM  
**To:** Atkinson, Kelly C [kelly.atkinson@charter.com]; Andreski, David [david.andreski@charter.com]; Dardis, Keith [keith.dardis@charter.com]; Niles, Scott R [scott.niles@charter.com]  
**Subject:** Windstteam

Looks like windstream is declaring bankruptcy next month. Should we have a going out of business offer , radio print ,dsr blitz plan?

Sent from my iPhone



TT_ID	Repair Incident	BTN	FCR	FCR Code	Problem_Details	Problem_Description	Open_Code	Service Type	Service Category	Assignee Group	Assignee	Create Time	CreateDate	Create Year	Create Month	Create Day	Create Weekday	Create Hr	Create ToD Category	Create Qtr	Create Closed Date	Closed Year	Closed Month	Closed Day	Closed Weekday	Closed Hr	Closed ToD Category	Closed Qtr	Close Code	Close_Catgory	Contact Name	Contact ECS	Contact Telephone	Contact Email	Create Application	Creator Group
TT00000002271182	1551311448	REDACTED	NULL	FCR TIER 2/3 - Customer Action	No internet and phones // Did reboot circuit	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 1:27 PM	3/15/2019	2019	3	15 Friday	13 1200-1600	Q1	3/18/19 8:07 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271185	1551311493	REDACTED	NULL	FCR TIER 2/3 - Higher Level Support Needed	circuit down	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/15/19 1:30 PM	3/15/2019	2019	3	15 Friday	13 1200-1600	Q1	3/18/19 8:10 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271187	1551311730	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard no voice or data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 1:36 PM	3/15/2019	2019	3	15 Friday	13 1200-1600	Q1	3/18/19 8:16 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271189	1551311917	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard no voice no data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 1:43 PM	3/15/2019	2019	3	15 Friday	13 1200-1600	Q1	3/18/19 8:23 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271190	1551312080	REDACTED	NULL	FCR TIER 2/3 - HUNE	circuit down	Dropping Packets	Dropping Packets	Officesuite DIA	OSC	OSC Repair	mjarrell	3/15/19 1:47 PM	3/15/2019	2019	3	15 Friday	13 1200-1600	Q1	3/18/19 8:27 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271192	1551312090	REDACTED	NULL	FCR TIER 2/3 - ILEC	Ckt down	Dropping Packets	Dropping Packets	Officesuite DIA	OSC	OSC Repair	mjarrell	3/15/19 1:47 PM	3/15/2019	2019	3	15 Friday	13 1200-1600	Q1	3/18/19 8:27 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271194	1551312269	REDACTED	NULL	FCR TIER 2/3 - ILEC	Circuit down hard <b>REDACTED</b>	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/15/19 1:50 PM	3/15/2019	2019	3	15 Friday	13 1200-1600	Q1	3/18/19 8:30 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271199	1551312635	REDACTED	NULL	FCR TIER 2/3 - HUNE	Circuit is Down Hard M-F 9-4p No internet connection and have DHCP Discovery error on phone - all phones are affected	Circuit Down	Circuit Down	Officesuite DIA T1	Service Ops Dedicated Repair	Dedicated Repair	mjarrell	3/15/19 2:02 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 8:42 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271202	1551312839	REDACTED	NULL	FCR TIER 2/3 - HUNE	DHCP Discovery	DHCP Discovery	DHCP Discovery	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:08 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 8:48 PM	2019	3	18 Monday	20 2000-0000	Q1	Failure TWC001	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271206	1551313004	REDACTED	NULL	FCR TIER 2/3 - HUNE	Reason for calling: No connection on the phone. It's intermittently happening on all the phones. Contacting server shows on all the phones. Action Taken: 1. Asked to reboot the router. After rebooting the router the phone says contacting server. 2. Created a ticket and then warm transfer the call to Tier 2.	Slow Connection Speed	Slow Connection Speed	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:12 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 8:52 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Customer			
TT00000002271210	1551313592	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard no voice no data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:15 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 8:55 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271211	1551313818	REDACTED	NULL	FCR TIER 2/3 - HUNE	ALL lines and Data are down.	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:16 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 8:56 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271212	1551313881	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard no voice no data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:17 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 8:57 PM	2019	3	18 Monday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271215	1551313984	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard no voice no data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:21 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:01 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271216	1551314281	REDACTED	NULL	FCR TIER 2/3 - HUNE	Voice and Data are currently down.	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:27 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:07 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271217	1551314320	REDACTED	NULL	FCR TIER 2/3 - HUNE	Reason for calling: No internet and no phones Action Taken: 1. Customer rebooted the router and the switch 2. Still no internet 3. Create trouble ticket	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:28 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:08 PM	2019	3	18 Monday	21 2000-0000	Q1	Failure TWC001	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271218	1551314327	REDACTED	NULL	FCR TIER 2/3 - HUNE	Reason for calling: customer called in because she does not have internet access and also dont have phones Action Taken: 1.checked for her provider 2. created a ticket <b>REDACTED</b> is calling in to report Phone system and the Internet service is down. Ken already tried Restarting the phones and the switch. The problem persist.	Slow Connection Speed	Slow Connection Speed	Officesuite DIA	OSC	OSC Repair	mjarrell	3/15/19 2:29 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:09 PM	2019	3	18 Monday	21 2000-0000	Q1	Failure TWC001	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271219	1551314368	REDACTED	NULL	FCR TIER 2/3 - HUNE	Circuit down	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:30 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:10 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271221	1551314844	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard	Circuit Down	Circuit Down	T1	Service Ops	Dedicated Repair	mjarrell	3/15/19 2:35 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:15 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271223	1551314943	REDACTED	NULL	FCR TIER 2/3 - HUNE	Circuit down	Dropping Packets	Dropping Packets	T1	Service Ops	Dedicated Repair	mjarrell	3/15/19 2:36 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:16 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271237	1551315013	REDACTED	NULL	FCR TIER 2/3 - HUNE	customer is calling regarding no internet connection done with the basic TS as per their own company tech	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:39 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:19 PM	2019	3	18 Monday	21 2000-0000	Q1	Failure TWC001	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271242	1551315054	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard no voice no data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:40 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:20 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271244	1551315158	REDACTED	NULL	FCR TIER 2/3 - HUNE	ckt down hard	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:45 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:25 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271245	1551315256	REDACTED	NULL	FCR TIER 2/3 - HUNE	Circuit is Down M-F 8:30a-5pm	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:47 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:27 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271246	1551315295	REDACTED	NULL	FCR TIER 2/3 - HUNE	Patricia is calling in to report that the internet and the phones are not working for <b>REDACTED</b>	CDI-New Plan	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:48 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:28 PM	2019	3	18 Monday	21 2000-0000	Q1	Failure TWC001	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271248	1551315415	REDACTED	NULL	FCR TIER 2/3 - HUNE	<b>REDACTED</b> called sd that <b>REDACTED</b> is down hard. <b>REDACTED</b> - access circuit down - both at this location are down <b>REDACTED</b>	Circuit Down	Circuit Down	MPIS	IP	Dedicated Repair	mjarrell	3/15/19 2:53 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:33 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271250	1551315477	REDACTED	NULL	FCR TIER 2/3 - HUNE	Circuit down - both at this location are down <b>REDACTED</b>	Circuit Down	Circuit Down	T1	Service Ops	Dedicated Repair	mjarrell	3/15/19 2:54 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:34 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271251	1551315552	REDACTED	NULL	FCR TIER 2/3 - HUNE	Reason for Calling: <b>REDACTED</b> - Spectrum ISP - Internet service is DOWN - they called ISP and says that Broadview did not pay for the bill that's causing him no internet service. Action Taken: 1. No TS made.	CDI-New Plan	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:56 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:36 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271253	1551315651	REDACTED	NULL	FCR TIER 2/3 - HUNE	was advised by the support to transfer to tier2	CDI-New Plan	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 2:59 PM	3/15/2019	2019	3	15 Friday	14 1200-1600	Q1	3/18/19 9:39 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271257	1551316171	REDACTED	NULL	FCR TIER 2/3 - HUNE	CTXT DOWN - all phones are showing - contacting server All of the phones are showing Contacting Server error has no dial tone and for incoming calls the phones will ring but they are unable to pick up the call. We already tried rebooting the networking devices and phones. As per customer they did not encounter any problem with the internet and nothing was added or removed in their network that may cause issues with the phones.	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 3:09 PM	3/15/2019	2019	3	15 Friday	15 1200-1600	Q1	3/18/19 9:49 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271258	1551316384	REDACTED	NULL	FCR TIER 2/3 - HUNE	Can Not Be Called	Can Not Be Called	Can Not Be Called	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 3:14 PM	3/15/2019	2019	3	15 Friday	15 1200-1600	Q1	3/18/19 9:54 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee			
TT00000002271260	1551316424	REDACTED	NULL	FCR TIER 2/3 - HUNE	Circuit Down	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 3:16 PM	3/15/2019	2019	3	15 Friday	15 1200-1600	Q1	3/18/19 9:56 PM	2019	3	18 Monday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	No	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271264	1551316498	REDACTED	NULL	FCR TIER 2/3 - HUNE	down hard	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 3:20 PM	3/15/2019	2019	3	15 Friday	15 1200-1600	Q1	3/18/19 10:00 PM	2019	3	18 Monday	22 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	Failure TWC001	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee			
TT00000002271265	1551316549	REDACTED	NULL	FCR TIER 2/3 - HUNE	no internet connection - phones have contacting server error	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/15/19 3:22 PM	3/15/2019	2019	3	15 Friday	15 1200-																			



TT_ID	Repair Incident	BTN	FCR	FCR Code	Problem_Details	Problem_Description	Open_Code	Service_Type	Category	Assignee Group	Assignee	Create Time	Createdate	Year	Create Month	Create Weekday	Hour	Create Category	Create Qtr	Closed Date	ClosedM	Closed Qtr	Closed Weekday	Hour	Closed Category	Closed Qtr	Close Code	Category_Code	Name	ECS	Contact Telephone	Contact Email	Create Application	Creator
TT00000002271354	1551331334	REDACTED	NULL	NULL	BNAME?	Not A Valid Site Message	Not A Valid Site Message	Officesuite UC	OSC	OSC Repair	mjarrell	3/16/19 2:54 PM	3/16/2019	2019	3	16 Saturday	14 1200-1600	Q1	3/19/19 3:34 PM	2019	3	19 Tuesday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271357	1551331354	REDACTED	NULL	NULL	No internet	CDI-New Plan	Circuit Down	Officesuite UC	OSC	Dedicated Repair	mjarrell	3/16/19 3:25 PM	3/16/2019	2019	3	16 Saturday	15 1600-2000	Q1	3/19/19 10:05 PM	2019	3	19 Tuesday	22 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271358	1551331434	REDACTED	NULL	NULL	Circuit is down. Previous ticket TT0000002271203 was opened in error.	Circuit Down	Circuit Down	Officesuite UC	OSC	Dedicated Repair	mjarrell	3/16/19 4:18 PM	3/16/2019	2019	3	16 Saturday	16 1600-2000	Q1	3/19/19 10:58 PM	2019	3	19 Tuesday	22 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271369	1551334206	REDACTED	NULL	FCR TIER 2/3 - HUNE	No internet connection	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/17/19 12:18 PM	3/17/2019	2019	3	17 Sunday	12 1200-1600	Q1	3/20/19 6:58 PM	2019	3	20 Wednesday	18 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
					FCR TIER 2/3 - Customer Action	down hard no voice no internet	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 8:16 AM	3/18/2019	2019	3	18 Monday	8 0800-1200	Q1	3/21/19 2:56 PM	2019	3	21 Thursday	14 1200-1600	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
					FCR TIER 2/3 - Customer Action	down hard no phones no data	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 8:18 AM	3/18/2019	2019	3	18 Monday	8 0800-1200	Q1	3/21/19 2:58 PM	2019	3	21 Thursday	14 1200-1600	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271377	1551339570	REDACTED	NULL	FCR TIER 2/3 - HUNE	no voice no data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 8:19 AM	3/18/2019	2019	3	18 Monday	8 0800-1200	Q1	3/21/19 2:58 PM	2019	3	21 Thursday	14 1200-1600	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271379	1551339589	REDACTED	NULL	FCR TIER 2/3 - HUNE	Reason for calling: - circuit down Action Taken: - run data auto triage - Xpercom Failed Invalid CO cli passed Click here to search Xpercom - Cannot create ticket   create a ticket on the portal - activate emergency override	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 8:19 AM	3/18/2019	2019	3	18 Monday	8 0800-1200	Q1	3/21/19 2:58 PM	2019	3	21 Thursday	14 1200-1600	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271388	1551341978	REDACTED	NULL	NULL	circuit down	DHCP Discovery	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 9:26 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:06 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	MyOS Portal	Customer		
TT00000002271389	1551342159	REDACTED	NULL	FCR TIER 2/3 - HUNE	circuit down	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 9:29 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:09 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271393	1551342465	REDACTED	NULL	NULL	circuit is down internet and phone are not working	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 9:32 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:12 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271396	1551342571	REDACTED	NULL	FCR TIER 2/3 - HUNE	circuit down	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 9:33 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:13 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271399	1551342755	REDACTED	NULL	NULL	circuit down hard	Circuit Down	Circuit Down	Officesuite UC	OSC	Dedicated Repair	mjarrell	3/18/19 9:36 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:16 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271405	1551343463	REDACTED	NULL	NULL	Circuit down hard	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 9:42 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:22 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271407	1551343654	REDACTED	NULL	FCR TIER 2/3 - HUNE	circuit down	Total Telecom - Henry	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 9:42 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:22 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
					customer was experiencing no internet connection since Friday. But it was his first time calling since the incident	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 9:44 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:24 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271408	1551343782	REDACTED	NULL	NULL	Circuit down hard	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 9:44 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:24 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271410	1551343815	REDACTED	NULL	NULL	Circuit down hard	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 9:45 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:25 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271411	1551343856	REDACTED	NULL	FCR TIER 2/3 - HUNE	circuit down	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 9:45 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:25 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271413	1551344183	REDACTED	NULL	FCR TIER 2/3 - HUNE	circuit down	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 9:50 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:30 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271417	1551344257	REDACTED	NULL	NULL	ckt down hard since last friday	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 9:52 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:32 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271419	1551344628	REDACTED	NULL	NULL	REDACTED circuit is down net only	Circuit Down	Circuit Down	T1 DYN	IP	Dedicated Repair	mjarrell	3/18/19 9:58 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:38 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
					Both Internet Routers at our REDACTED office address have no internet access. They have been reset and it had no effect. Circuit down hard - please reboot router remotely unable to onsite this is a school safety issue	Router Not Working	Router Not Working	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 9:58 AM	3/18/2019	2019	3	18 Monday	9 0800-1200	Q1	3/21/19 4:38 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	MyOS Portal	Customer		
					REDACTED	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 10:00 AM	3/18/2019	2019	3	18 Monday	10 0800-1200	Q1	3/21/19 4:40 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271421	1551344867	REDACTED	NULL	NULL	Circuit down hard	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 10:11 AM	3/18/2019	2019	3	18 Monday	10 0800-1200	Q1	3/21/19 4:51 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271429	1551345578	REDACTED	NULL	NULL	Circuit down hard	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 10:11 AM	3/18/2019	2019	3	18 Monday	10 0800-1200	Q1	3/21/19 4:51 PM	2019	3	21 Thursday	16 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271451	1551349673	REDACTED	NULL	NULL	REDACTED no internet connection	Telarus Inc	Slow Connection Speed	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 11:12 AM	3/18/2019	2019	3	18 Monday	11 0800-1200	Q1	52:38.0	2019	3	21 Thursday	17 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271452	1551349696	REDACTED	NULL	NULL	Circuit down	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 11:12 AM	3/18/2019	2019	3	18 Monday	11 0800-1200	Q1	52:45.0	2019	3	21 Thursday	17 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271454	1551349822	REDACTED	NULL	NULL	REDACTED no internet connection	Telarus Inc	Slow Connection Speed	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 11:14 AM	3/18/2019	2019	3	18 Monday	11 0800-1200	Q1	54:36.0	2019	3	21 Thursday	17 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271458	1551350636	REDACTED	NULL	NULL	Internet and phones are down.	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 11:26 AM	3/18/2019	2019	3	18 Monday	11 0800-1200	Q1	06:59.0	2019	3	21 Thursday	18 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271459	1551350759	REDACTED	NULL	NULL	down hard.	Circuit Down	Circuit Down	T1	Service Ops	Dedicated Repair	mjarrell	3/18/19 11:30 AM	3/18/2019	2019	3	18 Monday	11 0800-1200	Q1	10:15.0	2019	3	21 Thursday	18 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271466	1551351715	REDACTED	NULL	NULL	down hard.	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 12:02 PM	3/18/2019	2019	3	18 Monday	12 1200-1600	Q1	42:06.0	2019	3	21 Thursday	18 1600-2000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	MyOS Portal	Customer		
TT00000002271468	1551352219	REDACTED	NULL	NULL	TWC circuit is down	Circuit Down	Circuit Down	T1	Service Ops	Dedicated Repair	mjarrell	3/18/19 12:09 PM	3/18/2019	2019	3	18 Monday	12 1200-1600	Q1	09:43.0	2019	3	21 Thursday	20 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271475	1551358229	REDACTED	NULL	NULL	Hard down no phones or internet	Circuit Down	Circuit Down	Officesuite UC	OSC	Dedicated Repair	mjarrell	3/18/19 12:42 PM	3/18/2019	2019	3	18 Monday	12 1200-1600	Q1	22:53.0	2019	3	21 Thursday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271555	1551383304	REDACTED	NULL	NULL	Timewarner	Circuit Down	Circuit Down	Officesuite DIA	OSC	OSC Repair	mjarrell	3/18/19 2:53 PM	3/18/2019	2019	3	18 Monday	14 1200-1600	Q1	33:29.0	2019	3	21 Thursday	21 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	No	REDACTED	REDACTED	eCare Enterprise	Employee		
TT00000002271607	1551393038	REDACTED	NULL	NULL	no voice no data	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 4:49 PM	3/18/2019	2019	3	18 Monday	16 1600-2000	Q1	29:56.0	2019	3	21 Thursday	23 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Customer		
TT00000002271608	1551393078	REDACTED	NULL	NULL	down hard	Circuit Down	Circuit Down	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 4:51 PM	3/18/2019	2019	3	18 Monday	16 1600-2000	Q1	31:55.0	2019	3	21 Thursday	23 2000-0000	Q1	N520 [Loop] - ILEC Carrier System	N	REDACTED	Yes	REDACTED	REDACTED	OpenCafe	Employee		
TT00000002271619	1551395302	REDACTED	NULL	NULL	Call goes to mailbox directly. Phone are not ringing. Cannot make call	Circuit Down	Can Not Be Called	Officesuite UC	OSC	OSC Repair	mjarrell	3/18/19 5:53 PM	3/18/2019	2019	3	18 Monday	17 1600-2000	Q1	33:14.0	2019	3	22 Friday	0 0000-0400	Q1	N520 [Loop] - ILEC Carrier System	N								

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*Conflicts Counsel to the Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

_____	)	
In re:	)	Chapter 11
	)	
WINDSTREAM HOLDINGS, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
_____	)	
WINDSTREAM HOLDINGS, INC., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. 19-08246
	)	
v.	)	
	)	
CHARTER COMMUNICATIONS, INC. and CHARTER	)	
COMMUNICATIONS OPERATING, LLC,	)	
	)	
Defendants.	)	
_____	)	

**THIRD SUPPLEMENTAL INITIAL DISCLOSURES OF PLAINTIFF  
WINDSTREAM HOLDINGS, INC. AND AFFILIATED DEBTORS**

<sup>1</sup> The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of debtor entities in these Chapter 11 cases, for which joint administration has been granted, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors' service address for purposes of these Chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and Rule 7026 of the Federal Rules of Bankruptcy Procedure, the debtors and debtors in possession in the above-captioned Chapter 11 cases (collectively, the “Debtors” or “Windstream”) provide the following third supplemental initial disclosures to Defendants Charter Communications, Inc. and Charter Communications Operating, LLC (collectively, “Charter”).

The disclosures contained herein are based solely on information and documents as presently available and known to Windstream as of the date of these disclosures. Windstream reserves the right to clarify, supplement, and/or amend these disclosures at a later date. In making its disclosures, Windstream does not waive any objections based upon relevance, materiality, competence, privilege, immunity from disclosure or other grounds.

**A. INDIVIDUALS**

Pursuant to Fed. R. Civ. Pro. 26(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Windstream discloses the following individuals that may have information that Windstream may use to support its claims and/or defenses in this lawsuit. By indicating the general subject matter of information that witnesses possess, Windstream is not representing that this is the only relevant information that these witnesses possess.

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At least the following individuals are believed to have discoverable information on the indicated subject(s) that may be used to support Windstream's claims and defenses.

<b>Name and Contact Information</b>	<b>Subject(s)</b>
Jeffrey Auman <i>Executive Vice President, Sales and Marketing</i> Windstream Holdings, Inc.  11329 W. 160th Street Overland Park, KS 66221	<ul style="list-style-type: none"><li>• Windstream's Chapter 11 Cases;</li><li>• Windstream's operations and business prior to the Chapter 11 filing;</li><li>• Windstream's Kinetic internet campaign;</li><li>• Charter's false advertising campaign regarding Windstream's Chapter 11 filing;</li><li>• Windstream's cease and desist letters to Charter;</li><li>• Customer confusion caused by Charter's false advertising campaign;</li><li>• The harm and damage to Windstream caused by Charter's unlawful actions;</li><li>• Charter's disconnection of Windstream customers in or around March 2019;</li><li>• Charter's disconnection of Windstream customers after the Court's Temporary Restraining Order and Preliminary Injunction Order;</li><li>• Windstream's corrective advertising efforts in response to Charter's false advertising campaign;</li><li>• Windstream's responses to Charter's discovery requests in this proceeding; and</li><li>• Windstream's document production in the above-captioned adversary proceeding.</li></ul>

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<p>Lewis Langston <i>Retired</i> Windstream Holdings, Inc.</p> <p>Address Unknown</p>	<ul style="list-style-type: none"><li>• Windstream's Chapter 11 Cases;</li><li>• Windstream's operations and business prior to the Chapter 11 filing;</li><li>• Windstream's Kinetic internet campaign;</li><li>• Charter's false advertising campaign regarding Windstream's Chapter 11 filing;</li><li>• Windstream's cease and desist letters to Charter;</li><li>• Customer confusion caused by Charter's false advertising campaign;</li><li>• The harm to Windstream caused by Charter's false advertising campaign;</li><li>• Charter's disconnection of Windstream customers in or around March 2019; and</li><li>• Charter's disconnection of Windstream customers after the Court's Temporary Restraining Order and Preliminary Injunction Order.</li></ul>
<p>Jerry Wayne Parrish <i>Vice President of Kinetic National Sales</i> Windstream Holdings, Inc.</p> <p>2208 Customs House Court Raleigh, NC 27615</p>	<ul style="list-style-type: none"><li>• Statements made by Charter direct sales representative Emmitt Walker on or around April 8, 2019.</li></ul>
<p>Shonne Bandy <i>Trouble Resolution Specialist II</i> Windstream Holdings, Inc.</p> <p>3000 Columbia House Blvd Suite 106 Vancouver, WA 98661</p>	<ul style="list-style-type: none"><li>• Disconnection of Windstream customer by Charter in May 2019.</li></ul>
<p>Timothy Wyatt <i>Customer Service Technician</i> Windstream Holdings, Inc.</p> <p>776 Hopewell Drive Heath, OH 43056</p>	<ul style="list-style-type: none"><li>• Windstream customer's complaint of false statements made by Charter employee, Latisha Truong, regarding Windstream's bankruptcy on or around May 9, 2019.</li></ul>

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<p>Paul Strickland <i>Vice President of Customer Care</i> Windstream Holdings, Inc.</p> <p>Three Morrocroft Centre 6801 Morrison Boulevard Charlotte, NC 28211</p>	<ul style="list-style-type: none"> <li>• Windstream's customer care call centers;</li> <li>• Calls, notes, and logs taken by customer call center agents at Windstream's customer care call centers regarding Charter's false advertising campaign; and</li> <li>• Record keeping at Windstream's customer call centers.</li> </ul>
<p>John Jarosz <i>Managing Principal</i> Analysis Group, Inc.</p> <p>800 17th Street, NW Washington, DC 20006</p>	<ul style="list-style-type: none"> <li>• Damages to Windstream resulting from Charter's unlawful actions; and</li> <li>• Costs of corrective advertising and promotional campaigns incurred by Windstream as a result of Charter's unlawful actions.</li> </ul>
<p>Kelly Atkinson <i>Head of Consumer Marketing of Small and Medium Businesses</i> Charter Communications, Inc.</p> <p>Address Unknown</p>	<ul style="list-style-type: none"> <li>• Charter's false advertising campaign, including the decision to launch the campaign, the design of the advertisements, the recipients and geographic scope of the campaign, and the use of the advertisements;</li> <li>• Communications with present or potential customers referring to Windstream; and</li> <li>• Windstream customers that switched to Charter.</li> </ul>
<p>Keith Dardis <i>Vice President of Small and Medium Business and Residential Direct Sales</i> Charter Communications, Inc.</p> <p>Address Unknown</p>	<ul style="list-style-type: none"> <li>• The role of Charter direct sales representatives; authorized or unauthorized advertising campaigns conducted by Charter direct sales representatives;</li> <li>• Disconnection of Windstream customers by Charter; and</li> <li>• Communications to Charter employees regarding the Court's Temporary Restraining Order and Preliminary Injunction.</li> </ul>
<p>Jennifer Smith Charter Communications, Inc.</p> <p>Address Unknown</p>	<ul style="list-style-type: none"> <li>• The design of Charter's advertisements relating to Windstream's Chapter 11 cases, including the design of the outer envelope; and</li> <li>• Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.</li> </ul>

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Chris Czekaj Charter Communications, Inc.  Address Unknown	<ul style="list-style-type: none"> <li>Charter's false advertising campaign, including the decision to launch the campaign, the design of the advertisements, the recipients and geographic scope of the campaign, and the use of the advertisements; and</li> <li>Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.</li> </ul>
Emmitt Walker Charter Communications, Inc.  1801 Elyria Avenue Lorain, OH 44055	<ul style="list-style-type: none"> <li>The distribution of false advertisement by Charter employees;</li> <li>Charter's false advertising campaign;</li> <li>Statements made by Charter employees that Windstream would no longer provide its services in the future; and</li> <li>Charter's communications to employees regarding the Court's Temporary Restraining Order and Preliminary Injunction.</li> </ul>
Andrew Sites Charter Communications, Inc.  3100 Elida Road Lima, OH 45805	<ul style="list-style-type: none"> <li>The distribution of false advertisement by Charter employees;</li> <li>Charter's false advertising campaign;</li> <li>Statements made by Charter employees that Windstream would no longer provide its services in the future; and</li> <li>Charter's communications to employees regarding the Court's Temporary Restraining Order and Preliminary Injunction.</li> </ul>
R2 Creative  Address Unknown	<ul style="list-style-type: none"> <li>The design of Charter's advertisements relating to Windstream's Chapter 11 cases, including the design of the outer envelope; and</li> <li>Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.</li> </ul>
RAPP Worldwide, Inc.  220 East 42nd Street New York, NY 10017	<ul style="list-style-type: none"> <li>The design of Charter's advertisements relating to Windstream's Chapter 11 cases; and</li> <li>Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.</li> </ul>

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Latisha Truong Address Unknown	<ul style="list-style-type: none"><li>• Statements made on or around May 2019 to Windstream customers regarding Windstream's Chapter 11 filing.</li></ul>
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Additional Charter employees, agents, and/or representatives	<ul style="list-style-type: none"><li>• The design of Charter's advertisements relating to Windstream's Chapter 11 cases, including the design of the outer envelope;</li><li>• Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases;</li><li>• The training of Charter's representatives and agents relating to Windstream's Chapter 11 cases;</li><li>• Windstream customers that have switched their service to Charter from February 2019 through the present;</li><li>• Customer responses and customer confusion arising from Charter's false advertising campaign relating to Windstream's Chapter 11 cases;</li><li>• Charter's profits relating to its false advertising campaign concerning Windstream's Chapter 11 cases;</li><li>• Customer calls or communications from Windstream customers whose services were disconnected or terminated under the Spectrum Business Value Added Reseller Agreement from February 2019 through the present;</li><li>• The interruption or disconnection of service to Windstream customers between February 2019 through the present, including but not limited to, the disconnection of Windstream customer in San Antonio, Texas;</li><li>• Charter's efforts to comply with the Bankruptcy Court's April 16, 2019 Temporary Restraining Order, including any violations thereof;</li><li>• Charter's efforts to comply with the Bankruptcy Court's May 16, 2019 Preliminary Injunction, including any violations thereof; and</li><li>• Charter's efforts to comply with the Bankruptcy Court's automatic stay, including any violations thereof.</li></ul>
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Windstream reserves the right to disclose additional witnesses to further supplement its initial disclosures as additional information becomes known or available to it.

**B. DOCUMENTS**

Pursuant to Rule 26(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Windstream identifies the following categories of documents and tangible things that, unless otherwise noted, are in the possession, custody, or control of Windstream, and that Windstream may use to support its claims or defenses:

- Documents relating to the products and services provided by Windstream;
- Documents relating to the targeted customers and geographic regions for which Windstream offers its products and services;
- Documents filed with the United States Patent and Trademark Office in connection with Windstream's registrations for its WINDSTREAM trademarks (publicly available);
- Windstream's Chapter 11 filings (publicly available);
- Documents relating to Windstream's operations throughout its Chapter 11 cases;
- Documents relating Windstream's Kinetic internet advertising campaign;
- Documents relating to Charter's false advertising campaign concerning Windstream's Chapter 11 cases;
- Documents relating to Windstream's customer responses to Charter's false advertising campaign;
- Documents relating to customer confusion caused by Charter's false advertising campaign;

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- Documents relating to the harm to Windstream caused by Charter's false advertising campaign;
- Documents relating to damage control efforts that Windstream has had to undertake in response to Charter's false advertising campaign;
- Documents relating to Charter's violations of the Court's Temporary Restraining Order;
- Documents relating to Charter's violation of the Bankruptcy Court's automatic stay;
- Documents relating to agreements between Windstream and Charter for the provision of "last mile" services; and
- Communications between Windstream and Charter.

Windstream may also rely on documents that are in the possession, custody or control of Charter and/or third parties, as well as documents that Windstream may later learn of, find, or determine are significant. Windstream states that the documents above, including those documents in the possession, custody or control of Charter, that it may rely upon are: WIN000001 - WIN002771; Charter\_000001 - Charter\_047064; and Charter\_Marketing\_000001 - Charter\_Marketing\_005316. Windstream reserves the right to supplement its initial disclosures as such documents become known and available to it, and once additional information regarding its claims can be adequately ascertained through discovery, including by third-party subpoenas.

### **C. DAMAGES**

Pursuant to Rule 26(a)(1)(A)(iii) of the Federal Rules of Civil Procedure, Windstream discloses that it is seeking an award of monetary damages caused by Charter as a result of its false and misleading advertising, in addition to treble and punitive damages, attorneys' fees, costs, and

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any pre-judgment and post-judgment interest. On October 11, 2019, Windstream disclosed John Jarosz as an expert witness and provided a report pursuant to Rule 26(a)(2)(B) that addressed the damages resulting from the wrongful acts by Charter alleged in Windstream's Complaint (*See generally* Adv. Dkt. No. 1). As further detailed in Mr. Jarosz's report, Windstream discloses that it has suffered monetary damages in the form of lost profits and lost customers in the range of \$3.2 to \$5.1 million. Such amount is exclusive of damages in the form of costs that Windstream spent to correct the harm caused by Charter's false advertising, which include \$809,976 spent on corrective advertising in April 2019 and approximately \$8 million spent on promotional campaigns beginning in September 2019. Windstream also incurred damages as a result of Charter's breach of contract, namely, at least as much as \$5,000 to \$16,000 in damages in the form of customer credits associated with Charter's sudden disconnection of service to Windstream customers.

Windstream also discloses that it has suffered harm to its goodwill and reputation resulting from the wrongful acts by Charter. As a result of these acts, Windstream has received numerous customer complaints. Windstream has spent significant time, effort, and money to correct Windstream customers' perception of Windstream and its business, which has been undermined through the acts of Charter.

Windstream also seeks equitable subordination and/or equitable disallowance of any and all claims asserted by Charter against the Debtors, and any other equitable relief as the Court may deem just and proper.

#### **D. INSURANCE**

Pursuant to Rule 26(a)(1)(A)(iv) of the Federal Rules of Civil Procedure, Windstream discloses that it is presently unaware of any insurance agreement applicable to the claims asserted in the Complaint.

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Dated: December 6, 2019

/s/ Terence P. Ross

Terence P. Ross

Michael R. Justus (*pro hac vice pending*)

Shaya Rochester

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*Conflicts Counsel to the Debtors and Debtors in  
Possession*

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of December 2019, a true and correct copy of the Third Supplemental Initial Disclosures of Debtors and Plaintiff Windstream Holdings, Inc. was served by email on all counsel of record in the adversary proceeding.

Dated: December 6, 2019

/s/ Kristin Lockhart

Kristin Lockhart

**CONFIDENTIAL – ATTORNEYS EYES ONLY**

**Mullane, Erin**

---

**From:** Maguire, Peter  
**Sent:** Tuesday, September 10, 2019 12:58 PM  
**To:** Mullane, Erin  
**Subject:** FW: Windstream Campaign  
**Attachments:** UNTITLED.pptx

**Peter Maguire**

VP, Group Account Director

**RAPP**

#WeStandWithPride

220 East 42nd Street, New York, NY 10017

T: +1.212.209.1668

M: +1.347.392.9034

[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com) | [rapp.com](http://rapp.com)



---

**From:** "Bury, Matt" <Matt.Bury@charter.com>  
**Date:** Thursday, February 28, 2019 at 12:59 PM  
**To:** "Maguire, Peter" <peter.maguire@rapp.com>  
**Cc:** "Zieleniec, Wlodek" <Wlodek.Zieleniec@charter.com>  
**Subject:** Windstream Campaign

Hi Pete,

Can you help me create a sales flyer that leverages our competitive campaign template to go after Windstream? They recently announced that they will be filing Chapter 11 bankruptcy and we want to use that to drive new customer acquisitions. I have outlined some high level details in the attached and have a few thoughts below:

- For now, I just want to focus on a Direct Sales Flyer. There are other tactics listed here, but all are just under consideration right now...none have been approved.
- The attached lists the regions where we overlap with Windstream, but I am trying to get more granular detail to look at what Zips have overlap. This may enable more clear competitive comparisons.
- I have included a comparison chart that outlines our offer v. Windstream's. We blow them away...everything is included in our package whereas Windstream has a low entry point and then nickel and dime's their customers with extra fees and taxes. In the end, we win big so I want to show this very clearly on the piece.
- I have outlined some initial messaging ideas....take it or leave it.
- I am trying to get an increase to our contract buy out....currently we will spend up to \$500 to get you out of your contract, but am trying to see if we can increase that for this situation. More to come on that.

Ideally, I would like to get something pulled together by the end of next week. Do you think that is possible?

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Feb. 25, 2019

#### ALERT SUMMARY

- Under pressure from a negative court ruling, Windstream has entered Chapter 11 bankruptcy.
- The filing in the U.S. Bankruptcy Court for the Southern District of New York will allow Windstream to reorganize its bond maturities.
- The telco has secured \$1 billion in debtor-in-possession financing to maintain operations during the reorganization process.

#### IMPACT ANALYSIS

The bankruptcy filing was widely expected following the district court ruling, which found Windstream's spinoff of its Uniti network pushed into default on certain outstanding bonds.

But while the reorganization is designed to ensure Windstream survives, it will have a negative impact on its marketing to business customers. It's likely the uncertainty surrounding its bankruptcy will make business customers think twice about inking or renewing a service contract with Windstream.

This issue also may extend to Uniti and its customer retention as well.

#### ANALYST CONTACT

Karen Brown

[karenb@onetouchintelligence.com](mailto:karenb@onetouchintelligence.com)

## COMPETITIVE ALERT

### Embattled Windstream declares Chapter 11 bankruptcy

After a disastrous February, embattled telco Windstream has filed Chapter 11 reorganizational bankruptcy.

Filed in the U.S. Bankruptcy Court for the Southern District of New York, the Chapter 11 protection will allow Windstream to "address debt maturities that have been accelerated as a result of the recent decision by Judge Jesse Furman in the Southern District of New York against Windstream Services, LLC, a subsidiary of the Company," according to a Windstream press release.

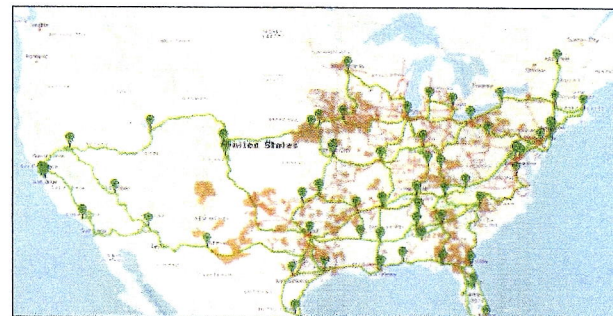
The ruling is part of a prolonged legal battle between Windstream and hedge fund investor Aurelius Capital Management over the telco's spinoff of its 2015 network assets as a Real Estate Investment Trust (REIT).

Aurelius argued – and the district court agreed – that Windstream's structuring of that spinoff put a portion of its debt bonds in default. The REIT is now known as Uniti Group Inc., which has built up a business as a wholesale network provider.

According to the bankruptcy filing, Windstream has already secured \$1 billion in debtor-in-possession financing from Citigroup Global Markets. If the bankruptcy court approves this financing, the telco should be able to fund operations while its reorganization proceeds. There is no estimate as to how long the reorganization process will take, but on paper the financing minimizes any operational disruptions.

**IMPACT:** The bankruptcy filing came as no surprise following the court ruling, given the strength of Aurelius's case. It was unlikely Windstream would have won an appeal, so management may have decided it was simpler to enter bankruptcy and restructure the bonds in question, rather than waste more time and spend more legal fees.

But while Chapter 11 is designed to give Windstream a path to survival, it will be a significant blow to its business – and in particular, its ability to attract business customers that are now the core focus of its strategy. Windstream already was dealing continued business customer declines, and that trend will likely accelerate. Despite Windstream's assurances otherwise, customers will think twice about entering a new or renewed contract with a provider that is in reorganizational bankruptcy – and while the move may in the long run prove beneficial to Uniti, the same uncertainty will probably have a negative impact on its marketing and customer trends as well.



Windstream's network and ILEC territory (in brown). Source: Windstream website.



## Windstream SMB Subs by Region

### 3Q18 SMB Internet Subs in Charter Footprint

Windstream Overlap and Distribution of Max Speed Available

Region	Charter Subs	Windstream Subs	Addressable Businesses	Internet Overlap	Internet Overlap %	% <25 Mbps	% ≥ 25 Mbps
Carolinas	163.1	40.0	572.2	178.7	31%	40%	60%
Central	173.8	21.7	663.7	117.4	18%	43%	57%
Florida	140.9	12.7	569.3	152.3	27%	61%	39%
Great Lakes	118.4	20.1	483.5	92.3	19%	0%	100%
NYC	91.9	9.8	387.8	167.7	43%	43%	57%
Northeast	151.9	20.6	537.9	89.6	17%	49%	51%
Northwest	95.8	0.7	358.5	5.5	2%	91%	9%
South	134.2	15.1	518.2	113.7	22%	69%	31%
Southern Ohio	114.2	43.3	550.5	143.8	26%	57%	43%
Texas	194.7	10.5	766.4	134.0	17%	39%	61%
West	215.3	10.3	910.6	145.9	16%	33%	67%
Total	1,594.3	204.8	6,353.3	1,353.5	21%	44%	56%



	Windstream	Spectrum Business
Bundle Price	\$64.99/mo	\$74.98/mo
Data Backup	\$7.00/mo	FREE
Internet Security	\$4.99/mo	FREE
Modem Fee	\$10.00/mo	FREE
Web Hosting	\$9.99/mo	FREE
Customer WiFi	Included	Included
Email Accounts	3 Included	25 Included
Voice Taxes	\$20-24/mo	Included
TOTAL PRICE	\$116.97 - \$120.97/mo	\$74.98/mo
Terms	24mo agreement	N/A
Internet Speeds	25Mbps - 100Mbps (varies by market)	100Mbps – 200Mbps (varies by market)
Voice Features	Unlimited Long Distance + 10 calling features	Unlimited Long Distance + over 35 calling features
Additional Voice Lines	\$30.00	\$29.99
Activation Fee	\$99.00	N/A

## Now is the time to move on from Windstream

- Your business is too important to leave it to up to chance
  - Windstream has filed Chapter 11 bankruptcy
  - Windstream has been dealing with continued customer declines due to sup-par Internet and Voice products
  - The company focus will be on the bankruptcy proceedings and customer support as well as innovation may suffer.
  - Spectrum is the fastest growing Internet, Phone, and TV company in America. We will be here for your business today, and in the future.
  - Over 99.9% Network Reliability
  - Spectrum is stable, has a x credit rating, is continuing to invest in our network, brought x jobs back to the US, etc
  - Think twice about renewing your contract with Windstream and put your business at risk
- Offer
  - Contract Buy out
  - Switch and save over \$40/mo
  - \$44/29

**Tactics for consideration:**

- Sales Collateral
- Direct Mail
- Display
- Search
- Landing Page
- Email



Message

**From:** Mullane, Erin [erin.mullane@rapp.com]  
**Sent:** 3/4/2019 7:18:10 PM  
**To:** Smith, Jennifer L [jennifer.smith@charter.com]  
**CC:** Charter Team [charterteam@rapp.com]; Hernandez, Adriana A [adriana.hernandez@charter.com]  
**Subject:** RE: 4/22 Windstream (& possible incremental mail)- R1 Creative Feedback  
**Attachments:** 0570\_001.pdf

Hi Jen-

Please see attached for 4/22 Windstream incremental mailing feedback per our chat.

We will send over revisions tomorrow AM before noon.

Thanks,  
Erin

---

**From:** Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Sent:** Monday, March 04, 2019 6:51 PM  
**To:** Mullane, Erin <erin.mullane@rapp.com>  
**Cc:** Blechner, Sarah <Sarah.Blechner@charter.com>; Brooks, Rose M <Rose.Brooks@charter.com>; Charter Team <charterteam@rapp.com>; Hernandez, Adriana A <Adriana.Hernandez@charter.com>  
**Subject:** RE: 4/22 Windstream (& possible incremental mail)- R1 Creative

Ok!

---

**From:** Mullane, Erin [mailto:erin.mullane@rapp.com]  
**Sent:** Monday, March 4, 2019 6:50 PM  
**To:** Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Cc:** Blechner, Sarah <Sarah.Blechner@charter.com>; Brooks, Rose M <Rose.Brooks@charter.com>; Charter Team <charterteam@rapp.com>; Hernandez, Adriana A <Adriana.Hernandez@charter.com>  
**Subject:** RE: 4/22 Windstream (& possible incremental mail)- R1 Creative

We'll be here. Text when you want to chat.

Thanks!

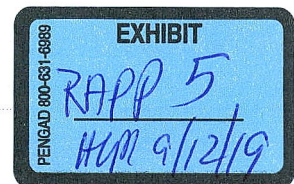
---

**From:** Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Sent:** Monday, March 04, 2019 6:49 PM  
**To:** Mullane, Erin <erin.mullane@rapp.com>  
**Cc:** Blechner, Sarah <Sarah.Blechner@charter.com>; Brooks, Rose M <Rose.Brooks@charter.com>; Charter Team <charterteam@rapp.com>; Hernandez, Adriana A <Adriana.Hernandez@charter.com>  
**Subject:** RE: 4/22 Windstream (& possible incremental mail)- R1 Creative

How long are you going to be at work? I can call to review in a bit.

---

**From:** Mullane, Erin [mailto:erin.mullane@rapp.com]  
**Sent:** Monday, March 4, 2019 6:47 PM  
**To:** Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Cc:** Blechner, Sarah <Sarah.Blechner@charter.com>; Brooks, Rose M <Rose.Brooks@charter.com>; Charter Team <charterteam@rapp.com>; Hernandez, Adriana A <Adriana.Hernandez@charter.com>  
**Subject:** RE: 4/22 Windstream (& possible incremental mail)- R1 Creative



Hi Jen-

Please see attached for 4/22 Windstream incremental mail R1 Creative. Please note the following:

- We have leveraged the template/creative look and feel from the Google Fiber incremental mailing that released last week.
  - Messaging has been aligned per your notes below about Windstream filing for Chapter 11.
  - Offer has been updated to \$59.98/mo for 3 Years for ULT Internet and TV
  - All lockups updated to include laptop, TV, tablet + mobile phone
  - OE:
    - Look and feel of the OE has been aligned with the Windstream website and current mail in market per compremedia.
    - The dark purple to red gradient aligns with what we saw for in market DM.
    - We have tried to align the font as close as possible to the font on the website and the DM.
    - Please confirm if IWCO can do full 4C on the OE.
  - Disclaimer
    - Please confirm if there needs to be a footnote with corresponding disclaimer copy around digs around Windstream.
    - We have removed the FCC copy around the Internet as we removed it from the letter
    - Added in \*\* for the contract buyout copy
  - OE Option 1:
    - "Important information if you are a Windstream Customer."
  - OE Option 2:
    - "Important Information Enclosed for Windstream Customers."
  - Letter Option 1:
    - Letter front:
      - Headline: Windstream Customers, Now is the Time to Switch.
      - On the front of the letter we have used the competitive dig about the modem cost. Please confirm if this needs a footnote.
        - As a sum up above the rule with the 3 Yr Price Guarantee we have included a paragraph about the 2 Year contract with Windstream. Additionally near the price point we have included "Windstream has a 2 year contract" similar to the treatment in the ATT FSI.
    - CTA: Goodbye, Windstream. Hello, Spectrum.
  - Letter back:
    - Headline: Drop Windstream before they drop you.
    - Near the price point we have included "Windstream has a 2 year contract" similar to the treatment in the ATT FSI.
- Letter Option 2:
  - Letter front:
    - Headline: Windstream Customers, Don't Risk Losing Your Internet and TV Services.
    - On the front of the letter we have used the competitive dig about the modem cost.
    - As a sum up above the rule with the 3 Yr Price Guarantee we have included a paragraph about the 2 Year contract with Windstream. Additionally near the price point we have included "Windstream has a 2 year contract" similar to the treatment in the ATT FSI.
  - CTA: Make the Switch to Spectrum Today.
- Letter back:
  - Headline: Now is the time to switch from Windstream to Spectrum.
  - Near the price point we have included "Windstream has a 2 year contract" similar to the treatment in the ATT FSI.
- CTA: Make the Switch to Spectrum Today.



Reach out with any questions.

Thanks,  
Erin

---

**From:** Maguire, Peter  
**Sent:** Monday, March 04, 2019 12:28 PM  
**To:** Hernandez, Adriana A <Adriana.Hernandez@charter.com>  
**Cc:** Smith, Jennifer L <Jennifer.Smith@charter.com>; Mullane, Erin <erin.mullane@rapp.com>; Blechner, Sarah <Sarah.Blechner@charter.com>; Brooks, Rose M <Rose.Brooks@charter.com>; Powell, Stacey <stacey.powell@rapp.com>  
**Subject:** Re: 4/22 Windstream (& possible incremental mail)

Got it, thanks!

---

**From:** "Hernandez, Adriana A" <Adriana.Hernandez@charter.com>  
**Date:** Monday, March 4, 2019 at 12:26 PM  
**To:** "Maguire, Peter" <peter.maguire@rapp.com>  
**Cc:** "Smith, Jennifer L" <Jennifer.Smith@charter.com>, "Mullane, Erin" <erin.mullane@rapp.com>, "Blechner, Sarah" <Sarah.Blechner@charter.com>, "Brooks, Rose M" <Rose.Brooks@charter.com>, "Powell, Stacey" <stacey.powell@rapp.com>  
**Subject:** Re: 4/22 Windstream (& possible incremental mail)

Pete and team. For incremental we will Not doing the \$29 for incremental. It will be \$59. We'll chat at 1pm.

Sent from my iPhone

On Mar 4, 2019, at 12:15 PM, Maguire, Peter <peter.maguire@rapp.com> wrote:

Hi Jen

Thanks for the update.

So tonight, we can provide you with a base for this piece. We'll start with the \$29.99 Internet Ultra offer, as that was the same offer as Google, then move onto the other offers tomorrow.

We'll base the creative very closely on Google in terms of layout/tone, but change the messaging as needed (per your direction below).

Will reach out if any questions come up as we work through.

Thanks!

Pete

---

**From:** "Smith, Jennifer L" <Jennifer.Smith@charter.com>  
**Date:** Monday, March 4, 2019 at 11:13 AM  
**To:** "Mullane, Erin" <erin.mullane@rapp.com>, "Maguire, Peter" <peter.maguire@rapp.com>  
**Cc:** "Blechner, Sarah" <Sarah.Blechner@charter.com>, "Brooks, Rose M" <Rose.Brooks@charter.com>, "Hernandez, Adriana A" <Adriana.Hernandez@charter.com>  
**Subject:** RE: 4/22 Windstream (& possible incremental mail)



Erin & Pete-

We are definitely moving forward with Windstream incremental mail.  
Due date is this Thursday, using the same template at the Google mail.  
We will be mailing all 3 offers listed below.

Can I review something later on today/tonight?

---

**From:** Smith, Jennifer L

**Sent:** Thursday, February 28, 2019 9:55 PM

**To:** Mullane, Erin (erin.mullane@rapp.com) <erin.mullane@rapp.com>; Maguire, Peter (peter.maguire@rapp.com) <peter.maguire@rapp.com>

**Cc:** Blechner, Sarah <Sarah.Blechner@charter.com>; Brooks, Rose M <Rose.Brooks@charter.com>; Hernandez, Adriana A (Adriana.Hernandez@charter.com) <Adriana.Hernandez@charter.com>

**Subject:** 4/22 Windstream (& possible incremental mail)

Hi Erin & Pete:

Below are details for Windstream versions in the 4/22 mail drop.  
Please be prepared as we may be asked to put together an incremental mail piece (with versions).

Message

- Tone to be consistent with Google but we cannot say things like "abandoned" or "going away"
- Windstream has declared Chapter 11 but doesn't mean they won't reorg to stay in business
- Thoughts:
  - o Windstream Customers, Now is the Time to Switch (headline)
  - o Followed up, they have declared bankruptcy and then switch to Spectrum, the fastest-growing TV, Internet and Voice provider
- OE message, follow Google strategy
- Windstream has a 2 year contract with 1 year price lock
- Windstream charges \$10/mo for Modem

Versions

- 1) AT&T 2 year Gig offer: \$39.99/mo each for Ultra + TV Select
- 2) \$29.99/mo, 3 year offer: Ultra
- 3) BAU DP \$44.99/mo each: Internet + TV Select

If we happen to do an incremental mail drop, we would move forward with a #10 with a strong OE message similar to Google.

Sarah,

Let's get with Margie and team to see if email is a part of the plan.

Talk in more detail on Friday.

Thanks,  
Jen

<image001.png>

Jen Smith | Sr Director, Marketing & Creative Strategy | 203.905.7835  
400 Atlantic Street, 9th Floor | Stamford, CT 06901

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Message

**From:** Mullane, Erin [erin.mullane@rapp.com]  
**Sent:** 3/22/2019 2:49:34 PM  
**To:** Smith, Jennifer L [jennifer.smith@charter.com]; Maguire, Peter [peter.maguire@rapp.com]  
**CC:** Hernandez, Adriana A [adriana.hernandez@charter.com]; Brooks, Rose M [rose.brooks@charter.com]  
**Subject:** RE: 4/22 Windstream Messaging Changes  
**Attachments:** image001.png

Hi Jen-

Thanks for the heads up- I'll bring the three 4/22 Windstream letters to the 4PM so we can chat.

Thanks,  
Erin

---

**From:** Smith, Jennifer L <Jennifer.Smith@charter.com>  
**Sent:** Friday, March 22, 2019 3:44 PM  
**To:** Mullane, Erin <erin.mullane@rapp.com>; Maguire, Peter <peter.maguire@rapp.com>  
**Cc:** Hernandez, Adriana A <Adriana.Hernandez@charter.com>; Brooks, Rose M <Rose.Brooks@charter.com>  
**Subject:** 4/22 Windstream Messaging Changes

Hi Erin & Pete-

We need to update Windstream messaging on the 4/22 letter.  
Let's chat at 4 on how to handle.

Summary

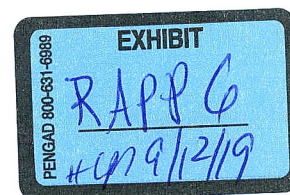
We need to soften the "uncertainty" claims for any future mailers. We need to turn it around to something along the lines of "Windstream has filed for bankruptcy – to ensure you get the best available service, switch to Charter." Let customers draw their own conclusion about the impact of the filing on Windstream services.

Thanks,  
Jen



Jen Smith | Sr Director, Marketing & Creative Strategy | 203.905.7835  
400 Atlantic Street, 9th Floor | Stamford, CT 06901

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Message

**From:** Ingram, Jennifer S [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6A581ED699954238A64EEE47999A3602-I]  
**Sent:** 3/20/2019 2:34:35 PM  
**To:** Bury, Matt [matt.bury@charter.com]; Kim, Amy H [amy.kim@charter.com]  
**CC:** Zieleniec, Wlodek [wlodek.zieleniec@charter.com]  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR-Revised Creative  
**Attachments:** image003.png; image004.jpg; image005.jpg

Matt -  
This is awesome - love it!  
Jennifer



Jennifer Ingram | Vice President, SMB Marketing | 203.428.0566  
400 Atlantic Street, 9<sup>th</sup> Floor | Stamford, CT 06901

---

**From:** Bury, Matt  
**Sent:** Tuesday, March 19, 2019 5:34 PM  
**To:** Kim, Amy H <Amy.Kim@charter.com>  
**Cc:** Zieleniec, Wlodek <Wlodek.Zieleniec@charter.com>; Ingram, Jennifer S <Jennifer.Ingram@charter.com>  
**Subject:** FW: Windstream Flyer-BAU + L-CHTR-Revised Creative

Hi,  
Attached is an updated flyer for Windstream AEs. There are 2 versions – BAU offer and L-CHTR offer. Everything else on the attached is the same.

- First page communicates that Windstream is filing for bankruptcy and we will help their customers get out of their contract, plus save money every month.
- Second page provides a detailed comparison of our offering v. the Windstream offering and highlights our offer.

Let me know what you guys think of this.  
Thanks!

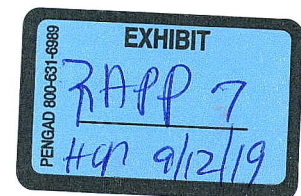
---

**From:** Mullane, Erin [mailto:erin.mullane@rapp.com]  
**Sent:** Monday, March 18, 2019 7:09 PM  
**To:** Bury, Matt <Matt.Bury@charter.com>  
**Cc:** Maguire, Peter <peter.maguire@rapp.com>  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR-Revised Creative

Hi Matt-

Please see attached for revised Windstream BAU + L-CHTR 100Mbps versions.

Reach out with any questions.





Thanks,  
Erin

---

**From:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Sent:** Monday, March 18, 2019 4:22 PM  
**To:** Mullane, Erin <[erin.mullane@rapp.com](mailto:erin.mullane@rapp.com)>  
**Cc:** Maguire, Peter <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR Creative w/ Disclaimers

I will look into the disclaimers, but we will probably need them for both the savings and the feature comparison on the back.

As for the burst, just go with "Switch & Save up to \$40/mo." does that help fit in the available real estate?

---

**From:** Mullane, Erin [<mailto:erin.mullane@rapp.com>]  
**Sent:** Monday, March 18, 2019 3:15 PM  
**To:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Cc:** Maguire, Peter <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR Creative w/ Disclaimers

Hi Matt-

No worries. Just want to confirm a few things:

- Do we need to use a footnote with corresponding legal copy if we are speaking against Windstream so competitively on the back of the flyer?
- The type inside the burst is going to have to get extremely small in order to fit " Switch to Spectrum Business and Save up to \$40/mo"
- Does "Switch to Spectrum Business and Save up to \$40/mo" have a corresponding footnote?

We can revise and send over edits tomorrow.

Thanks,  
Erin

---

**From:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Sent:** Monday, March 18, 2019 3:04 PM  
**To:** Mullane, Erin <[erin.mullane@rapp.com](mailto:erin.mullane@rapp.com)>  
**Cc:** Maguire, Peter <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR Creative w/ Disclaimers

Hi Erin,

I apologize, but I have one more round of comments to this that I am hoping you can incorporate. I have marked up the attached, but basically we don't want to highlight the \$500 limit as much as you have it on the attached....some Windstream customers may have a higher buyout, so we would rather be more vague in the copy (still need to be clear in the disclaimer) in order to get their attention.

---

**From:** Mullane, Erin [<mailto:erin.mullane@rapp.com>]  
**Sent:** Monday, March 18, 2019 10:25 AM  
**To:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Cc:** Maguire, Peter <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR Creative w/ Disclaimers

Hi Matt-

Hope you had a nice weekend!

I wanted to circle back on the Windstream sales flyer creative that was sent over last week (latest and greatest attached here).

Once approved, we can version to the 200 speed and release creative.

Reach out with any questions.

Thanks,  
Erin

---

**From:** Mullane, Erin  
**Sent:** Wednesday, March 13, 2019 10:26 AM  
**To:** 'Bury, Matt' <Matt.Bury@charter.com>  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR Creative w/ Disclaimers

Hi Matt-

Please see attached for revised SMB Windstream revised creative. I have now flowed in the disclaimers + proper footnotes within the creative.

I have added a "dagger" footnote placeholder on the switch and save message, additionally I think we will need to add a footnote to some of the Windstream claims in the competitive chart. Can you please provide the corresponding legal?

Just as FYI this was the disclaimer copy used for residential: Services compared to Kinetic Internet 200 and DirecTV packages per windstream.com; 03/07/19.

Thanks,  
Erin

---

**From:** Mullane, Erin  
**Sent:** Tuesday, March 12, 2019 1:55 PM  
**To:** 'Bury, Matt' <Matt.Bury@charter.com>  
**Subject:** RE: Windstream Flyer-BAU + L-CHTR Creative

Hi Matt-

Please see attached for revised SMB Windstream creative + the L-CHTR version.

Let me know if you have any edits or if these are approved to version by speeds.

Thanks,  
Erin

---

**From:** Bury, Matt <Matt.Bury@charter.com>  
**Sent:** Monday, March 11, 2019 6:33 PM  
**To:** Mullane, Erin <erin.mullane@rapp.com>  
**Subject:** RE: Windstream Flyer

I think I would just remove the 3 no statements from the front....I think they need the context of the offer to really make sense. The only thing worth mentioning is something like "Plus, With Spectrum Business, There are No Long Term Contracts. Ever" or something like that so it reads -- we'll buy you out of your current contract and won't make you sign one to get our superior services"

---

**From:** Mullane, Erin [<mailto:erin.mullane@rapp.com>]

**Sent:** Monday, March 11, 2019 6:21 PM

**To:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>

**Subject:** RE: Windstream Flyer

Hi Matt-

Thanks for sending over. We'll make these tweaks and version for the L-CHTR offer.

*Question-* on the front of the letter after we move the savings message to the yellow bar would you like to move the 3 no statements to below the \$500?

Updated schedule:

- RAPP to provide revised BAU 200 + R1 CR LCHTR \$64.98, 3/12
- Charter to provide feedback/approval, 3/12
- RAPP to provide all speed versions, 3/13
- RAPP to release all files, 3/13

Thanks,  
Erin

---

**From:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>

**Sent:** Monday, March 11, 2019 6:10 PM

**To:** Mullane, Erin <[erin.mullane@rapp.com](mailto:erin.mullane@rapp.com)>

**Subject:** Windstream Flyer

Hi Erin,

I think we are there....I would just move the "Switch to SB and Save up to \$40" message down into the yellow bar to make it a bit more prominent on the front. On the back, let's just move the 3 No statements inside the offer box so it doesn't get lost hanging out beneath it all alone.

Thanks!



**Spectrum<sup>®</sup>**  
BUSINESS

Windstream Customers:

**DON'T RISK LOSING  
YOUR INTERNET AND  
PHONE SERVICES.**

Windstream filed for Chapter 11; their future is uncertain.  
Don't leave your business up to chance.

**Stuck in a contract with Windstream?**

SPECTRUM BUSINESS  
WILL BUY YOU OUT UP TO

**\$500\*\***

SWITCH TO SPECTRUM BUSINESS  
AND SAVE UP TO \$40/MO.

**\$35.99**  
per month

**NO CONTRACTS. NO ADD-ON PHONE TAXES. NO HIDDEN FEES.**

**Call today to learn more.**

John H. Smith  
1-800-XXX-XXXX  
[johnsmith@spectrum.com](mailto:johnsmith@spectrum.com)

\*Offer available to Windstream customers who switch to Spectrum Business by 12/31/2012. \*\*Maximum cash back of \$500. Offer subject to change without notice. ©2012 Spectrum Business. All rights reserved.

[illegible]





**Matt Bury** | Sr. Director, Spectrum Business Marketing & Creative Strategy  
400 Atlantic St. | Stamford, CT 06901 | 203.705.0837

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Message

**From:** Mullane, Erin [erin.mullane@rapp.com]  
**Sent:** 3/11/2019 4:05:48 PM  
**To:** Bury, Matt [matt.bury@charter.com]; Maguire, Peter [peter.maguire@rapp.com]  
**CC:** Zieleniec, Wlodek [wlodek.zieleniec@charter.com]; Powell, Stacey [stacey.powell@rapp.com]  
**Subject:** RE: Windstream Campaign-R3 Creative  
**Attachments:** SPECTRUM\_BAU100\_3\_11\_19\_R2.5B.pdf  
**Flag:** Follow up

Hi Matt-

Please see attached for Windstream sales flyer R3 creative. Please note the following:

- Global
  - Swapped the Gig logo on the front to the back and swapped the reliability logo from the back to the front
  - Moved the subhead "Windstream filed for Chapter 11, their future is uncertain. Don't leave your business up to chance." Below the headline
- Option 1:
  - Increased the size of the contract buyout in the yellow bar
- Option 2:
  - Reduced the point size of the headline and subhead
  - Brought in the contract buyout into the price point lockup
  - Brought in the switch and save \$40 into the yellow bar
- Option 3:
  - Removed the price point on the front of the letter and replaced with a large contract buyout message as the hero
  - Sweeteners have moved into the gold bar

Also wanted to follow up and see if you were good with the estimate Pete sent over last week. Once approved we can send over a formal estimate. Here are the estimate details:

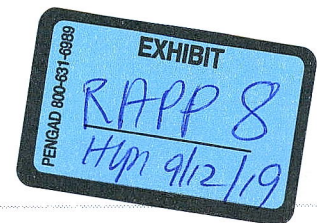
- RAPP to concept minimum 2 creative options for review (alt. copy/layout – but both in the same look/feel as our competitive campaign)
  - Initial concepts will be done for 200 Mbps BAU offer
- Charter to select 1 option for development and feedback
- RAPP to clean up base with feedback
- RAPP to version for speed & L-CHTR offer
  - Up to 4 versions total
- RAPP to package and release print-ready files
- Total estimate: \$7,916

Reach out with any questions.

Thanks,  
Erin

**From:** Mullane, Erin  
**Sent:** Monday, March 11, 2019 9:11 AM  
**To:** 'Bury, Matt' <Matt.Bury@charter.com>; Maguire, Peter <peter.maguire@rapp.com>  
**Cc:** Zieleniec, Wlodek <Wlodek.Zieleniec@charter.com>; Powell, Stacey <stacey.powell@rapp.com>  
**Subject:** RE: Windstream Campaign-R2 Creative

Hi Matt-



Thanks for confirming- all your feedback makes sense.

We will make the requested tweaks to option D and send over later today for review.

Thanks,  
Erin

---

**From:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Sent:** Friday, March 08, 2019 5:36 PM  
**To:** Mullane, Erin <[erin.mullane@rapp.com](mailto:erin.mullane@rapp.com)>; Maguire, Peter <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>  
**Cc:** Zieleniec, Wlodek <[Wlodek.Zieleniec@charter.com](mailto:Wlodek.Zieleniec@charter.com)>; Powell, Stacey <[stacey.powell@rapp.com](mailto:stacey.powell@rapp.com)>  
**Subject:** RE: Windstream Campaign-R2 Creative

Hi Erin,

I think Option D is the closest, but would like to explore the following changes:

- Move the "Windstream filed for Chapter 11..." up to pay off the headline.
- Change the Gig Now Available burst to the Reliability burst (you can put the Gig burst on the back in place of the reliability one)
- How can we make the CBO more prominent? This is better, but how can we take it up another step or two?
- I am open to removing the pricing from the front and replacing it with a CBO and/or Savings message....or dramatically decreasing the prominence of the pricing on the front and dramatically increasing the CBO and Savings messages....does that make sense?



**From:** Mullane, Erin [mailto:erin.mullane@rapp.com]

**Sent:** Friday, March 08, 2019 5:05 PM

**To:** Maguire, Peter <peter.maguire@rapp.com>; Bury, Matt <Matt.Bury@charter.com>

**Cc:** Zieleniec, Wlodek <Wlodek.Zieleniec@charter.com>; Powell, Stacey <stacey.powell@rapp.com>

**Subject:** RE: Windstream Campaign-R2 Creative

Hi Matt-

Please see attached for revised Windstream sales flyer R2 creative. Please note the following:

- Per our chat we have infused the \$500 contract buyout onto the front of the letter
- We have provided 4 creative options for the letter front with ALT treatments of the placement of the buyout message in the headline and in the CTA area at the bottom of the flyer
- We have provided the ALT headline "Windstream customers, Don't Risk Losing Your Internet and Phone services." To align with the softer message used in residential

Reach out with any questions or if you would like to set up time to chat through on Monday AM.



Thanks,  
Erin

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**From:** Mullane, Erin  
**Sent:** Friday, March 08, 2019 12:52 PM  
**To:** Maguire, Peter <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>; 'Bury, Matt' <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Cc:** 'Zieleniec, Wlodek' <[Wlodek.Zieleniec@charter.com](mailto:Wlodek.Zieleniec@charter.com)>; Powell, Stacey <[stacey.powell@rapp.com](mailto:stacey.powell@rapp.com)>  
**Subject:** RE: Windstream Campaign-Feedback Recap

Hi Matt-

Thanks for popping by Jen's office to chat quick ☺

Just want to recap our chat and plan of action to get us to a release early next week:

- Chosen Option: Page 1 (Front) and Page 4 (Back)
- Front of the flyer needs to promote the contract buyout more significantly possibly with a subhead message OR add on to message below laptop and phone image:
- Windstream is filing for chapter 11 their future is uncertain well buyout your contract and help you save month every month.
- Get you out of your contract and save you money every month.
- Direction changed a bit to put more emphasis on contract buyout.
- First headline is liked the most aggressive but liked the most.
- Dial up contract buyout more on the front.
- Liked the back of the second option "see for yourself".
- Message should be something along the lines "Get you out of your contract and save you money every month."
- ALT Headline on Front of the letter in addition to the current headline "Windstream customers, Don't Risk Losing Your Internet and Phone services."
- Note: tentative schedule will have to be tweaked to align with legal and internal approvals.
  - RAPP to provide R2 creative, 3/8
  - SMB to provide feedback, 3/11 by Noon
  - RAPP to provide R3 creative (BAU + L-CHTR), 3/11 EOD
  - SMB to provide feedback/base approval, 3/12 AM
  - RAPP to provide all 4 versions for approval, 3/12 3PM
  - RAPP to release all files, 3/12 EOD

Reach out with any questions or updates.

Thanks,  
Erin

---

**From:** Mullane, Erin  
**Sent:** Friday, March 08, 2019 10:24 AM  
**To:** Maguire, Peter <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>; Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Cc:** Zieleniec, Wlodek <[Wlodek.Zieleniec@charter.com](mailto:Wlodek.Zieleniec@charter.com)>; Powell, Stacey <[stacey.powell@rapp.com](mailto:stacey.powell@rapp.com)>  
**Subject:** RE: Windstream Campaign

Hi Matt-

Just wanted to follow up on R1 Creative for the Windstream sales flyer that Pete sent over on Wednesday night and see if there was any feedback or next steps.

Thanks,

Erin

---

**From:** Maguire, Peter  
**Sent:** Wednesday, March 06, 2019 9:26 PM  
**To:** Bury, Matt <Matt.Bury@charter.com>  
**Cc:** Zieleniec, Wlodek <Wlodek.Zieleniec@charter.com>; Mullane, Erin <erin.mullane@rapp.com>; Powell, Stacey <stacey.powell@rapp.com>  
**Subject:** Re: Windstream Campaign

Hi Matt

Wanted to follow up on the below with R1 creative options for the Windstream Flyer.

Given this is an unusual mix of messaging, we have provided 4 creative options (all in the look & feel of the "We Mean Business" competitive campaign).

Here is some detail as you review:

- All claims have been pulled from the power point deck provided at kickoff
- All 4 creative options include the Spectrum Internet Gig mention and the \$24.99/mo TV tease
- All letter backs include competitive charts (all with different look and feels for a range)
  - We have pulled the claims we believed to be the strongest/most valuable to call out but please confirm if you would like to swap some in and out.
  - All competitive charts have used the Windstream logo as we found this in residential to be powerful and resonate with the customer if they had the service with the competition
- **Option 1:**
  - Headline: Windstream Customers: You need a provider focused on business- not bankruptcy
  - Powerful headline immediately grabs the customer in if they have existing Windstream service – not sure if this will be a bit OTT, but wanted to provide a range
  - Lockup style carried through from WMB campaign without speech bubble
  - Below price lockup teaser "Windstream filed for Chapter 11, their future is uncertain. Don't leave your business up to chance."
  - We have included the switch and save message in the bright orange to make it stand out near the CTA
  - Headline on the back of the letter above the competitive chart: "Spectrum Business blows Windstream away. In every way"
- **Option 2:**
  - Headline: "Windstream filed for Chapter 11. It's time to start a new chapter with Spectrum Business"
  - ALT treatment of vertical price
  - Below lockup includes \$24.99 TV tease
  - Within orange bar before the CTA we have included an additional Windstream competitive dig "Windstream's future is uncertain. Don't leave your business up to chance. Switch to Spectrum Business."
  - Headline on the back of the letter above the competitive chart: "Windstream can't compete with Spectrum Business. See for yourself."
  - Below competitive chart we have included the Switch and save \$40 to pay off the competitive chart
- **Option 3:**
  - Headline: Just because Windstream's business is suffering, doesn't mean yours has to. Windstream has filed for Chapter 11 and their future is uncertain.
  - ALT treatment of horizontal lockup with Gig + devices
  - Below price lockup we have included "Stuck in a contract with Windstream" to call out that Windstream has contracts and the SMB contract buyout up to \$500.
  - Spectrum TV tease above CTA
  - Headline above competitive chart: Windstream can't keep up. See for yourself.
  - ALT treatment of competitive chart highlights spectrum in the dark blue



- Below competitive chart we have included the Switch and save \$40 to pay off the competitive chart
- Below the price lockup we have included a powerful message to close the flyer "Don't put your business at risk. Think twice before renewing your contract with Windstream."

- **Option 4:**

- This version is the closest to the Spectrum Means Business campaign with the speech bubbles
- We wanted to try one option that carried through the campaign more closely
- Headline: Business Owners, Windstream's slow speeds and hidden fees can't keep up with business (more of a product focus than the other options)
- For the Says and Means bubbles we have picked claims that we felt were the strongest against Windstream.
- We have included an additional message in the orange to further highlight that Windstream filed Chapter 11
- Below competitive chart we have included the Switch and save \$40 to pay off the competitive chart

### Next Steps

Assuming 3/7 is still the target date, below is the tight schedule to get us there:

- R1 Creative feedback due: 3/6 AM
- R2 Creative (Revised BAU + L-CHTR R1 creative): 3/6 EOD
- R2 Creative feedback due: 3/7 AM
- R1 MR (All 4 versions) due: 3/7 by 2PM
- All files released: 3/7 EOD

Please also provide estimate approval below when you can.

One final note – I'm out from tomorrow afternoon until 3/21, so please keep Stacey and Erin on all emails.

Thanks!

Pete

---

**From:** "Maguire, Peter" <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>

**Date:** Monday, March 4, 2019 at 6:18 PM

**To:** "Bury, Matt" <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>

**Cc:** "Zieleniec, Wlodek" <[Wlodek.Zieleniec@charter.com](mailto:Wlodek.Zieleniec@charter.com)>, "Mullane, Erin" <[erin.mullane@rapp.com](mailto:erin.mullane@rapp.com)>, "Powell, Stacey" <[stacey.powell@rapp.com](mailto:stacey.powell@rapp.com)>

**Subject:** Re: Windstream Campaign

Hi Matt

Thanks again for the extra detail.

Wanted to follow-up as promised with the estimate detail:

- RAPP to concept minimum 2 creative options for review (alt. copy/layout – but both in the same look/feel as our competitive campaign)
  - Initial concepts will be done for 200 Mbps BAU offer
- Charter to select 1 option for development and feedback



- RAPP to clean up base with feedback
- RAPP to version for speed & L-CHTR offer
- Up to 4 versions total
- RAPP to package and release print-ready files
- Total estimate: \$7,916

Please let me know if this works. We'll then get a formal estimate over to you (and in the spirit of timing, we're moving forward as the schedule is tight).

Let me know if you have any questions.

Thanks

Pete

---

**From:** "Bury, Matt" <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Date:** Friday, March 1, 2019 at 6:32 PM  
**To:** "Maguire, Peter" <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>  
**Cc:** "Zieleniec, Wlodek" <[Wlodek.Zieleniec@charter.com](mailto:Wlodek.Zieleniec@charter.com)>, "Mullane, Erin" <[erin.mullane@rapp.com](mailto:erin.mullane@rapp.com)>, "Powell, Stacey" <[stacey.powell@rapp.com](mailto:stacey.powell@rapp.com)>  
**Subject:** RE: Windstream Campaign

Hey Pete,

Thanks for the follow up.

1. We will need to version for 100Mbps and 200Mbps markets and probably for the L-Chtr offer and BAU offer. So, max 4 versions. But, I need to verify all of that.
2. TOTAL Price discrepancy is probably the most important/meaningful difference followed by the speed comparison, but trying to show how misleading they are by advertising one price and then nickel and diming you for things that we include for free is a good part of the story too. My thought was to show the price variation big and bold like resi does on their overbuilder campaigns and then include a chart like this on the back that shows in more detail how dishonest they are.
3. I am not sure we have to stick to the says means for this, although I am open to it if it works out. I think the focus needs to be a bit more focused on the comparison to us rather than the cleverness of the says/means. However, I think it should look and feel like the rest of the collateral if possible (from a color stand point)
4. Estimate would be good please.

---

**From:** Maguire, Peter [<mailto:peter.maguire@rapp.com>]  
**Sent:** Friday, March 01, 2019 2:51 PM  
**To:** Bury, Matt <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Cc:** Zieleniec, Wlodek <[Wlodek.Zieleniec@charter.com](mailto:Wlodek.Zieleniec@charter.com)>; Mullane, Erin <[erin.mullane@rapp.com](mailto:erin.mullane@rapp.com)>; Powell, Stacey <[stacey.powell@rapp.com](mailto:stacey.powell@rapp.com)>  
**Subject:** Re: Windstream Campaign

Hi Matt

Just following up on my note from yesterday to confirm we should be good to release art next Friday. The broad plan is we get you the creative Wednesday, do a round of feedback/move into mechanicals Thursday, final approval & release Friday.

Few questions:

- Will there be any specific versioning requirements? Assuming we need 100/200 speed, as looks like the footprint covers both? Anything else?
- Of the claims on page 3 – any specific hierarchy on what we should dig?
- I know you mention using the broad template from the competitive campaign:
  - Should we keep “Says/Meanings” construct?
  - Should the bankruptcy be the lead message or a supporting message?
- Assuming you’d like a separate estimate for this piece?

I’m in an all-day session at RAPP (with Jen Smith, of course!), but call my mobile if you want to chat – 347 392 9034.

Thanks!

Pete

---

**From:** "Bury, Matt" <[Matt.Bury@charter.com](mailto:Matt.Bury@charter.com)>  
**Date:** Thursday, February 28, 2019 at 12:59 PM  
**To:** "Maguire, Peter" <[peter.maguire@rapp.com](mailto:peter.maguire@rapp.com)>  
**Cc:** "Zieleniec, Wlodek" <[Wlodek.Zieleniec@charter.com](mailto:Wlodek.Zieleniec@charter.com)>  
**Subject:** Windstream Campaign

Hi Pete,

Can you help me create a sales flyer that leverages our competitive campaign template to go after Windstream? They recently announced that they will be filing Chapter 11 bankruptcy and we want to use that to drive new customer acquisitions. I have outlined some high level details in the attached and have a few thoughts below:

- For now, I just want to focus on a Direct Sales Flyer. There are other tactics listed here, but all are just under consideration right now...none have been approved.
- The attached lists the regions where we overlap with Windstream, but I am trying to get more granular detail to look at what Zips have overlap. This may enable more clear competitive comparisons.
- I have included a comparison chart that outlines our offer v. Windstream’s. We blow them away...everything is included in our package whereas Windstream has a low entry point and then nickel and dime’s their customers with extra fees and taxes. In the end, we win big so I want to show this very clearly on the piece.
- I have outlined some initial messaging ideas....take it or leave it.
- I am trying to get an increase to our contract buy out....currently we will spend up to \$500 to get you out of your contract, but am trying to see if we can increase that for this situation. More to come on that.

Ideally, I would like to get something pulled together by the end of next week. Do you think that is possible?

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