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

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

	)	
In re:	)	Chapter 11
	)	
WINDSTREAM FINANCE, CORP., <i>et al.</i> ,	)	Case No. 19-22397 (RDD)
	)	
Debtors.	)	(Formerly Jointly Administered
	)	under Lead Case Windstream
	)	Holdings, Inc., 19-22312)
	)	
WINDSTREAM HOLDINGS, INC., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. 19-08246
	)	
vs.	)	
	)	
CHARTER COMMUNICATIONS, INC.	)	
and CHARTER COMMUNICATIONS	)	
OPERATING, LLC,	)	Related Case Nos.
	)	19-cv-09354
Defendants.	)	
	)	



192231221051300000000005

**DEFENDANTS-APPELLANTS' NOTICE OF FILING ATTACHMENTS**

Defendants Charter Communications, Inc. and Charter Communications Operating, LLC (“Defendants-Appellants”), by and through their undersigned counsel, hereby file attachments to their Designation of the Record and Statement of Issues to be Presented on Appeal filed with the Court on May 13, 2021. Due to the Court’s document size limitations, it is necessary to file these attachments separately.

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' Notice of Filing Attachments*** via operation of the Court's Electronic Filing System upon all counsel of record in the adversary proceeding.

/s/ Brian Hockett

Terence P. Ross  
Tami Kameda Sims (*admitted pro hac vice*)  
Shaya Rochester  
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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., et al., <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
	)	
WINDSTREAM HOLDINGS, INC., et al.,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. 19-08246
	)	
vs.	)	
	)	
CHARTER COMMUNICATIONS, INC. and CHARTER	)	
COMMUNICATIONS OPERATING, LLC,	)	
	)	
Defendants.	)	
	)	

**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 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.



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 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. DISCLOSURES UNDER FRCP 26(a)(1)(A)(i): INDIVIDUALS**

Windstream discloses the following individuals, presently known to Windstream, pursuant to Fed. R. Civ. Pro. 26(a)(1)(A)(i), that may have information that Windstream may use to support its claims and/or defenses. 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.

**Windstream Employees**

The following Windstream employees may be contacted through Windstream’s counsel of record:

1. *Lewis Langston*

- Windstream’s Chapter 11 Cases;
- Windstream’s operations and business prior to the Chapter 11 filing;
- Windstream’s Kinetic internet campaign;

- Charter's false advertising campaign regarding Windstream's Chapter 11 filing;
- Windstream's cease and desist letters to Charter;
- Customer confusion caused by Charter's false advertising campaign;
- The harm to Windstream caused by Charter's false advertising campaign;
- Charter's disconnection of Windstream customers in or around March 2019; and
- Charter's disconnection of Windstream customers after the Court's Temporary Restraining Order and Preliminary Injunction Order.

2. *Jerry Wayne Parrish*

- Statements made by Charter direct sales representative Emmitt Walker on or around April 8, 2019.

3. *Shonne Bandy*

- Disconnection of Windstream customer by Charter in May 2019.

4. *Timothy Wyatt*

- Windstream customer's complaint of false statements made by Charter employee, Latisha Truong, regarding Windstream's bankruptcy on or around May 9, 2019.

**Charter Employees, Agents, and/or Representatives**

The following Charter employees may presumably be contacted through Charter's counsel of record:

1. *Kelly Atkinson*

- 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;

- Communications with present or potential customers referring to Windstream;  
and
- Windstream customers that switched to Charter.

2. *Keith Dardis*

- The role of Charter direct sales representatives; advertising campaigns conducted by Charter direct sales representatives;
- Disconnection of Windstream customers by Charter; and
- Communications to Charter employees regarding the Court's Temporary Restraining Order and Preliminary Injunction.

3. *Jennifer Smith*

- The design of Charter's advertisements relating to Windstream's Chapter 11 cases, including the design of the outer envelope; and
- Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.

4. *Chris Czekaj*

- 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
- Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.

5. *R2 Creative*

- The design of Charter's advertisements relating to Windstream's Chapter 11 cases, including the design of the outer envelope; and

- Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.

6. *Latisha Truong*

- Statements made on or around May 2019 to Windstream customers regarding Windstream's Chapter 11 filing.

7. *Additional Charter employees, agents, and/or representatives*

- The design of Charter's advertisements relating to Windstream's Chapter 11 cases, including the design of the outer envelope;
- Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases;
- The training of Charter's representatives and agents relating to Windstream's Chapter 11 cases;
- Windstream customers that have switched their service to Charter from February 2019 through the present;
- Customer responses and customer confusion arising from Charter's false advertising campaign relating to Windstream's Chapter 11 cases;
- Charter's profits relating to its false advertising campaign concerning Windstream's Chapter 11 cases;
- 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;

- 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;
- Charter's efforts to comply with the Bankruptcy Court's April 16, 2019 Temporary Restraining Order, including any violations thereof;
- Charter's efforts to comply with the Bankruptcy Court's May 16, 2019 Preliminary Injunction, including any violations thereof; and
- Charter's efforts to comply with the Bankruptcy Court's automatic stay, including any violations thereof.

Windstream reserves the right to disclose additional witnesses to supplement its initial disclosures as additional information becomes known or available to it.

**B. DISCLOSURES UNDER FRCP26(a)(1)(A)(ii): DOCUMENTS**

Pursuant to FRCP 26(a)(1)(A)(ii), 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 (unless solely for impeachment):

- 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;
- 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 learn of, find, or determine are significant. 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.

**C. DISCLOSURES UNDER FRCP26(a)(1)(A)(iii): DAMAGES**

In its Complaint, Windstream seeks, among other things, a permanent injunction enjoining Charter from engaging in any advertising that falsely states or implies that Windstream's Chapter 11 filing means that it is going out of business or will impair or otherwise adversely impact Windstream's ability to provide service to its customers. Windstream also seeks an award of Charter's profits, Windstream's lost profits, and 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 any pre-judgment and post-judgment interest. 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.

At this time, due to the need for discovery relating to Charter's profits and the continuing investigation regarding Windstream's lost profits and the potential need for expert discovery on the topic, Windstream is unable to estimate the range of provable damages.

**D. DISCLOSURES UNDER FRCP26(a)(1)(A)(iv): INSURANCE**

Windstream is presently unaware of any insurance agreement applicable to the claims asserted in the Complaint, and thus has no disclosure relevant to Rule 26(a)(1)(A)(iv) of the Federal Rules of Civil Procedure.

Dated: June 19, 2019

/s/ Terence P. Ross

Terence P. Ross

Tami Kameda Sims (*admitted pro hac vice*)

Shaya Rochester

**KATTEN MUCHIN ROSENMAN LLP**

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[tami.sims@kattenlaw.com](mailto:tami.sims@kattenlaw.com)

[srochester@kattenlaw.com](mailto:srochester@kattenlaw.com)

*Conflicts Counsel to the Debtors and Debtors in Possession*



**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of June 2019, a true and correct copy of the *INITIAL DISCLOSURES OF DEBTORS AND PLAINTIFF WINDSTREAM HOLDINGS, INC.* was served by email on all counsel of record in the adversary proceeding.

Dated: June 19, 2019

/s/ Tami Kameda Sims

Tami Kameda Sims

Terence P. Ross  
Michael R. Justus (*pro hac vice pending*)  
Shaya Rochester  
**KATTEN MUCHIN ROSENMAN LLP**  
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Facsimile: (212) 940-8776

*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., et al., <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
	)	
WINDSTREAM HOLDINGS, INC., et al.,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. 19-08246
	)	
vs.	)	
	)	
CHARTER COMMUNICATIONS, INC. and CHARTER	)	
COMMUNICATIONS OPERATING, LLC,	)	
	)	
Defendants.	)	
	)	

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<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.

**SUPPLEMENTAL INITIAL DISCLOSURES OF PLAINTIFF  
WINDSTREAM HOLDINGS, INC. AND AFFILIATED DEBTORS**

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 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.

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.

Name and Contact Information	Subject(s)
<p>Jeffrey Auman <i>Executive Vice President, Sales and Marketing</i> Windstream Holdings, Inc.</p> <p>11329 W. 160th Street Overland Park, KS 66221</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;</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; and</li><li>• Windstream's responses to Charter's discovery requests in this proceeding.</li></ul>

<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>

<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>
<p>Chris Czekaj 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; and</li> <li>• Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.</li> </ul>

<p>Emmitt Walker Charter Communications, Inc.</p> <p>1801 Elyria Avenue Lorain, OH 44055</p>	<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>
<p>Andrew Sites Charter Communications, Inc.</p> <p>3100 Elida Road Lima, OH 45805</p>	<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>
<p>R2 Creative</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>
<p>RAPP Worldwide, Inc.</p> <p>220 East 42nd Street New York, NY 10017</p>	<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>
<p>Latisha Truong</p> <p>Address Unknown</p>	<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>

<p>Additional Charter employees, agents, and/or representatives</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;</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;

- 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 learn of, find, or determine are significant. 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.

### **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 any pre-judgment and post-judgment interest. 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.

At this time, due to the need for discovery relating to Charter's profits and the continuing investigation regarding Windstream's lost profits and the potential need for expert discovery on the topic, Windstream is unable to estimate the range of provable damages.

**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.

Dated: August 29, 2019

/s/ Terence P. Ross  
Terence P. Ross  
Michael R. Justus (*pro hac vice pending*)  
Shaya Rochester  
**KATTEN MUCHIN ROSENMAN LLP**  
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New York, NY 10022  
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[michael.justus@katten.com](mailto:michael.justus@katten.com)  
[srochester@katten.com](mailto:srochester@katten.com)

*Conflicts Counsel to the Debtors and Debtors in Possession*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of August 2019, a true and correct copy of the *SUPPLEMENTAL INITIAL DISCLOSURES OF DEBTORS AND PLAINTIFF WINDSTREAM HOLDINGS, INC.* was served by email on all counsel of record in the adversary proceeding.

Dated: August 29, 2019

/s/ Kristin Lockhart

Kristin Lockhart

Terence P. Ross  
Michael R. Justus (*pro hac vice pending*)  
Shaya Rochester  
**KATTEN MUCHIN ROSENMAN LLP**  
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New York, NY 10022  
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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., et al., <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
_____	)	
WINDSTREAM HOLDINGS, INC., et al.,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. 19-08246
	)	
vs.	)	
	)	
CHARTER COMMUNICATIONS, INC. and CHARTER	)	
COMMUNICATIONS OPERATING, LLC,	)	
	)	
Defendants.	)	
_____	)	

<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.

**SECOND SUPPLEMENTAL INITIAL DISCLOSURES OF PLAINTIFF  
WINDSTREAM HOLDINGS, INC. AND AFFILIATED DEBTORS**

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 second 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.

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 to Windstream caused by Charter's false advertising campaign;</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; and</li><li>• Windstream's responses to Charter's discovery requests in this proceeding.</li></ul>

<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>



<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>
<p>Chris Czekaj 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; and</li> <li>• Internal communications relating to Charter's false advertising campaign regarding Windstream's Chapter 11 cases.</li> </ul>

<p>Emmitt Walker Charter Communications, Inc.</p> <p>1801 Elyria Avenue Lorain, OH 44055</p>	<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>
<p>Andrew Sites Charter Communications, Inc.</p> <p>3100 Elida Road Lima, OH 45805</p>	<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>
<p>R2 Creative</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>
<p>RAPP Worldwide, Inc.</p> <p>220 East 42nd Street New York, NY 10017</p>	<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>
<p>Latisha Truong</p> <p>Address Unknown</p>	<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>

<p>Additional Charter employees, agents, and/or representatives</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;</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;

- 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 - WIN002487; Charter\_000001 - Charter\_020883; 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

any pre-judgment and post-judgment interest. 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.

At this time, due to the need for discovery relating to Charter's profits and the continuing investigation regarding Windstream's lost profits and the potential need for expert discovery on the topic, Windstream is unable to estimate the range of provable damages.

**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.

Dated: September 6, 2019

/s/ Terence P. Ross

Terence P. Ross

Michael R. Justus (*pro hac vice pending*)

Shaya Rochester

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[srochester@katten.com](mailto:srochester@katten.com)

*Conflicts Counsel to the Debtors and Debtors in Possession*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of September 2019, a true and correct copy of the *SECOND SUPPLEMENTAL INITIAL DISCLOSURES OF DEBTORS AND PLAINTIFF WINDSTREAM HOLDINGS, INC.* was served by email on all counsel of record in the adversary proceeding.

Dated: September 6, 2019

/s/ Kristin Lockhart

Kristin Lockhart



Competitive monitoring and analysis of telco broadband and wireless activities

February 16–28, 2019

Analyst:

Karen Brown

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- 7** Verizon execs tag-team to make the case for 5G
- 9** Report: U.S. Internet users are taking bigger bytes

## Windstream sends up white flag, files Chapter 11 bankruptcy

**Issue:** Long-suffering telco Windstream has bowed to financial reality in the wake of a potentially crippling court ruling and has filed for Chapter 11 bankruptcy.

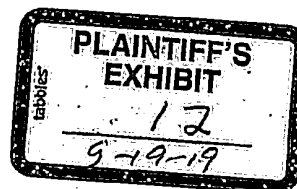
**Background:** The decision to seek Chapter 11 protection stems from a near-fatal ruling in a lawsuit filed by one of its bondholders, hedge fund Aurelius Capital Management. In its suit, Aurelius accused Windstream of violating terms of certain debt bonds related to the 2015 spinoff of its network assets as a real estate investment trust (REIT). A U.S. District Court judge agreed, and ordered the telco to pay Aurelius \$310 million in bond reimbursement and penalties. Faced with the potential that other Windstream bondholders would follow suit — opening it up to as much as \$5.8 billion in financial exposure — the telco's board and management apparently reorganizational bankruptcy was the safer route while restructuring the company's debt.

**Implications:** In truth, Windstream's misfiring business strategy had it teetering on the edge of financial insolvency long before Aurelius Capital Management entered the picture. But while Chapter 11 will provide some legal shelter while the telco reorganizes its tangled debt structure, uncertainty about the service impacts will make some residential and business customers uneasy. They may start looking elsewhere for voice, video and data services — and competitors including cable operators will be more than happy to help them jump ship.



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Beleaguered rural ILEC/CLEC Windstream has opted to file Chapter 11 bankruptcy following a damaging court ruling in its battle with hedge fund Aurelius Capital Management over its bond structure.

While the move is intended to ensure Windstream survives, it could result in the opposite — and at the very least it gives competitors including cable players some valuable new marketing ammunition.

While its ongoing financial struggles provided fuel, the spark igniting the bankruptcy came from a damaging judgment in an ongoing court battle with hedge fund investor Aurelius Capital Management over the 2015 spinoff of its network assets as a Real Estate Investment Trust (REIT). At issue are a subset of bonds Windstream issued to support the spinoff — now operating as Uniti Group — which carry a 6.375% interest rate and are due in 2023.

Aurelius, which owns 25% of these bonds, argued Windstream improperly transferred certain Uniti assets without permission of the bondholders, thereby violating the bond issue's covenants. In his ruling, U.S. District Court Judge Jesse Furman agreed, and ordered Windstream to repay the bond share Aurelius owns plus interest, to the tune of \$310 million.

After reviewing all options including an appeal, Windstream's board of directors and management decided that Chapter 11 bankruptcy is "a necessary step to address the financial impact of Judge Furman's decision and the impact it would have on consumers and businesses across the states in which we operate," said Tony Thomas, Windstream's president and CEO, in a release. "Taking this proactive step will ensure that Windstream has access to the capital and resources we need to continue building on Windstream's strong operational momentum while we engage in constructive discussions with our creditors regarding the terms of a consensual plan of reorganization."

Translation: Windstream's board and senior management looked at the court ruling and realized the chances for winning an appeal were low. Worse, they realized that other creditors would see the ruling opportunity and file "me-too" bond default suits, which could put Windstream on the hook for upwards of \$5.8 billion in aggregate repayments and penalties. To lessen that exposure and avoid more legal fees, the better option was reorganizational bankruptcy.

#### **Reorganization a challenge**

Granted, the bankruptcy proceedings won't be a sunny walk in the park, either. It's a fair bet that Aurelius will not be the only creditor to use the court filing as leverage to exact more favorable (read costlier) payment or refinancing terms from Windstream. But on the upside, if Aurelius is repaid as part of the negotiated reorganization plan, it will cease to be creditor — and cease to be a problem for Windstream going forward.



Tony Thomas  
Source: Windstream

Windstream's first task is to assure customers and shareholders that it will maintain operations during the proceeding, and on that front it has already secured \$1 billion in debtor-in-possession financing from Citigroup Global Markets. The bankruptcy court has already approved \$400 million of that amount, which should keep the lights in the near term.

#### **Cue the damage control**

And it appears the damage control is well under way. A week prior to the bankruptcy filing, Windstream fielded a press release bragging that its broadband speed upgrade project — which doubled availability of its 100 Mbps Kinetic Internet service — has been completed six weeks ahead of schedule. It also announced that Thomas had agreed to a contract extension, keeping him in place as CEO through 2024. In retrospect, both announcements were probably intended to soften the blow of the bankruptcy news, in giving shareholders and customers some assurance that it was business as usual — or even better-than-usual — at Windstream.

The latter probably won't provide either group much comfort. After all, it was Thomas who oversaw the Uniti spinoff, so he bears at least some of the blame for the bond covenant misstep. So assuring that he remains as CEO for another five years may be problematic to some.

Customers will probably be more concerned that distractions and tighter financial restrictions during Windstream's bankruptcy may lead to service issues, ranging from outages to spiraling customer support response times. Windstream may also be limited in its ability to capitalize on higher speed qualifications for new and existing customers.

In contrast, Windstream's woes are good news for its rivals, including cable players. They will certainly waste no time in spinning up marketing campaigns targeting Windstream's customer base, pointing out the uncertainty of the telco's future. They also may pile on bigger incentives and promotional offers to convince these customers to jump ship.

Depending on how successful these competitive marketing strikes are, it could be a further blow to an already staggering Windstream. As a result the new Windstream that emerges from bankruptcy sometime in the next year or two could be a smaller but not necessarily stronger telco with an even more uncertain future.

#### **Frontier Q4: 'Transformation' plan boosts profits, but not customer counts**

Despite some modest improvements in profitability, Frontier's fourth quarter once again was awash in red ink, with hefty losses continuing in residential data and video segments.

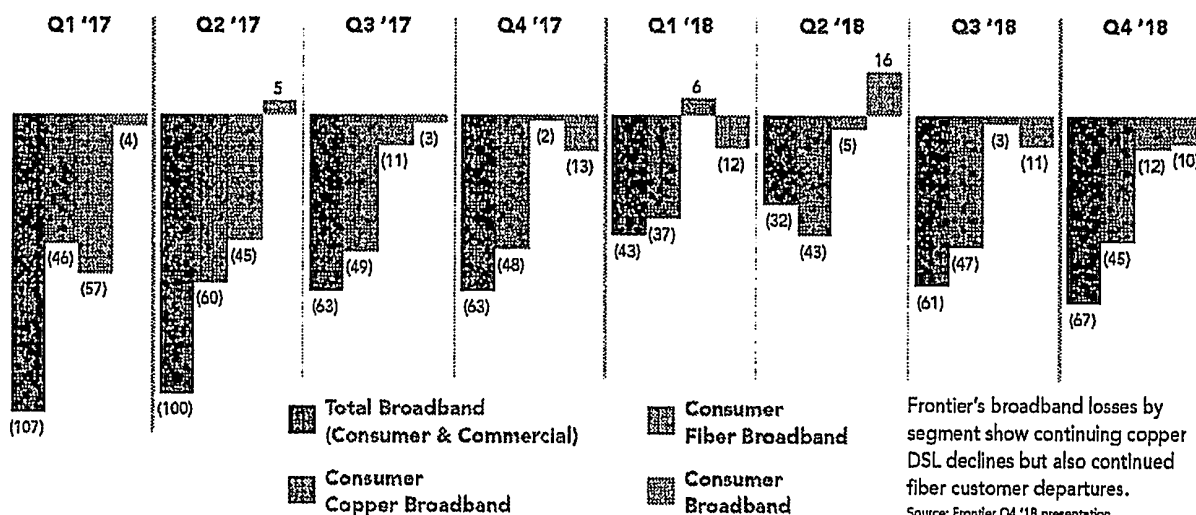
Perhaps to divert attention from the dismal results, Frontier played up plans to launch a 10 Gbps FIOS data service initially targeting business and wholesale mobile backhaul customers that eventually would make its way into the residential product lineup.

There was no shortage of disappointments in Frontier's residential numbers, despite CEO Dan McCarthy's insistence that an ongoing "transformation" program is improving field operations, product development and customer support systems. In broadband, Frontier dropped 57,000 residential accounts, down from 50,000 lost in the fourth quarter 2017. Helpfully, Frontier provided breakouts that made clear that the problem lies not only with its copper based DSL service (45,000 connections lost, versus 48,000 lost in Q4 '17) but also with its fiber broadband offering (12,000 connections lost, up sharply from 2,000 lost in the prior fourth quarter.)

McCarthy noted that broadband gross additions were a weakness, but quickly added that Frontier has "transformation efforts now focused on that as well."

"We have been diligently scaling different opportunities to improve lift, but the quarter really was about us targeting customers very selectively and really trying to improve customer lifetime value of the targeted segment," he added.

#### Broadband unit trends (net adds (000s))



It's a circuitous answer that raises a perplexing question: If Frontier is focusing on high-value customer retention as McCarty indicates, why is it continuing to lose fiber broadband subscribers? As it happens, an analyst on the quarterly call asked just that question. McCarthy's answer is somewhat amusing and decidedly clumsy:

"We have been studying the broadband, [and] on the fiber churn, that is probably our biggest opportunity to move the needle," he said. "It could be a wide range of different drivers. There is no one silver bullet that is the answer, but that's why you break it down into the various cohorts and focus on each stage of the lifecycle. We're doing it on copper as well as fiber."

Beyond entertaining, this is an interesting answer. In the past, McCarthy has admitted that some of the blame for the fiber losses is a failure to track when one customer moves out of a fiber-connected home and a potential new customer moves in. Unaware that the home is fiber-connected, these new customers often opt to take service from a local cable provider, and the fiber line goes unused.

But McCarthy did not point to that issue during the call, instead simply noting that Frontier is studying the trend. It's a passive response that probably won't give investors or Wall Street confidence that Frontier understands the problem, let alone solve it. Indeed, it's more likely the broadband customer base, which totaled 3.27 million at the end of December, will continue to recede.

#### Video bleed accelerates

In video, it was a tale of two pretty dismal cities — while Frontier managed to slow the loss of Dish Network DBS bundled subscribers, declines in its wireline Fios TV and Vantage TV services accelerated.

#### Frontier Quarterly Results

\$ IN MILLIONS; SUBS IN THOUSANDS	Q4'17	FY'17	Q3'18	Q4'18	FY'18
<b>Revenue</b>					
Total Revenue	\$2,217	\$9,128	\$2,126	\$2,124	\$8,611
Consumer Revenue	\$1,086	\$4,476	\$1,069	\$1,088	\$4,380
Video Revenue	\$310	\$1,304	\$260	\$275	\$1,085
Data Revenue	\$939	\$3,862	\$961	\$959	\$3,878
Voice Revenue	\$687	\$2,864	\$669	\$668	\$2,721
Cap Exp	\$308	\$1,154	\$329	\$245	\$1,192
Operating Free Cash Flow	\$342	\$662	(\$43)	\$358	\$620
Operating Income	(\$1,483)	(\$1,568)	(\$33)	\$127	\$827
Net Income	(\$1,029)	(\$1,804)	(\$426)	(\$219)	(\$643)
Long-term debt	\$16,970	\$16,970	\$16,402	\$16,358	\$16,358
<b>Subscribers</b>					
Total Wireline Video Adds	(20)	(184)	(29)	(35)	(123)
Total Wireline Video Subs	961	961	873	838	838
DBS Frontier Adds	(9)	(39)	(8)	(6)	(30)
Total DBS Frontier Subs	235	235	211	205	205
Residential data adds	(50)	(318)	(50)	(57)	(186)
Residential data total	3,451	3,451	3,322	3,265	3,265
Business data customer additions	(13)	(15)	(11)	(10)	(17)
Business data customers	487	472	465	455	438
Total Data Adds	(63)	(333)	(61)	(37)	(203)
Total Data Subs	3,938	3,938	3,802	3,735	3,735
Residential Customer Adds	(89)	(494)	(86)	(92)	(337)
Total Residential Customers	4,397	4,397	4,152	4,060	4,060
Residential churn	1.98*	2.17*	2.03*	1.94*	1.97*
Residential ARPC	\$81.61	\$80.96	\$84.92	\$88.37	\$86.26

Source: Frontier Q4 earnings release

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The telco lost 35,000 wireline video and 6,000 Dish Network DBS subscribers in Q4. That compares to 20,000 wireline and 9,000 DBS customers lost in the same quarter 2017. At the end of December it claimed 838,000 wireline video subscribers and 205,000 Dish subscribers.

For the full year, Frontier lost 123,000 wireline TV subscribers, down from 184,000 lost in the full-year 2017. In DBS, it lost 30,000 subscribers in 2018, also down from 39,000 lost in 2017.

The combined video customer losses again put a drag on revenue, with video revenue of \$275 million compared to \$310 million in the prior fourth quarter. Total 2018 video revenue of \$1.09 billion was also down from \$1.3 billion in 2017.

A breakout of subscriber trends revealed that the wireline video losses came largely from the telco's acquired California, Texas and Florida properties, which lost a combined 27,000 subscribers versus legacy Frontier properties' 8,000 video losses. Both are up from fourth quarter 2017 losses which included 17,000 CTF and 3,000 legacy Frontier video customer departures.

Among other metrics, residential churn improved to 1.94% from 1.98% in the fourth quarter a year ago. And arguably the bright spot for Frontier was the improvement in residential average revenue per customer (ARPC), which rose to \$88.38 compared to \$81.61 in the prior fourth quarter. Frontier attributed that gain to moderation in promotional pricing, resulting in more customers paying full rates for their services.

#### **10 Gbps on the horizon?**

Elsewhere, Frontier has plans to launch 10 Gbps data service to business and wholesale fiber backhaul customers sometime this year, possibly followed by launch to the residential segment. The new offering is intended to slow ongoing broadband customer declines in the business segment and take advantage of mobile carriers' ramping 5G network buildouts.

But there's also an inherent risk in offering this service as a wholesale mobile backhaul option: Ironically it helps establish 5G services that could cannibalize Frontier's consumer broadband services, particularly in its larger markets in California, Texas and Florida. As in past calls, McCarthy dismissed that notion.

"5G will happen at whatever pace 5G will happen based on the 5G standards adoption. What we wanted to do was position ourselves really from a commercial opportunity, but also for a potential 5G backhaul and we think that the 10 Gbps is probably going to be choice for a lot of carriers for that backhaul capability," he said. "The side benefit of doing it is that the entire FiOS footprint — every OLT [Optical Line Terminal, which sits at the neighborhood central office and aggregates fiber access traffic] will be upgraded for 10 Gbps, so that kind of future-proofs the need for the consumer side as well. So even though that won't be a targeted offer for consumers initially, it really does kind of create what we think is a state-of-the-art network in the place where we think 5G might be — the first places where it might come in as an alternative. And having the kind of

speeds — whether it is 1 Gbps or higher actually will be very competitive and very compelling from our perspective for customers. So we are not as worried about that.”

### **Verizon execs tag-team to make the case for 5G**

For the most part, “staged” is the best description for Verizon’s Investors’ Day Feb. 21: a well-scripted, executive tag-team presentation that repeatedly emphasized 5G as the future across Big Red’s residential, business and media services divisions.

But hidden within the spin were a few interesting nuggets of reality — most notably, an accelerated plan to launch mobile 5G service in more than 30 markets by year’s end, and acknowledgment that despite the hype, 5G won’t start bearing economic fruit for Verizon until 2021 or later.

Up to now, Verizon has vaguely promised to launch mobile 5G services, but the carrier’s focus has been on the 5G Home fixed wireless service, which launched using proprietary, pre-5G gear in limited parts of four markets in October. Verizon had promised the modest 5G Home footprint would expand in early to mid-2019 once it could upgrade to a standards-based scheme, but recently it has become clear manufacturers are concentrating on mobile 5G consumer devices. The standards-based fixed 5G gear won’t be available until late 2019.

That’s not a situation Verizon management is probably happy with, but there was little it could do. So the answer is to re-train its near-term gunsights on mobile 5G, to avoid losing its prized marketing image as an early leader in the technology. During the presentation, Consumer CEO Ronan Dunne wouldn’t reveal any pricing detail for this mobile 5G service — including whether it would be an add-on or new expanded 5G/4G LTE tier — but he said the service itself wouldn’t get a “one size fits none” marketing treatment.

“I have a commercial go-to-market, city-by-city plan,” he said. “I will be going door-to-door in residential; I will be in the stores.”

Since assuming command of Verizon’s consumer services, Dunne has consistently preached a message of diversity rather than uniformity when it comes to products, tailoring offers to fit multiple customer segments. With the mobile 5G launch, he is indicating that tailored strategy will extend to geographic plans geared for the competition in specific markets.

Moreover, at one point he waved around the new Samsung Galaxy S10 5G smartphone, which will launch with Verizon on an exclusive basis sometime by the end of the second quarter. Having such an iconic early 5G device would help to sell the service, he argued.

Later, an analyst pressed for a launch date for the device, but Vestberg would only say that it’s “not going to be tomorrow, but it is going to be in the first half of 2019.” Recent reports had placed the launch with Verizon in the April/May timeframe; Vestberg’s comments might indicate that timetable also has been pushed back.

## 5G picture begins to sharpen

Verizon's 5G buildout and launch strategy is slowly starting to take shape, with several notable details:

- LTE-Advanced, offering MIMO antenna, 256 QAM and carrier aggregation upgrades, is now up and running in 250 cities, or roughly half of Verizon Wireless' 4G LTE network. CEO Hans Vestberg archly noted that while competitors (ahem, AT&T) were claiming that this was 5G technology, it should be correctly labeled as 4G.
- Fiber construction is under way in more than 60 markets outside of ILEC footprint. Verizon will have more than 25,000 miles of new fiber added by year's end.
- The 30-plus cities Verizon has targeted for mobile 5G rollout this year can be described as NFL cities. Chief Financial Officer Matt Ellis said at a Feb. 27 Morgan Stanley investors' conference.
- Verizon will reach its 30 million home addressable market target for 5G Home in five to eight years.
- Verizon has pursued a philosophy of buy, build or rent fiber. But Vestberg modified that, saying that Verizon increasingly is leaning toward building. "We find out in more cases for us there is such better economics if we build it ourselves," he said, adding that Verizon often needs fiber rings to feed an enterprise customer or a collection of wireless base stations so leased "point-to-point doesn't help us." That said, he quickly added that all of this is being accomplished within Verizon's existing capex budget.

So, what of 5G Home at present? While the rollout itself is not growing, Vestberg and his management team argued that Verizon has learned valuable lessons from customer responses.

Dunne, Vestberg and Chief Financial Officer Matt Ellis were asked about the relative scale of 5G Home versus 5G mobile service — implying that Verizon would see a lot more revenue from mobile than it ever would from fixed, despite its massive millimeter spectrum investments. The executives were largely evasive, but Vestberg insisted fixed could be marketed to Verizon's original target of 30 million homes nationwide, and Ellis said that "from what we've seen from our rollout 5G Home will be a core component of our revenue stream." These answers will probably do little to ease concerns among investors and Wall Street that Verizon's focus on fixed 5G is an expensive misdirection given the potential for greater scale and profit on the mobile 5G side.

CTO Kyle Malady said while the minimum speed for 5G Home is 300 Mbps, Verizon is finding a subset of the early users don't want that high of a throughput. They might want just 100 Mbps. He then argued that in some markets where broadband speeds are low, Verizon could go out with a 100 Mbps 5G Home offering and attract more customers than it would with a higher-speed offering. But in more competitive markets, a 100 Mbps tier won't gain any traction. Again, this aligns with Verizon's (and specifically Dunne's) mantra of offers tailored by market.

However, Malady's comments have a distinctly false ring as well. After all, it's doubtful that many consumers are eager for slower-speed service. Instead, one wonders if Verizon is finding it too difficult to base 5G Home on a minimum 300 Mbps service speed because of capacity issues or limitations tied to use of ultra-high millimeter spectrum. If so, Malady could be laying the groundwork for lowering 5G Home's minimum service speed to 100 Mbps in a way that doesn't look like a technology defeat.

Beyond that, the Verizon executive team also repeated another statement that probably doesn't overjoy investors: While Big Red's 5G rollouts will accelerate this year, the service won't reach any real scale until 2020 and it won't become revenue-beneficial until 2021 or after. For competitors including wireline providers, the reality is that Verizon's fixed and mobile 5G services will remain potential rather than actual threat this year. The real impacts — and the degree of these impacts — will still take at least two years to materialize.

### **Report: U.S. Internet users are taking bigger bytes**

U.S. broadband users are gobbling up the bytes, as the percentage of wireline customers who consume more than 1 Terabyte per month nearly doubled in 2018, according to research from network usage monitor OpenVault.

The research company found that power users consuming more than 1 TB constituted 4.12% of the total broadband user population, compared to 2.11% in 2017. But the rising broadband usage is not confined to just power users.

U.S. households averaged 268.7 Gigabytes monthly, up 33% from 2017's level of 103.6 GB. Median usage — measuring the middle point of the usage range — rose even faster, up 40% to 145.2 GB versus 103.6 GB in 2017, according to OpenVault.

OpenVault's estimates have to be taken with a grain of salt, as it is in the business of providing cable operators with usage management systems. But its usage results follow other broader research from the likes of Cisco and Ericsson that have found similar ramping broadband usage overall, be it through wireline or wireless services.

The increase in usage itself may be driven by growing consumer use of OTT video services, funneling large video data streams over an Internet connection rather than traditional satellite TV or coaxial cable systems.

What OpenVault and other studies provide is a sense for this video delivery shift. And for broadband providers including telcos and cable players, that could have implications for their network operations in the near future.



Among the telcos, Verizon's Fios fiber system may seem best positioned to endure the IP video shift, until one considers that it still has significant copper-based DSL infrastructure in its Northeast ILEC footprint. In these areas, including urban Albany and Syracuse among others where Verizon DSL is its only product, the ramping video demands will make a bad situation worse, driving more customers to cancel service in favor of higher-speed options from cable players.

AT&T, too, will see strain on its DSL access infrastructure, even with its ongoing fiber buildout plans to reach 14 million residential locations this year. As was the case in the fourth quarter, its larger fiber footprint didn't result in net broadband additions. In fact, it lost 38,000 subscribers, and indications these losses were among customers that still can't get north of a 25 Mbps DSL connection. As with Verizon, customer appetites for OTT video will exacerbate DSL loss trends that are already under way.

Meanwhile, for cable players, the growing OTT usage over broadband is a further argument for migration to DOCSIS 3.1 technology, which ramps data speeds upwards of 10 Gbps downstream and 1 Gbps upstream with up to a 50% increase in data delivery capacity plus the ability to configure channels as wide as 197 MHz, compared to just 6 MHz for earlier DOCSIS iterations.

So while MSOs also will face the same growing OTT video traffic across their broadband networks, they may be better positioned on balance to keep up with the demand — so long as their regional and national fiber backbones also can be scaled up to keep pace.

Looking farther ahead, for all players the OTT video usage may also accelerate with the growing tonnage of 4K content expected in the coming years. These factors may require competitors to not only ramp their network capacity but also increase the monthly usage caps imposed on customers — particularly if the percentage of TB-gobbling customers continues to increase along with competition from Gigabit service rivals.

All this said, one element OpenVault doesn't take into account is the growing consumer reliance on wireless broadband services, which could slow some of the usage trends on the wireline side. At present, wireless broadband cord-cutting is a single-digit erosion element, but as 5G services launch it could become a larger influence.

Overall, what OpenVault and other research indicate is that consumers are relying more on broadband services. That trend, in turn, may require providers to alter their services to both encourage and manage the resulting traffic on their networks.

## ABOUT THE AUTHOR

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Karen Brown has been tracking broadband communications technologies since 1999, when she joined *Cable World* magazine as associate technology editor. She has since monitored and reported on emerging technologies in the cable, Internet and wireless communications sectors for leading business publications including *Multichannel News*, *Wireless Week* and *CED Magazine*. She joined One Touch Intelligence in 2006.

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# COMPETITIVE ALERT

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

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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

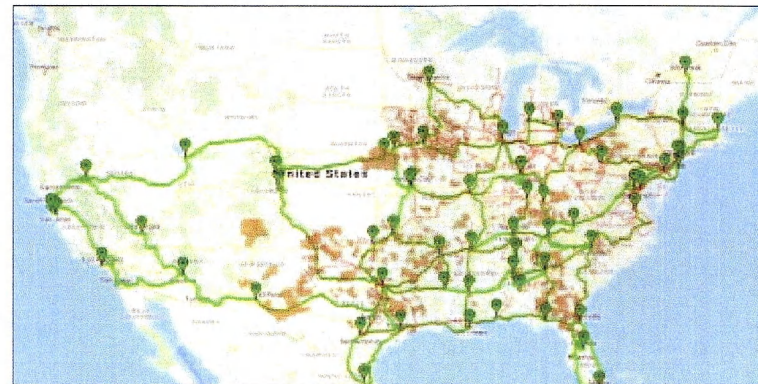
investor Aurelius Capital Management over the telco's spinoff of its 2015 network assets as a Real Estate Investment Trust (REIT).

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.





<b>Information to identify the case:</b>	
Debtor: <u>Windstream Holdings, Inc.</u> Name	EIN: <u>46-2847717</u>
United States Bankruptcy Court for the Southern District of New York	
Case Number: <u>19-22312 (RDD)</u>	Date case filed for Chapter 11: <u>02/25/2019</u>



## Official Form 309F (For Corporations or Partnerships)

### Notice of Chapter 11 Bankruptcy Case

12/17

For the debtor listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered. This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 11 plan may result in a discharge of debt. A creditor who wants to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 11 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

**The staff of the bankruptcy clerk's office cannot give legal advice.**

Do not file this notice with any proof of claim or other filing in the case.

1. Debtors' full name: See chart below. List of Jointly Administered Cases

NO.	DEBTOR	CASE NO.	EIN #
1.	Windstream Holdings, Inc.	19-22312	46-2847717
2.	Windstream Business Holdings, LLC	19-22310	46-4238089
3.	Allworx Corp.	19-22345	26-0259247
4.	American Telephone Company, LLC	19-22349	20-5108783
5.	ARC Networks, Inc.	19-22362	11-3464934
6.	A.R.C. Networks, Inc.	19-22338	11-3240814
7.	ATX Communications, Inc.	19-22368	13-4078506
8.	ATX Licensing, Inc.	19-22371	23-3039838
9.	ATX Telecommunications Services of Virginia, LLC	19-22377	31-1773888
10.	Birmingham Data Link, LLC	19-22382	26-3497422
11.	BOB, LLC	19-22387	02-0754753
12.	Boston Retail Partners LLC	19-22392	27-0447904
13.	BridgeCom Holdings, Inc.	19-22403	13-4162965
14.	BridgeCom International, Inc.	19-22408	13-4123985
15.	BridgeCom Solutions Group, Inc.	19-22428	13-4123989
16.	Broadview Networks, Inc.	19-22456	16-1401082
17.	Broadview Networks of Massachusetts, Inc.	19-22440	11-3448054
18.	Broadview Networks of Virginia, Inc.	19-22454	06-1596404
19.	Broadview NP Acquisition Corp.	19-22461	51-0402734
20.	Buffalo Valley Management Services, Inc.	19-22463	84-1619403
21.	Business Telecom of Virginia, Inc.	19-22466	56-2131188
22.	Business Telecom, LLC	19-22469	56-1426866
23.	BV-BC Acquisition Corporation	19-22471	20-5377846
24.	Cavalier IP TV, LLC	19-22474	20-2386185
25.	Cavalier Services, LLC	19-22313	20-2047841
26.	Cavalier Telephone Mid-Atlantic, L.L.C.	19-22315	54-2028580
27.	Cavalier Telephone, L.L.C.	19-22317	54-1914822
28.	CCL Historical, Inc.	19-22319	23-3032245



NO.	DEBTOR	CASE NO.	EIN #
29.	Choice One Communications of Connecticut Inc.	19-22322	15-1564111
30.	Choice One Communications of Maine Inc.	19-22324	16-1564112
31.	Choice One Communications of Massachusetts Inc.	19-22326	16-1554916
32.	Choice One Communications of New York Inc.	19-22329	15-1564111
33.	Choice One Communications of Ohio Inc.	19-22331	16-1564113
34.	Choice One Communications of Pennsylvania Inc.	19-22332	16-1554919
35.	Choice One Communications of Rhode Island Inc.	19-22335	16-1563050
36.	Choice One Communications Resale L.L.C.	19-22341	80-0364519
37.	Choice One Communications of Vermont Inc.	19-22339	16-1564114
38.	Choice One of New Hampshire, Inc.	19-22344	16-1564110
39.	Cinergy Communications Company of Virginia, LLC	19-22353	20-8076097
40.	Conestoga Enterprises, Inc.	19-22356	23-2565087
41.	Conestoga Management Services, Inc.	19-22358	84-1619408
42.	Conestoga Wireless Company	19-22360	23-2926187
43.	Connecticut Broadband, LLC	19-22363	06-1459693
44.	Connecticut Telephone & Communication Systems, Inc.	19-22365	06-1122868
45.	Conversent Communications Long Distance, LLC	19-22366	84-1530125
46.	Conversent Communications of Connecticut, LLC	19-22369	84-1473088
47.	Conversent Communications of Maine, LLC	19-22372	84-1473089
48.	Conversent Communications of Massachusetts, Inc.	19-22375	20-2643836
49.	Conversent Communications of New Hampshire, LLC	19-22378	84-1485259
50.	Conversent Communications of New Jersey, LLC	19-22380	84-1522507
51.	Conversent Communications of New York, LLC	19-22384	84-1473087
52.	Conversent Communications of Pennsylvania, LLC	19-22386	84-1473090
53.	Conversent Communications of Rhode Island, LLC	19-22388	84-1485260
54.	Conversent Communications of Vermont, LLC	19-22391	84-1473085
55.	Conversent Communications Resale L.L.C.	19-22394	80-0364505
56.	CoreComm-ATX, Inc.	19-22401	23-3060529
57.	CoreComm Communications, LLC	19-22399	13-4072077
58.	CTC Communications Corporation	19-22405	04-2731202
59.	CTC Communications of Virginia, Inc.	19-22407	54-1905656
60.	D&E Communications, LLC	19-22411	27-0147149
61.	D&E Management Services, Inc.	19-22414	88-0509645
62.	D&E Networks, Inc.	19-22417	25-1780894
63.	D&E Wireless, Inc.	19-22419	23-2896654
64.	Deltacom, LLC	19-22423	63-0832070
65.	Earthlink Business, LLC	19-22427	94-3331274
66.	Earthlink Carrier, LLC	19-22430	58-1970339
67.	Equity Leasing, Inc.	19-22432	20-0810636
68.	Eureka Broadband Corporation	19-22435	06-1506004
69.	Eureka Holdings, LLC	19-22437	20-3341318
70.	Eureka Networks, LLC	19-22438	20-3341244
71.	Eureka Telecom, Inc.	19-22445	13-3793720
72.	Eureka Telecom of VA, Inc.	19-22442	52-2325508
73.	Georgia Windstream, LLC	19-22447	38-2027315
74.	Heart of the Lakes Cable Systems, Inc.	19-22451	41-1577709
75.	Infocore, Inc.	19-22314	23-2894188
76.	Info-Highway International, Inc.	19-22321	76-0438543
77.	InfoHighway Communications Corporation	19-22318	76-0530551
78.	InfoHighway of Virginia, Inc.	19-22325	26-0291600
79.	Intellifiber Networks, LLC	19-22328	54-1861675
80.	Iowa Telecom Data Services, L.C.	19-22330	74-3083835
81.	Iowa Telecom Technologies, LLC	19-22333	47-0937013
82.	IWA Services, LLC	19-22336	20-8346096
83.	KDL Holdings, LLC	19-22337	48-1251032
84.	LDMI Telecommunications, LLC	19-22342	38-2940840
85.	Lightship Telecom, LLC	19-22346	06-1519100
86.	MASSCOMM, LLC	19-22347	83-2381119
87.	McLeodUSA Information Services LLC	19-22350	76-0529757
88.	McLeodUSA Purchasing, LLC	19-22352	42-1501014
89.	McLeodUSA Telecommunications Services, L.L.C.	19-22355	42-1407242
90.	MPX, Inc.	19-22357	16-1468411
91.	Nashville Data Link, LLC	19-22361	04-3639722
92.	Network Telephone, LLC	19-22364	59-3477521
93.	Norlight Telecommunications of Virginia, LLC	19-22367	26-3497118

Official Form 309F (For Corporations or Partnerships)

Notice of Chapter 11 Bankruptcy Case



NO.	DEBTOR	CASE NO.	EIN #
94.	Oklahoma Windstream, LLC	19-22370	73-0630965
95.	Open Support Systems, LLC	19-22373	11-3409972
96.	PaeTec Communications of Virginia, LLC	19-22376	16-6486048
97.	PaeTec Communications, LLC	19-22311	16-1551095
98.	PAETEC Holding, LLC	19-22381	20-5339741
99.	PAETEC ITEL, L.L.C.	19-22385	47-0903254
100.	PAETEC Realty LLC	19-22389	27-1866972
101.	PAETEC, LLC	19-22393	16-1551094
102.	PCS Licenses, Inc.	19-22396	88-0397829
103.	Progress Place Realty Holding Company, LLC	19-22398	27-1255466
104.	RevChain Solutions, LLC	19-22402	46-3139610
105.	SM Holdings, LLC	19-22406	26-0970378
106.	Southwest Enhanced Network Services, LLC	19-22409	75-2885419
107.	Talk America of Virginia, LLC	19-22412	54-1871946
108.	Talk America, LLC	19-22416	23-2582790
109.	Televue, LLC	19-22420	58-2033040
110.	Texas Windstream, LLC	19-22316	75-0984391
111.	The Other Phone Company, LLC	19-22323	65-0705374
112.	TriNet, LLC	19-22327	58-2183044
113.	TruCom Corporation	19-22334	13-3940714
114.	US LEC Communications LLC	19-22340	56-2162051
115.	US LEC of Alabama LLC	19-22343	56-2104211
116.	US LEC of Florida LLC	19-22348	56-2046424
117.	US LEC of Georgia LLC	19-22351	56-2065537
118.	US LEC of Maryland LLC	19-22379	56-2117626
119.	US LEC of North Carolina LLC	19-22383	56-2091767
120.	US LEC of Pennsylvania LLC	19-22395	56-2117625
121.	US LEC of South Carolina LLC	19-22404	56-2056428
122.	US LEC of Tennessee LLC	19-22410	56-2065536
123.	US LEC of Virginia LLC	19-22415	56-2012173
124.	US Xchange Inc.	19-22455	16-1590395
125.	US Xchange of Illinois, L.L.C.	19-22425	38-3388717
126.	US Xchange of Indiana, L.L.C.	19-22436	38-3377167
127.	US Xchange of Michigan, L.L.C.	19-22443	38-3442002
128.	US Xchange of Wisconsin, L.L.C.	19-22450	38-3342305
129.	Valor Telecommunications of Texas, LLC	19-22460	52-2194219
130.	WaveTel NC License Corporation	19-22465	30-0020203
131.	WIN Sales & Leasing, Inc.	19-22470	41-1340032
132.	Windstream Accucomm Networks, LLC	19-22472	58-1579785
133.	Windstream Accucomm Telecommunications, LLC	19-22475	58-0641816
134.	Windstream Alabama, LLC	19-22478	63-0364952
135.	Windstream Arkansas, LLC	19-22483	71-0400407
136.	Windstream Buffalo Valley, Inc.	19-22487	23-2825123
137.	Windstream BV Holdings, LLC	19-22494	11-3310798
138.	Windstream Cavalier, LLC	19-22500	54-1946546
139.	Windstream Communications Kerrville, LLC	19-22424	74-0724580
140.	Windstream Communications Telecom, LLC	19-22429	74-2955898
141.	Windstream Communications, LLC	19-22433	74-2955898
142.	Windstream Concord Telephone, LLC	19-22439	56-0186420
143.	Windstream Conestoga, Inc.	19-22446	23-0488700
144.	Windstream CTC Internet Services, Inc.	19-22448	52-2101328
145.	Windstream D&E Systems, LLC	19-22452	23-2971125
146.	Windstream D&E, Inc.	19-22457	23-0520190
147.	Windstream Direct, LLC	19-22459	41-1903994
148.	Windstream Eagle Holdings LLC	19-22464	N/A
149.	Windstream Eagle Services, LLC	19-22467	82-3462246
150.	Windstream EN-TEL, LLC	19-22390	41-1928105
151.	Windstream Finance Corp.	19-22397	47-3595713
152.	Windstream Florida, LLC	19-22413	59-0717786
153.	Windstream Georgia Communications, LLC	19-22418	58-2046299
154.	Windstream Georgia Telephone, LLC	19-22422	58-0802675
155.	Windstream Georgia, LLC	19-22426	58-0202560
156.	Windstream Holding of the Midwest, Inc.	19-22431	47-0632436
157.	Windstream Iowa Communications, LLC	19-22434	27-1635465
158.	Windstream Iowa-Comm, LLC	19-22441	42-1525756



NO.	DEBTOR	CASE NO.	EIN #
159.	Windstream IT-Comm, LLC	19-22444	35-2256532
160.	Windstream KDL, LLC	19-22449	61-1196739
161.	Windstream KDL-VA, LLC	19-22453	20-0817269
162.	Windstream Kentucky East, LLC	19-22458	73-1621772
163.	Windstream Kentucky West, LLC	19-22462	61-0487133
164.	Windstream Kerrville Long Distance, LLC	19-22468	74-2228603
165.	Windstream Lakedale Link, Inc.	19-22473	41-1815232
166.	Windstream Lakedale, Inc.	19-22477	41-0643917
167.	Windstream Leasing, LLC	19-22482	27-2348873
168.	Windstream Lexcom Communications, LLC	19-22486	56-0298450
169.	Windstream Lexcom Entertainment, LLC	19-22491	56-2261861
170.	Windstream Lexcom Long Distance, LLC	19-22498	56-2261863
171.	Windstream Lexcom Wireless, LLC	19-22502	56-2261865
172.	Windstream Mississippi, LLC	19-22504	64-0323983
173.	Windstream Missouri, LLC	19-22506	43-0690837
174.	Windstream Montezuma, LLC	19-22508	42-0422100
175.	Windstream Nebraska, Inc.	19-22510	47-0223220
176.	Windstream Network Services of the Midwest, Inc.	19-22511	91-1772936
177.	Windstream New York, Inc.	19-22512	15-0306510
178.	Windstream Norlight, LLC	19-22513	61-0927928
179.	Windstream North Carolina, LLC	19-22514	56-0509132
180.	Windstream NorthStar, LLC	19-22515	27-0297987
181.	Windstream NTI, LLC	19-22516	39-1712867
182.	Windstream NuVox Arkansas, LLC	19-22517	43-1830185
183.	Windstream NuVox Illinois, LLC	19-22518	43-1861148
184.	Windstream NuVox Indiana, LLC	19-22519	43-1861150
185.	Windstream NuVox Kansas, LLC	19-22476	43-1830186
186.	Windstream NuVox Missouri, LLC	19-22480	43-1830184
187.	Windstream NuVox Ohio, LLC	19-22484	43-1861151
188.	Windstream NuVox Oklahoma, LLC	19-22489	43-1850572
189.	Windstream NuVox, LLC	19-22492	57-1072836
190.	Windstream of the Midwest, Inc.	19-22496	47-0803453
191.	Windstream Ohio, LLC	19-22501	31-4265290
192.	Windstream Oklahoma, LLC	19-22503	71-0406211
193.	Windstream Pennsylvania, LLC	19-22505	25-1145739
194.	Windstream Services, LLC	19-22400	20-0792300
195.	Windstream SHAL Networks, Inc.	19-22507	41-1701143
196.	Windstream SHAL, LLC	19-22509	41-1858078
197.	Windstream Shared Services, LLC	19-22479	51-0553722
198.	Windstream South Carolina, LLC	19-22481	57-0140680
199.	Windstream Southwest Long Distance, LLC	19-22485	75-2884847
200.	Windstream Standard, LLC	19-22488	58-0445370
201.	Windstream Sugar Land, LLC	19-22490	74-0672235
202.	Windstream Supply, LLC	19-22493	31-4359937
203.	Windstream Systems of the Midwest, Inc.	19-22495	47-0650357
204.	Windstream Western Reserve, LLC	19-22497	34-0614000
205.	Xeta Technologies, Inc.	19-22499	73-1130045

2. All other names used in the last 8 years:	<u>See Rider 1.</u>	
3. Address:	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	
4. Debtors' attorneys:	Stephen E. Hessler, P.C. Marc Kieselstein, P.C. Cristine Pirro Schwarzman Kirkland & Ellis LLP 601 Lexington Avenue New York, New York 10022	James H.M. Sprayregen, P.C. Ross M. Kwasteniet, P.C. Brad Weiland John R. Luze Kirkland & Ellis LLP 300 North LaSalle Street Chicago, Illinois 60654



<b>5. Bankruptcy Clerk's Office</b>	<p align="center"><b>US Bankruptcy Court</b>  <b>Southern District of New York</b>  <b>300 Quarropas Street, Room 248</b>  <b>White Plains, NY 10601</b></p> <p>Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.gov">www.pacer.gov</a></p>	<p align="right"><b>Hours Open: Monday - Friday</b>  <b>8:30 AM - 5:00 PM</b></p> <p>All documents in this case are available free of charge on the website of the Debtors' notice and claims agent at <a href="http://www.kccllc.net/windstream">http://www.kccllc.net/windstream</a></p>
<b>6. Meeting of Creditors</b>  The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	<p><b>April 30, 2019, at 2:30 p.m. (ET)</b></p> <p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>	<p><b>Location:</b></p> <p>Office of the United States Trustee  U.S. Bankruptcy Court for the Southern District of New York  One Bowling Green  Room 511, Fifth Floor  New York, New York 10004-1408</p>
<b>7. Proof of claim deadline:</b>	<p><b>Deadline for filing proof of claim:</b></p> <p>A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at <a href="http://www.uscourts.gov">www.uscourts.gov</a> or any bankruptcy clerk's office. Your claim will be allowed in the amount scheduled unless:</p> <ul style="list-style-type: none"> <li>• Your claim is designated as disputed, contingent or unliquidated;</li> <li>• You file a proof of claim in a different amount; or</li> <li>• You receive another notice</li> </ul> <p>If your claim is not scheduled or if your claim is designated as disputed, contingent, or unliquidated, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled. You may review the schedules at the bankruptcy clerk's office or online at <a href="http://www.pacer.gov">www.pacer.gov</a></p> <p>Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p>	<p><b>Not yet set.</b> If a deadline is set, notice will be sent at a later time.</p>
<b>8. Exception to discharge deadline</b>  The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.	<p>You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 1141(d)(6)(A).</p> <p><b>Deadline for filing the complaint: To be Determined</b></p>	
<b>9. Creditors with a foreign address</b>	<p>If you are a creditor receiving notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>	
<b>10. Filing a Chapter 11 bankruptcy case</b>	<p>Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate its business.</p>	
<b>11. Discharge of debts</b>	<p>Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge under 11 U.S.C. § 1141(d)(6)(A), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.</p>	

**If you have any questions related to this notice, please call (877) 759-8815, or (424) 236-7262 for international callers. You may access documents and case information at <http://www.kccllc.net/windstream>**



Rider 1

Other Names Used in the Last 8 Years

Current Entity Name	Former Names
Windstream Business Holdings, LLC	Earthlink, LLC
BOB, LLC	BOB Merger Sub, LLC; Business Only Broadband; Windstream Fixed Wireless, LLC.
Choice One Communications of Connecticut, Inc.	EarthLink Business; One Communications; One Communications Corp.
Choice One Communications of Maine, Inc.	EarthLink Business; EarthLink Business II; One Communications.
Choice One Communications of Massachusetts, Inc.	EarthLink Business; One Communications.
Choice One Communications of New York, Inc.	EarthLink Business; One Communications.
Choice One Communications of Ohio, Inc.	EarthLink Business; One Communications.
Choice One Communications of Pennsylvania, Inc.	EarthLink Business; One Communications.
Choice One Communications of Rhode Island, Inc.	EarthLink Business; One Communications.
Choice One Communications of Vermont, Inc.	EarthLink Business; EarthLink Business IV; One Communications.
Choice One Communications Resale, L.L.C.	EarthLink Business; One Communications.
Choice One of New Hampshire, Inc.	EarthLink Business; One Communications.
Cinergy Communications Company of Virginia, LLC	Cinergy Communications Company of Virginia
Connecticut Broadband, LLC	EarthLink Business; One Communications.
Connecticut Telephone & Communication Systems, Inc.	EarthLink Business; One Communications.
Conversent Communications Long Distance, LLC	EarthLink Business; One Communications Long Distance of New Hampshire.
Conversent Communications of Connecticut, LLC	EarthLink Business; One Communications; One Communications Corp.
Conversent Communications of Maine, LLC	EarthLink Business IV; One Communications IV.
Conversent Communications of Massachusetts, Inc.	EarthLink Business; One Communications.
Conversent Communications of New Hampshire, LLC	EarthLink Business; One Communications of New Hampshire.
Conversent Communications of New Jersey, LLC	EarthLink Business.
Conversent Communications of New York, LLC	EarthLink Business; One Communications.
Conversent Communications of Pennsylvania, LLC	EarthLink Business; One Communications.
Conversent Communications of Rhode Island, LLC	EarthLink Business IV; One Communications IV.
Conversent Communications of Vermont, LLC	EarthLink Business; EarthLink Business IV; One Communications.
Conversent Communications Resale, L.L.C.	EarthLink Business; EarthLink Business III; EarthLink Business IV; One Communications.
CTC Communications Corporation	EarthLink Business; EarthLink Business I; EarthLink Business IV; EarthLink Business Inc.; One Communications; One Communications Corp.
D&E Communications, LLC	D&E Communications, Inc.
DeltaCom, LLC	DeltaCom, Inc.; EarthLink Business; EarthLink Business I; EarthLink Business IV; EarthLink Business Solutions.
EarthLink Business, LLC	EarthLink Business.
Equity Leasing, Inc.	Equity Leasing of Illinois (Illinois only).
Intellifiber Networks, LLC	Intellifiber Networks, Inc.
LDMI Telecommunications, LLC	LDMI Telecommunications, Inc.; LDMI Telecommunications.
Lightship Telecom, LLC	EarthLink Business; EarthLink Business I; EarthLink Business IV; One Communications.
McLeodUSA Telecommunications Services, L.L.C.	PaeTec Business Services.



Current Entity Name	Former Names
Network Telephone, LLC	Cavalier Telephone; Cavalier Telephone and TV; Cavalier Business Communications;.
Norlight Telecommunications of Virginia, LLC	Norlight Telecommunications of Virginia, Inc.
PaeTec Communications, LLC	PaeTec Communications, Inc.
PAETEC Holding, LLC	PAETEC Holding Corp.
PAETEC, LLC	PAETEC Corp.
Southwest Enhanced Network Services, LLC	Southwest Enhanced Network Services, LP
Talk America of Virginia, LLC	Talk America of Virginia, Inc.; Cavalier Telephone.
Talk America, LLC	Talk America, Inc.; Cavalier Telephone; Cavalier Business Communications.
Texas Windstream, LLC	Texas Windstream, Inc.
The Other Phone Company, LLC	Cavalier Business Communications; The Phone Company.
US LEC Communications LLC	PaeTec Business Services.
US LEC of Georgia LLC	PAETEC Business Services.
US LEC of Virginia LLC	PAETEC Business Services.
US Xchange of Illinois, L.L.C.	EarthLink Business; One Communications.
US Xchange of Indiana, L.L.C.	EarthLink Business; One Communications.
US Xchange of Michigan, L.L.C.	EarthLink Business; One Communications.
US Xchange of Wisconsin, L.L.C.	EarthLink Business; One Communications.
US Xchange, Inc.	EarthLink Business; One Communications; Choice One; Choice One Communications.
Valor Telecommunications of Texas, LLC	Windstream Communications Southwest.
WIN Sales & Leasing, Inc.	Communications Sales and Leasing, Inc.
Windstream BV Holdings, LLC	Windstream BV Holdings, Inc.; Broadview Network Holdings, Inc.
Windstream Communications, LLC	Windstream Communications, Inc.
Windstream Concord Telephone, LLC	Windstream Concord Telephone, Inc.
Windstream D&E Systems, LLC	Windstream D&E Systems, Inc.
Windstream Eagle Holdings, LLC	Earthlink Holdings, LLC; EarthLink Holdings Corp.
Windstream Eagle Services, LLC	Earthlink Services, LLC
Windstream Florida, LLC	Windstream Florida, Inc.
Windstream Iowa Communications, LLC	Windstream Iowa Communications, Inc.
Windstream Iowa-Comm, LLC	Windstream Iowa-Comm, Inc.
Windstream Lexcom Communications, LLC	Windstream Lexcom Communications, Inc.
Windstream Missouri, LLC	Windstream Missouri, Inc.
Windstream Montezuma, LLC	Windstream Montezuma, Inc.
Windstream Norlight, LLC	Windstream Norlight, Inc.
Windstream NTI, LLC	Windstream NTI, Inc.
Windstream NuVox Arkansas, LLC	Windstream NuVox Arkansas, Inc.
Windstream NuVox Illinois, LLC	Windstream NuVox Illinois, Inc.
Windstream NuVox Indiana, LLC	Windstream NuVox Indiana, Inc.
Windstream NuVox Kansas, LLC	Windstream NuVox Kansas, Inc.
Windstream NuVox Missouri, LLC	Windstream NuVox Missouri, Inc.
Windstream NuVox Ohio, LLC	Windstream NuVox Ohio, Inc.
Windstream NuVox Oklahoma, LLC	Windstream NuVox Oklahoma, Inc.
Windstream NuVox, LLC	Windstream Nuvox, Inc.
Windstream Services, LLC	Windstream Corporation
Windstream Shared Services, LLC	Earthlink Shared Services, LLC

If you have any questions related to this notice, please call (877) 759-8815, or (424) 236-7262 for international callers. You may access documents and case information at <http://www.kcellc.net/windstream>

Message

**From:** Clifton, Keven L [/O=CHARTER COMMUNICATIONS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BAF8F813D5794DDFA352F6D887C3E9A5-C]  
**Sent:** 4/17/2019 6:30:29 PM  
**To:** Czekaj, Chris [chris.czekaj@charter.com]  
**Subject:** FW: Spectrum Business - Letter from Chris Czekaj  
**Attachments:** Windstream Letter from CChekaj - 4.17.19.pdf; image001.jpg; image002.png

FYI.

**From:** Spectrum Business Sales Operations <SpectrumBusinessSalesOperations@charter.com>  
**Sent:** Wednesday, April 17, 2019 7:29 PM  
**To:** Jeanne.Dale@windstream.com  
**Subject:** Spectrum Business - Letter from Chris Czekaj  
**Importance:** High



Jeanne,

Spectrum Business has identified all end user Coax accounts tied to Windstream's billing hierarchies and flagged these appropriately to protect against illicit service interruptions. Spectrum wants to ensure that all accounts have been captured, so that no Windstream sites lose service.

Following up on our conversation on April 5, 2019, Spectrum Business again requests that Windstream provides a full list of all end users with Spectrum's Coax-based services. We will compare your site list against our records. If any sites previously not identified are found in your site list, we will apply protections against service interruption due to non-pay to these sites.

I can be reached at 973-332-3550 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Czekaj", is written over a horizontal line.

Chris Czekaj  
Vice President, Strategic Channels

CONFIDENTIAL



Charter\_020324





April 17<sup>th</sup>, 2019

SENT VIA EMAIL AND FEDERAL EXPRESS

WINDSTREAM SERVICES, LLC  
ATTN: Jeanne Dale  
330 Monroe Ave  
Rochester, NY 14607

Spectrum Business has identified all end user Coax accounts tied to Windstream's billing hierarchies and flagged these appropriately to protect against illicit service interruptions. Spectrum wants to ensure that all accounts have been captured, so that no Windstream sites lose service.

Following up on our conversation on April 5, 2019, Spectrum Business again requests that Windstream provides a full list of all end users with Spectrum's Coax-based services. We will compare your site list against our records. If any sites previously not identified are found in your site list, we will apply protections against service interruption due to non-pay to these sites.

I can be reached at 973-332-3550 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Czekaj", is written over a horizontal line.

Chris Czekaj  
Vice President, Strategic Channels

cc:  
Windstream Services, LLC  
Attn: Legal  
4001 N. Rodney Parham Rd.  
Little Rock, AR 72223  
(BY FEDERAL EXPRESS)

March Mailer Distribution

Alabama  
California  
Colorado  
Florida  
Georgia  
Indiana  
Kentucky  
Louisiana  
Michigan  
Minnesota  
Mississippi  
Missouri  
Nebraska  
New York  
North Carolina  
Ohio  
Pennsylvania  
South Carolina  
Tennessee  
Texas  
Virginia  
Wisconsin



# UNDERSTANDING YOUR KINETIC BY WINDSTREAM BILL

Need help understanding your bill from Kinetic by Windstream?  
We're here to help!

## PAGE 1

### 1. ACCOUNT INFORMATION

The most important information about your account can be found on the first page of your monthly bill. At the top right corner, you can see your **Account Number**, **Telephone Number** and **Invoice Date**.

### 2. CUSTOMER SERVICE

This section includes important customer service numbers, as well as our web address. If you have any questions about your bill or service, you can call us at the numbers listed or visit us online.

### 3. SERVICE AT-A-GLANCE

Here, you can quickly see previous charges and credits to your account, as well as your current charges and the total amount due.

### 4. PAY MY BILL

This section lists all of the options available for paying your Kinetic by Windstream bill. You can pay your bill four different ways:

- ➔ **ONLINE:** Use our **MyWIN portal** at [my.windstream.com](http://my.windstream.com) or on your mobile device to make a one-time payment or set up **AUTO PAY**.
- ➔ **IN PERSON:** Pay at your local retail store.
- ➔ **BY MAIL:** Send your check and payment slip to the address shown.
- ➔ **BY PHONE:** Call the number provided.

kinetic by windstream

Page 1 of 4

Account number Telephone number Invoice date May 02, 2019

Please call Windstream Communications toll free or visit our website.  
For Sales/Billing/Account Changes: 1-800-347-1991  
For Repair/Technical Support: 1-800-347-1991  
Website: [www.windstream.com](http://www.windstream.com)

Service At-A-Glance

Previous Bill	\$49.24
Payments/Adjustments thru 05/01	\$49.24 CR
Amount Previously Due	\$0.00
Current Charges Due - 04/24/19	\$49.14
<b>Total Amount Due</b>	<b>\$49.14</b>

Use of the Services constitutes your agreement to Windstream's Terms and Conditions maintained at [www.windstream.com/terms](http://www.windstream.com/terms), or you may request a copy by calling the number at the top of the bill. See "Windstream Customer Message" section on this bill for any recent changes to Windstream's Terms and Conditions. If you are a business customer with an existing contract, those contract terms will control.

Thank you for your business.

Pay My Bill

On-line: Make a one-time payment or set up Auto Pay at [www.my.windstream.com](http://www.my.windstream.com)  
In person: To find a retail store location near you, visit [www.windstream.com/suppo](http://www.windstream.com/suppo)  
By Mail: Send your check and payment slip to the address below.  
By Phone: For automated payments or to speak to a representative, call the number above.

Detach and return this payment slip with your check payable to WINDSTREAM GEORGIA COMM, LLC.

kinetic by windstream

ATTN: SUPPORT SERVICES  
1720 GALLERIA BLVD  
CHARLOTTE, NC 28270

Address Service Requested

Payment enclosed

555 070130159 5

WINDSTREAM  
PO BOX 9001908  
LOUISVILLE, KY 40290-1908

70005550000000701301590190501000000491470

### 5. PAYMENT STUB

The bottom portion of your bill serves as your payment stub. Here you will also find your due date and the total amount due. Tear off this portion of the bill and return it with your check if you're mailing your payment. If you are paying by check, please include your account number or telephone number in the notes section.

## PAGE 2

### 6. PAY BY CHECK/GO PAPERLESS

On this page, you can find important information about paying by check, as well as learn about the benefits of going paperless with online bill pay or AUTO PAY.

## PAGE 3

### 7. SUMMARY OF CHARGES

See a summary of your current charges broken out by category or service type. Your total current charges will match the total due from the first page of your bill.

### 8. DETAILS OF CURRENT CHARGES

These sections will provide greater detail and explanation of each line item included in the summary.

Any service credits can also be found in the detail section. You will see the letters "CR" noted beside each credit that will be reflected in your total services amount.

You will also see the taxes, surcharges and fees assessed by federal, state and local government that are associated with each service. These fees can vary depending on where you live and will be affected by changes to your account.

You may also see one-time fees for activation and professional installation, as well as any equipment or modem charges associated with your account. Most of these fees are typically on your first bill.

### 9. SERVICE PROVIDERS

This section lists your long-distance and local carrier assignments.

### 10. WINDSTREAM CUSTOMER MESSAGE

The last section of your bill is reserved for communications from Kinetic by Windstream. This is where we will share important information about your service, as well as payment deadlines and associated late fees.

If you need to make any changes to your account, like an address or name change, simply check the box on the front of your payment stub and fill in your new information on the back. Make sure you include the effective date of the change.

kinetic windstream

Page 2 of 4

### Go Paperless Today!

**Why go Paperless?**

- Convenience - Windstream offers the convenience of online bill pay and auto draft through Windstream Online.
- Accessibility - Receiving your bills via the Internet allows you to check your statements instantly from anywhere. So, no more worrying about the ability to make your payments on time if you are out of town!
- Environment - Reduce your footprint by eliminating your paper bills. By signing up for paperless billing, you will be contributing to the reduction of paper usage, saving millions of trees, reduction of greenhouse gases, decrease in waste water production, and saving gasoline due to less delivery of paper bills.

Make your life easier while helping to save the Earth by signing up for paperless billing today!  
Go to [www.my.windstream.com](http://www.my.windstream.com) to register today!

**SPEND LESS TIME PAYING YOUR BILL!**

Windstream offers automatic payment options to make paying your bill easier. Set up AUTO PAY using your bank account. This allows your Windstream payments to be drawn directly from your preferred bank account.

- No more stamps
- No more checks to write
- No more worrying about late payments

It's free and you can still receive your paper bill or go green with paperless billing. Register today at [www.my.windstream.com](http://www.my.windstream.com) or call Windstream Customer Service.

**Important Information for Customers Paying by Check**

Windstream may convert your payments by check to an electronic Automated Clearinghouse (ACH) debit transaction. The debit transaction will appear on your bank statement, although your check will not be presented to your financial institution or returned to you. This ACH debit transaction will not enroll you in any Windstream automatic debit process and will only occur each time a check is received. Any resubmissions due to insufficient funds may also occur electronically.

Please be aware that all checking transactions will remain secure, and payment by check constitutes acceptance of these terms.

We value your business and appreciate you selecting Windstream as your telecommunications provider.

**Información importante para los clientes que pagan por cheque**

Windstream puede convertir sus pagos por cheque a una transacción electrónica automática de débito (ACH en inglés). La transacción del débito aparecerá en su estado de cuenta del banco, aunque no se presentará su cheque a su institución financiera ni se le devolverá a usted. Esta transacción electrónica automática de débito no le inscribirá a usted en ningún proceso de débito automático de Windstream y solamente ocurrirá cada vez que se reciba un cheque. Cualquier reintegro debido a fondos insuficientes también podría ocurrir electrónicamente.

Por favor tenga en cuenta que todas las transacciones de la cuenta corriente serán seguras y el pago por cheque constituye la aceptación de estas condiciones.

Aggradecemos que sea nuestro cliente y apreciamos que haya elegido a Windstream como su proveedor de telecomunicaciones.

**eCheck authorization:** By entering the 5-digit zip code from my bill when paying by phone, I hereby authorize Windstream and the financial institution designated by me to charge the account I have specified for payment of my Windstream services. I understand that a fee will be charged to my Windstream account for each request returned unpaid. If two requests are returned unpaid, I will be excluded from this option. In addition, I understand that Windstream and the financial institution reserve the right to terminate this payment option. This authorization can be revoked by notifying Windstream at the customer service number listed on my bill prior to 4:00 P.M. EST on my specified payment date.

For a complete description of fees and taxes included on your bill, please visit [www.windstream.com/billinfo](http://www.windstream.com/billinfo).  
Para obtener una descripción completa de las tarifas e impuestos incluidos en su factura, visite [www.windstream.com/billinfo](http://www.windstream.com/billinfo).

Return this portion with your payment.

Change of Address Effective Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Name \_\_\_\_\_

Attention \_\_\_\_\_

New Address \_\_\_\_\_ Apt/Suite# \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

kinetic windstream

Page 3 of 4

Account number Telephone number Invoice date  
May 02, 2019

### 10

**SUMMARY OF PAYMENTS AND ADJUSTMENTS**

PAYMENTS - 01/16/19	49.24 CR	
<b>TOTAL PAYMENTS AND ADJUSTMENTS</b>		<b>49.24 CR</b>

**SUMMARY OF CURRENT CHARGES BY SERVICE PROVIDER**

WINDSTREAM	49.14	
<b>CURRENT CHARGES DUE 04/24/19</b>		<b>49.14</b>

**WINDSTREAM DETAIL OF CURRENT CHARGES**

Service from 05/01/19 to 05/31/19  
Toll charge inquiries call 1-800-347-1991

**SERVICES**

1 RESIDENTIAL LINE	19.54	
1 PROTECTION PLUS PLAN RES	8.49	
<b>TOTAL SERVICES</b>		<b>28.03</b>

**SURCHARGES AND OTHER FEES**

ACCESS CHARGE PER FCC ORDER	6.48	
ACCESS RECOVERY CHARGE	1.50	
911 SERVICE	1.50	
UNIDOLLA CITY FRANCHISE FEE	.59	
FEDERAL UNIVERSAL SERVICE FEE	1.50	
GA UNIVERSAL ACCESS FUND	.96	
GA HEARING IMPAIRED SURCHARGE	.11	
DISREGULATED ADMINISTRATION FEE	5.52	
<b>TOTAL SURCHARGES AND OTHER FEES</b>		<b>18.16</b>

**TAXES**

FEDERAL TAX	.89	
STATE TAX	1.03	
COUNTY TAX	1.03	
<b>TOTAL TAXES</b>		<b>2.95</b>

**TOTAL WINDSTREAM CHARGES**

		<b>49.14</b>
--	--	--------------

**SERVICE PROVIDER(S)**

Your InterLATA long distance carrier(s) are:  
QUEST COMMUNICATIONS

Your IntralATA long distance carrier(s) are:  
QUEST COMMUNICATIONS

Your Local carrier is:  
WINDSTREAM GEORGIA COMM., LLC 1-800-347-1991

\* If you have multiple telephone numbers, further information concerning long distance carrier assignments for those additional lines are on record with your local business office.

**REGULATORY INFORMATION**

Failure to pay the total amount due for basic local service could result in suspension of those services and may be subject to collection actions. To avoid suspension of your basic local service, you must pay \$ 34.69

Non-payment of all other non-basic services may result in the suspension of those services and may be subject to collection actions, but will not result in the suspension of your basic local service.



# Understanding Your Kinetic Business by Windstream Bill

Need help understanding your bill from Kinetic Business by Windstream?  
We're here to help!

## PAGE 1

### 1. ACCOUNT INFORMATION

The most important information about your account can be found on the first page of your monthly bill. At the top right corner, you can see your **Account Number**, **Telephone Number** and **Invoice Date**.

### 2. CUSTOMER SERVICE

This section includes important customer service numbers, as well as our web address. If you have any questions about your bill or service, you can call us at the numbers listed or visit us online.

### 3. SERVICE AT-A-GLANCE

Here, you can quickly see previous charges and credits to your account, as well as your current charges and the total amount due.

### 4. PAY MY BILL

This section lists all of the options available for paying your Kinetic Business by Windstream bill. You can pay your bill four different ways:

**ONLINE:** Use our MyWIN Business Customer portal at [my.windstream.com](http://my.windstream.com) or on your mobile device to make a one-time payment or set up AUTO PAY.

**IN PERSON:** Pay at your local retail store.

**BY MAIL:** Send your check and payment slip to the address shown.

**BY PHONE:** Call the number provided.

kinetic business | windstream

Page 1 of 4

**1** Account number 020030167 Telephone number 724-376-1111 Invoice date May 13, 2019

Please call Windstream Communications toll free or visit our website.  
For Sales/Billing/Account Changes: 1-800-347-1991  
For Repair/Technical Support: 1-800-347-1991  
Website: [www.kineticbusiness.com](http://www.kineticbusiness.com)

PENNSYLVANIA ILEC BUSINESS  
C/O SUNNY MILLER  
BOX 22  
STONEBORO PA 16153-0022

**2**

**3** Service At-A-Glance

Previous Bill	\$138.26
Payments/Adjustments thru 05/09	\$138.26 CR
Amount Previously Due	\$0.00
Current Charges Due - 06/03/19	\$131.06
<b>Total Amount Due</b>	<b>\$131.06</b>

Use of the Services constitutes your agreement to Windstream's Terms and Conditions maintained at [www.windstream.com/terms](http://www.windstream.com/terms), or you may request a copy by calling the number at the top of the bill. See "Windstream Customer Message" section on the bill for any recent changes to Windstream's Terms and Conditions. If you are a business customer with an existing contract, those contract terms will control.

And, the best is yet to come!  
**#WindstreamForward**  
Visit [kineticbusiness.com](http://kineticbusiness.com) to learn more.

**4** Pay My Bill

If you are paying multiple Windstream accounts with one check, please include the remittance slip for each account and note the account numbers on the memo line of your check. Thank you.

On-line: For easy payments 24 hours a day, visit [www.my.windstream.com](http://www.my.windstream.com)  
In person: To find a retail store location near you, visit [www.windstream.com/support](http://www.windstream.com/support)  
By Mail: Send your check and payment slip to the address below.  
By Phone: For automated payments or to speak to a representative, call the number above.

Detach and return this payment slip with your check payable to WINDSTREAM PENNSYLVANIA, LLC.

kinetic business | windstream

ATTN: SUPPORT SERVICES  
1720 GALLERIA BLVD  
CHARLOTTE, NC 28270

Address Service Requested

**5** Account number 020030167 Telephone number 724-376-1111 Due date June 03, 2019

Amount Due \$131.06

Payment enclosed \$

888 020030167 2

PENNSYLVANIA ILEC BUSINESS  
C/O SUNNY MILLER  
BOX 22  
STONEBORO PA 16153-0022

WINDSTREAM  
PO BOX 9001908  
LOUISVILLE, KY 40290-1908

☐ Check here for address changes noted on reverse side.

700088800000002003016791905100000001310664

### 5. PAYMENT STUB

The bottom portion of your bill serves as your payment stub. Here you will also find your due date and the total amount due. Tear off this portion of the bill and return it with your check if you're mailing your payment. If you are paying by check, please include your account number or telephone number in the notes section.



## PAGE 2

### 6. PAY BY CHECK/GO PAPERLESS

On this page, you can find important information about paying by check, as well as learn about the benefits of going paperless with online bill pay or Auto Pay.

## PAGE 3

### 7. SUMMARY OF CHARGES

See a summary of your current charges broken out by category or service type. Your total current charges will match the total due from the first page of your bill.

### 8. DETAILS OF CURRENT CHARGES

These sections will provide greater detail and explanation of each line item included in the summary.

Any service credits can also be found in the detail section. You will see the letters "CR" noted beside each credit that will be reflected in your total services amount.

You will also see the taxes, surcharges and fees assessed by federal, state and local government that are associated with each service. These fees can vary depending on where you live and will be affected by changes to your account.

You may also see one-time fees for activation and professional installation, as well as any equipment or modem charges associated with your account. Most of these fees are typically on your first bill.

### 9. SERVICE PROVIDERS

This section lists your long-distance and local carrier assignments.

### 10. CUSTOMER MESSAGE

The last section of your bill is reserved for communications from Kinetic Business by Windstream. This is where we will share important information about your service, as well as payment deadlines and associated late fees.

If you need to make any changes to your account, like an address or name change, simply check the box on the front of your payment stub and fill in your new information on the back. Make sure you include the effective date of the change.

kinetic business windstream

Page 2 of 4

### Go Paperless Today!

**Why go Paperless?**

1. Convenience - Windstream offers the convenience of online bill pay and auto draft through Windstream Online.
2. Accessibility - Receiving your bills via the Internet allows you to check your statements instantly from anywhere. So, no more worrying about the ability to make your payments on time if you are out of town!
3. Environment - Reduce your footprint by eliminating your paper bills. By signing up for paperless billing, you will be contributing to the reduction of paper usage, saving millions of trees, reduction of greenhouse gases, decrease in waste water production, and saving gasoline due to less delivery of paper bills.

Make your life easier while helping to save the Earth by signing up for paperless billing today!  
Go to [www.windstream.com](http://www.windstream.com) to register today!

**SPEND LESS TIME PAYING YOUR BILL!**

Windstream offers automatic payment options to make paying your bill easier. Set up AUTO PAY using your bank account. This allows your Windstream payments to be drawn directly from your preferred bank account.

- No more stamps
- No more checks to write
- No more worrying about late payments

It's free and you can still receive your paper bill or go green with paperless billing. Register today at [www.windstream.com](http://www.windstream.com) or call Windstream Customer Service.

**Important Information for Customers Paying by Check**

Windstream may convert your payments by check to an electronic Automated Clearinghouse (ACH) debit transaction. The debit transaction will appear on your bank statement, although your check will not be presented to your financial institution or returned to you. This ACH debit transaction will not enroll you in any Windstream automatic debit process and will only occur each time a check is received. Any resubmissions due to insufficient funds may also occur electronically.

Please be aware that all checking transactions will remain secure, and payment by check constitutes acceptance of these terms.

We value your business and appreciate you selecting Windstream as your telecommunications provider.

**Información importante para los clientes que pagan por cheque**

Windstream puede convertir sus pagos por cheque a una transacción electrónica automática de débito (ACH en inglés). La transacción del débito aparecerá en su estado de cuenta del banco, aunque no se presentará su cheque a su institución financiera ni se le devolverá a usted. Esta transacción electrónica automática de débito no le inscribirá a usted en ningún proceso de débito automático de Windstream y solamente ocurrirá cada vez que se reciba un cheque. Cualquier reintegro debida a fondos insuficientes también podrá ocurrir electrónicamente.

Por favor tenga en cuenta que todas las transacciones de la cuenta corriente serán seguras y el pago por cheque constituye la aceptación de estas condiciones.

Agradecemos que sea nuestro cliente y apreciamos que haya elegido a Windstream como su proveedor de telecomunicaciones.

**eCheck authorization:** By entering the 5-digit zip code from my bill when paying by phone, I hereby authorize Windstream and the financial institution designated by me to charge the account I have specified for payment of my Windstream services. I understand that a fee will be charged to my Windstream account for each request returned unpaid. If two requests are returned unpaid, I will be excluded from this option. In addition, I understand that Windstream and the financial institution reserve the right to terminate this payment option. This authorization can be revoked by notifying Windstream at the customer service number listed on my bill prior to 4:00 P.M. EST on my specified payment date.

For a complete description of fees and taxes included on your bill, please visit [www.windstream.com/billinfo](http://www.windstream.com/billinfo).  
Para obtener una descripción completa de las tarifas e impuestos incluidos en su factura, visite [www.windstream.com/billinfo](http://www.windstream.com/billinfo).

Return this portion with your payment.

Change of Address Effective Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Name \_\_\_\_\_

Attention \_\_\_\_\_

kinetic business windstream

Page 3 of 4

Account number 020030167 Telephone number 724-376-1111 Invoice date May 13, 2019

### SUMMARY OF PAYMENTS AND ADJUSTMENTS

PAYMENTS - 04/24/19 138.26 CR

TOTAL PAYMENTS AND ADJUSTMENTS 138.26 CR

### SUMMARY OF CURRENT CHARGES BY SERVICE PROVIDER

WINDSTREAM	120.10
WINDSTREAM COMMUNICATIONS	10.96
CURRENT CHARGES DUE 06/03/19	131.06

### WINDSTREAM DETAIL OF CURRENT CHARGES

Service from 05/01/19 to 06/01/19  
Toll charge inquiries call 1-800-347-1991

### SERVICES

2 BUSINESS LINE	53.16
1 NON-PUBLISHED SERVICE	.00
2 PROTECTION PLUS PLAN-BUS	16.98
1 BLOCK BOX CALLS	.00
1 CUSTOMER UNID EQUIPMENT	.00
TOTAL SERVICES	70.14

### SURCHARGES AND OTHER FEES

ACCESS CHARGE PER FCC ORDER	12.80
ACCESS RECOVERY CHARGE MLC	10.00
911 SERVICE	3.30
FEDERAL UNIVERSAL SERVICE FEE	5.14
PA RELAY SURCHARGE	.16
PA STATE TAX ADD SURCHARGE	3.15
DEREGULATED ADMINISTRATION FEE	6.69
TOTAL SURCHARGES AND OTHER FEES	41.24

### TAXES

FEDERAL TAX	2.43
STATE TAX	6.29
TOTAL TAXES	8.72

TOTAL WINDSTREAM CHARGES 120.10

### WINDSTREAM COMMUNICATIONS DETAIL OF CURRENT CHARGES

Toll charge inquiries call 1-800-347-1991

### SERVICES

2 SWITCHED ONE PLUS SERVICE	.00
LONG DISTANCE CHARGES	1.99
TOTAL SERVICES	1.99

### SURCHARGES AND OTHER FEES

INTERSTATE SERVICE FEE	6.22
STATE GROSS RECEIPTS TAX	.49
FEDERAL UNIVERSAL SERVICE FEE	1.18
REGULATORY ASSESSMENT SURCHARGE	.35
PA STATE TAX ADD SURCHARGE	.11
TOTAL SURCHARGES AND OTHER FEES	8.35

### TAXES

STATE TAX	.62
TOTAL TAXES	.62

TOTAL WINDSTREAM COMMUNICATIONS CHARGES 10.96

### WINDSTREAM COMMUNICATIONS Direct Dialled Calls

FOR (724) 376-2002

LINE	DATE	TIME	CITY CALLED	AREA	NUMBER	CL	RP	NEW	AMOUNT
1	04/09	03:47	SHARON	PA	724 699-4360	S	D	3.0	.21
2	04/10	03:19	SHARON	PA	724 866-6384	S	D	0.9	.06
3	04/10	03:22	GROVE CITY	PA	724 992-0094	S	D	1.7	.12
4	04/15	11:44	GROVE CITY	PA	724 372-3158	S	D	1.0	.07
5	04/15	12:19	YOUNGSTOWN	OH	330 965-7579	S	D	1.2	.08
6	04/23	04:28	GROVE CITY	PA	724 992-3415	S	D	4.8	.34
7	04/23	04:33	SHARON	PA	724 718-4707	S	D	0.7	.05
8	04/25	10:28	GROVE CITY	PA	724 997-3938	S	D	0.8	.06
9	04/25	03:40	SHARON	PA	724 718-4707	S	D	2.4	.17
10	05/06	09:56	GROVE CITY	PA	724 458-4350	S	D	2.1	.15
11	05/06	10:48	SHARON	PA	724 301-1942	S	D	0.5	.04
12	05/06	12:29	GREENVILLE	PA	724 885-0145	S	D	1.7	.12
13	05/07	12:09	GROVE CITY	PA	724 458-4350	S	D	5.1	.36
14	05/07	12:19	GREENVILLE	PA	724 588-0700	S	D	2.3	.16
SUBTOTAL EXCLUDING TAX FOR (724) 376-2002									28.2
									1.99

### SERVICE PROVIDER(S)

Your InterLATA long distance carrier(s) are:

WINDSTREAM COMMUNICATIONS 1-800-347-1991

Your IntraLATA long distance carrier(s) are:

WINDSTREAM COMMUNICATIONS 1-800-347-1991

Your local carrier is:

WINDSTREAM PENNSYLVANIA, LLC 1-800-347-1991

\* If you have multiple telephone numbers, further information concerning long distance carrier assignments for those additional lines are on record with your local business office.

### REGULATORY INFORMATION

Failure to pay the total amount due for basic local service could result in suspension of those services and may be subject to collection actions. To avoid suspension of your basic local service, you must pay \$ 95.00.

Non-payment of all other non-basic services may result in the suspension of those services and may be subject to collection actions, but will not result in the suspension of your basic local service.

### WINDSTREAM CUSTOMER MESSAGE

Windstream continues to work to provide the highest level of service and support to our Customers. Part of this service commitment includes providing Customers with the opportunity to have third party services charged to their Windstream telephone bill as a convenience. While many Customers appreciate this convenience, we understand that it's not for everyone. Windstream always encourages customers to review their Windstream bill each month and contact the company if they are unsure about a charge on their Windstream bill. And, in order to provide our Customers with a greater level of control and an additional layer of account protection, Windstream now offers the ability to block third party charges from your monthly telephone statement. This block will not apply to third party charges for Windstream-related services to which you subscribe (i.e. Dish, TracFone, etc.), but will prevent unrelated services from appearing on your Windstream statement. This service is completely optional and free of charge. If you're interested in adding a third party block to your account, please call a Windstream representative at the phone number found at the top

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

CORPORATE MONTHLY OPERATING REPORT

REQUIRED DOCUMENTS	FORM NO.	DOCUMENT ATTACHED	EXPLANATION ATTACHED
Schedule of Cash Receipts and Disbursements	MOR-1	Yes	No
Bank Reconciliation (or copies of debtor's bank reconciliations)	MOR-1 (CONT)	Yes	No
Copies of bank statements			
Cash disbursements journals			
Statement of Operations	MOR-2	Yes	No
Balance Sheet	MOR-3	Yes	No
Status of Post-petition Taxes	MOR-4	Yes	No
Copies of IRS Form 6123 or payment receipt			
Copies of tax returns filed during reporting period			
Summary of Unpaid Post-Petition Debts	MOR-4	Yes	No
Listing of Aged Accounts Payable			
Accounts Receivable Reconciliation and Aging	MOR-5	Yes	No
Payments to Insiders and Professionals	MOR-6	Yes	No
Post Petition Status of Secured Notes	MOR-6	Yes	No
Debtor Questionnaire	MOR-7	Yes	No

This Monthly Operating Report ("MOR") has been prepared solely for the purpose of complying with monthly reporting requirements applicable in the Debtors' chapter 11 cases and is in a format acceptable to the United States Trustee. The financial information contained herein is limited in scope and covers a limited time period. Moreover, such information is preliminary and unaudited, and is not necessarily prepared in accordance with U.S. GAAP.

I declare under penalty of perjury (28 U.S.C. Section 1746) that this report and the attached documents are true and correct to the best of my knowledge and belief.

John Eickler  
Signature of Authorized Individual

John Eickler  
Printed Name of Authorized Individual

5/31/19  
Date

SVP - Controller  
Title

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

LISTING OF DEBTOR ENTITIES

**GENERAL:**

The report includes activity from the following Debtors and related case numbers:

Debtor	Case Number	Debtor	Case Number
A.R.C. Networks, Inc.	19-22338	Southwest Enhanced Network Services, LLC	19-22409
Allworx Corp.	19-22345	Talk America of Virginia, LLC	19-22412
American Telephone Company LLC	19-22349	Talk America, LLC	19-22416
ARC Networks, Inc.	19-22362	Televue, LLC	19-22420
ATX Communications, Inc.	19-22368	Texas Windstream, LLC	19-22316
ATX Licensing, Inc.	19-22371	The Other Phone Company, LLC	19-22323
ATX Telecommunications Services of Virginia, LLC	19-22377	TnNet, LLC	19-22327
Birmingham Data Link, LLC	19-22382	TruCom Corporation	19-22334
BOB, LLC	19-22387	US LEC Communications LLC	19-22340
Boston Retail Partners, LLC	19-22392	US LEC of Alabama LLC	19-22343
BridgeCom Holdings, Inc.	19-22403	US LEC of Florida LLC	19-22348
BridgeCom International, Inc.	19-22408	US LEC of Georgia LLC	19-22351
BridgeCom Solutions Group, Inc.	19-22428	US LEC of Maryland LLC	19-22379
Broadview Networks of Massachusetts, Inc.	19-22440	US LEC of North Carolina LLC	19-22383
Broadview Networks of Virginia, Inc.	19-22454	US LEC of Pennsylvania LLC	19-22395
Broadview Networks, Inc.	19-22456	US LEC of South Carolina LLC	19-22404
Broadview NP Acquisition Corp.	19-22461	US LEC of Tennessee LLC	19-22410
Buffalo Valley Management Services, Inc.	19-22463	US LEC of Virginia LLC	19-22415
Business Telecom of Virginia, Inc.	19-22466	US Xchange, Inc.	19-22455
Business Telecom, LLC	19-22469	US Xchange of Illinois, L.L.C.	19-22425
BV-BC Acquisition Corporation	19-22471	US Xchange of Indiana, L.L.C.	19-22436
Cavalier IP TV, LLC	19-22474	US Xchange of Michigan, L.L.C.	19-22443
Cavalier Services, LLC	19-22313	US Xchange of Wisconsin, L.L.C.	19-22450
Cavalier Telephone Mid-Atlantic, L.L.C.	19-22315	Valor Telecommunications of Texas, LLC	19-22460
Cavalier Telephone, L.L.C.	19-22317	WaveTel NC License Corporation	19-22465
CCL Historical, Inc.	19-22319	WIN Sales & Leasing, Inc.	19-22470
Choice One Communications of Connecticut, Inc.	19-22322	Windstream Accucomm Networks, LLC	19-22472
Choice One Communications of Maine, Inc.	19-22324	Windstream Accucomm Telecommunications, LLC	19-22475
Choice One Communications of Massachusetts, Inc.	19-22326	Windstream Alabama, LLC	19-22478
Choice One Communications of New York, Inc.	19-22329	Windstream Arkansas, LLC	19-22483
Choice One Communications of Ohio, Inc.	19-22331	Windstream Buffalo Valley, Inc.	19-22487
Choice One Communications of Pennsylvania, Inc.	19-22332	Windstream Business Holdings, LLC	19-22310
Choice One Communications of Rhode Island, Inc.	19-22335	Windstream BV Holdings, LLC	19-22494
Choice One Communications of Vermont, Inc.	19-22339	Windstream Cavalier, LLC	19-22500
Choice One Communications Resale, L.L.C.	19-22341	Windstream Communications Kerrville, LLC	19-22424
Choice One of New Hampshire, Inc.	19-22344	Windstream Communications Telecom, LLC	19-22429
Cinergy Communications Company of Virginia, LLC	19-22353	Windstream Communications, LLC	19-22433
Conestoga Enterprises, Inc.	19-22356	Windstream Concord Telephone, LLC	19-22439
Conestoga Management Services, Inc.	19-22358	Windstream Conestoga, Inc.	19-22446
Conestoga Wireless Company	19-22360	Windstream CTC Internet Services, Inc.	19-22448
Connecticut Broadband, LLC	19-22363	Windstream D&E Systems, LLC	19-22452
Connecticut Telephone & Communication Systems, Inc.	19-22365	Windstream D&E, Inc.	19-22457
Conversent Communications Long Distance, LLC	19-22366	Windstream Direct, LLC	19-22459
Conversent Communications of Connecticut, LLC	19-22369	Windstream Eagle Holdings, LLC	19-22464
Conversent Communications of Maine, LLC	19-22372	Windstream Eagle Services, LLC	19-22467
Conversent Communications of Massachusetts, Inc.	19-22375	Windstream EN-TEL, LLC	19-22390
Conversent Communications of New Hampshire, LLC	19-22378	Windstream Finance Corp.	19-22397
Conversent Communications of New Jersey, LLC	19-22380	Windstream Florida, LLC	19-22413
Conversent Communications of New York, LLC	19-22384	Windstream Georgia Communications, LLC	19-22418
Conversent Communications of Pennsylvania, LLC	19-22386	Windstream Georgia Telephone, LLC	19-22422
Conversent Communications of Rhode Island, LLC	19-22388	Windstream Georgia, LLC	19-22426
Conversent Communications of Vermont, LLC	19-22391	Windstream Holding of the Midwest, Inc.	19-22431
Conversent Communications Resale, L.L.C.	19-22394	Windstream Holdings, Inc.	19-22312
CoreComm Communications, LLC	19-22399	Windstream Iowa Communications, LLC	19-22434
CoreComm-ATX, Inc.	19-22401	Windstream Iowa-Comm, LLC	19-22441
CTC Communications Corporation	19-22405	Windstream IT-Comm, LLC	19-22444
CTC Communications of Virginia, Inc.	19-22407	Windstream KDL, LLC	19-22449
D&E Communications, LLC	19-22411	Windstream KDL-VA, LLC	19-22453
D&E Management Services, Inc.	19-22414	Windstream Kentucky East, LLC	19-22458
D&E Networks, Inc.	19-22417	Windstream Kentucky West, LLC	19-22462

UNITED STATES BANKRUPTCY COURT  
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Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

LISTING OF DEBTOR ENTITIES

**GENERAL:**

The report includes activity from the following Debtors and related case numbers:

Debtor	Case Number	Debtor	Case Number
D&E Wireless, Inc.	19-22419	Windstream Kerrville Long Distance, LLC	19-22468
Deltacom, LLC	19-22423	Windstream Lakedale Link, Inc.	19-22473
Earthlink Business, LLC	19-22427	Windstream Lakedale, Inc.	19-22477
Earthlink Carrier, LLC	19-22430	Windstream Leasing, LLC	19-22482
Equity Leasing, Inc.	19-22432	Windstream Lexcom Communications, LLC	19-22486
Eureka Broadband Corporation	19-22435	Windstream Lexcom Entertainment, LLC	19-22491
Eureka Holdings, LLC	19-22437	Windstream Lexcom Long Distance, LLC	19-22498
Eureka Networks, LLC	19-22438	Windstream Lexcom Wireless, LLC	19-22502
Eureka Telecom of VA, Inc.	19-22442	Windstream Mississippi, LLC	19-22504
Eureka Telecom, Inc.	19-22445	Windstream Missouri, LLC	19-22506
Georgia Windstream, LLC	19-22447	Windstream Montezuma, LLC	19-22508
Heart of the Lakes Cable Systems, Inc.	19-22451	Windstream Nebraska, Inc.	19-22510
Infocore, Inc.	19-22314	Windstream Network Services of the Midwest, Inc.	19-22511
InfoHighway Communications Corporation	19-22318	Windstream New York, Inc.	19-22512
Info-Highway International, Inc.	19-22321	Windstream Norlight, LLC	19-22513
InfoHighway of Virginia, Inc.	19-22325	Windstream North Carolina, LLC	19-22514
Intellifiber Networks, LLC	19-22328	Windstream NorthStar, LLC	19-22515
Iowa Telecom Data Services, L.C.	19-22330	Windstream NTI, LLC	19-22516
Iowa Telecom Technologies, LLC	19-22333	Windstream NuVox Arkansas, LLC	19-22517
IWA Services, LLC	19-22336	Windstream NuVox Illinois, LLC	19-22518
KDL Holdings, LLC	19-22337	Windstream NuVox Indiana, LLC	19-22519
LDMI Telecommunications, LLC	19-22342	Windstream NuVox Kansas, LLC	19-22476
Lightship Telecom, LLC	19-22346	Windstream NuVox Missouri, LLC	19-22480
MassComm, LLC	19-22347	Windstream NuVox Ohio, LLC	19-22484
McLeodUSA Information Services LLC	19-22350	Windstream NuVox Oklahoma, LLC	19-22489
McLeodUSA Purchasing, L.L.C.	19-22352	Windstream NuVox, LLC	19-22492
McLeodUSA Telecommunications Services, L.L.C.	19-22355	Windstream of the Midwest, Inc.	19-22496
MPX, Inc.	19-22357	Windstream Ohio, LLC	19-22501
Nashville Data Link, LLC	19-22361	Windstream Oklahoma, LLC	19-22503
Network Telephone, LLC	19-22364	Windstream Pennsylvania, LLC	19-22505
Norlight Telecommunications of Virginia, LLC	19-22367	Windstream Services, LLC	19-22400
Oklahoma Windstream, LLC	19-22370	Windstream SHAL Networks, Inc.	19-22507
Open Support Systems, LLC	19-22373	Windstream SHAL, LLC	19-22509
PaeTec Communications of Virginia, LLC	19-22376	Windstream Shared Services, LLC	19-22479
PaeTec Communications, LLC	19-22311	Windstream South Carolina, LLC	19-22481
PAETEC Holding, LLC	19-22381	Windstream Southwest Long Distance, LLC	19-22485
PAETEC iTEL, L.L.C.	19-22385	Windstream Standard, LLC	19-22488
PAETEC Realty LLC	19-22389	Windstream Sugar Land, LLC	19-22490
PAETEC, LLC	19-22393	Windstream Supply, LLC	19-22493
PCS Licenses, Inc.	19-22396	Windstream Systems of the Midwest, Inc.	19-22495
Progress Place Realty Holding Company, LLC	19-22398	Windstream Western Reserve, LLC	19-22497
RevChain Solutions, LLC	19-22402	Xeta Technologies, Inc.	19-22499
SM Holdings, LLC	19-22406		

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**GLOBAL NOTES AND STATEMENTS OF LIMITATIONS AND DISCLAIMERS REGARDING THE DEBTORS' MONTHLY OPERATING REPORT**

On February 25, 2019 (the "Petition Date"), each of the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). The Debtors' Chapter 11 Cases are jointly administered for procedural purposes only under Windstream Holdings, Inc. No. 19-22312 (RDD) (S.D.N.Y.) pursuant to an order entered by the Bankruptcy Court on February 28, 2019 Docket No. 56. On March 12, 2019, the United States Trustee for Region 2 (the "U.S. Trustee") appointed an official committee of unsecured creditors pursuant to section 1102(a) of the Bankruptcy Code Docket No. 136. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

[1] **General Methodology:** The Debtors are filing their consolidated monthly operating report (the "MOR") solely for purposes of complying with the monthly operating requirements applicable in the Debtors' Chapter 11 Cases. The financial information contained herein is unaudited, limited in scope, and as discussed below, not necessarily prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). The MOR should not be relied upon by any persons for information relating to current or future financial conditions, events, or performance of any of the Debtors or their affiliates, as the results of operations contained herein are not necessarily indicative of results which may be expected from any other period or for the full year, and may not necessarily reflect the consolidated results of operations, financial position, and schedule of receipts and disbursements in the future. There can be no assurance that such information is complete, and the MOR may be subject to revision. The following notes, statements, and limitations should be referred to, and referenced in connection with, any review of the MOR.

[2] **Basis of Presentation.** For financial reporting purposes, the Debtors prepare monthly consolidated financial statements, which include information for Windstream Holdings, and all of its subsidiaries. The Debtors are maintaining their books and records in accordance with GAAP and the information furnished in this MOR uses the Debtors' normal accrual method of accounting. In preparing the MOR, the Debtors relied on financial data derived from their books and records that was available at the time of preparation. Nevertheless, in preparing this MOR, the Debtors made reasonable efforts to supplement the information set forth in their books and records with additional information concerning transactions that may not have been identified therein. Subsequent information or discovery may result in material changes to the MOR and errors or omissions may exist. Notwithstanding any such discovery, new information, or errors or omissions, the Debtors do not undertake any obligation or commitment to update this MOR.

[3] **Reporting Period.** Unless otherwise noted herein, the MOR generally reflects the Debtors' books and records and financial activity occurring during the applicable reporting period. Except as otherwise noted, no adjustments have been made for activity occurring after the close of the reporting period.

[4] **Accuracy.** The financial information disclosed herein was not prepared in accordance with federal or state securities laws or other applicable non-bankruptcy law or in lieu of complying with any periodic reporting requirements thereunder. Persons and entities trading in or otherwise purchasing, selling, or transferring the claims against or equity interests in the Debtors should evaluate this financial information in light of the purposes for which it was prepared. The Debtors are not liable for and undertake no responsibility to indicate variations from securities laws or for any evaluations of the Debtors based on this financial information or any other information.

[5] **Liabilities Subject to Compromise:** Due to the filing of the Chapter 11 Cases on February 25, 2019, the payment of pre-petition indebtedness is generally subject to compromise pursuant to a plan of reorganization. Generally, actions to enforce or otherwise effect payment of pre-bankruptcy filing liabilities are stayed. Although payment of pre-petition claims generally is not permitted, the Bankruptcy Court granted the Debtors authority to pay certain pre-petition claims in designated categories and subject to certain terms and conditions. This relief generally was designed to preserve the value of the Debtors' businesses and assets. Among other things, the Bankruptcy Court authorized the Debtors to pay certain pre-petition claims relating to employee wages and benefits, taxes and critical vendors. The Debtors have been paying and intend to pay undisputed post-petition liabilities in the ordinary course of business. In addition, the Debtors may reject certain pre-petition executory contracts and unexpired leases with respect to their operations with the approval of the Bankruptcy Court.

Pre-petition liabilities that are subject to compromise are required to be reported at the amounts expected to be allowed, even if they may be settled for lesser amounts. The amounts currently classified as Liabilities Subject to Compromise may be subject to future adjustments depending on Bankruptcy Court actions, further developments with respect to disputed claims, determinations of secured status of certain claims, the values of any collateral securing such claims, or other events. We cannot reasonably estimate the value of the claims that will ultimately be allowed by the Bankruptcy Court until our evaluation, investigation and reconciliation of the filed claims has been completed. Any resulting changes in classification will be reflected in subsequent financial statements.

[6] **Reservation of Rights.** The Debtors reserve all rights to amend or supplement the MOR in all respects, as may be necessary or appropriate, but shall be under no obligation to do so. Nothing contained in this MOR shall constitute a waiver of any of the Debtors' rights or an admission with respect to their Chapter 11 Cases.

[7] **ASC 852.** This accounting standard requires expenses and income directly associated with the Chapter 11 Cases to be reported separately in the statement of operations as reorganization items, net. Reorganization items, net primarily include write-off of certain original issue discount and fees relating to debt obligations classified as Liabilities Subject to Compromise, expenses related to legal advisory and representation services, other professional consulting and advisory services, and changes in liabilities subject to compromise recognized as there are changes in amounts expected to be allowed as claims. Nothing contained in this MOR shall constitute a waiver of any of the Debtors' rights or an admission with respect to the Chapter 11 Cases, including, but not limited to, matters involving objections to claims, substantive consolidation, equitable subordination, defenses, characterization or re-characterization of contracts, assumption or rejection of contracts under the provisions of Chapter 3 of Title 11 of the Bankruptcy Code and/or causes of action under the provisions of Chapter 5 of the Bankruptcy Code or any other relevant applicable laws to recover assets or avoid transfers.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS<sup>(1, 2)</sup>**

Case No.	Case Name	Cash Receipts	Cash Disbursements
19-22338	A.R.C. Networks, Inc.	\$ -	\$ -
19-22345	Allworx Corp.	-	-
19-22349	American Telephone Company LLC	56,041	9,219
19-22362	ARC Networks, Inc.	-	-
19-22368	ATX Communications, Inc.	-	-
19-22371	ATX Licensing, Inc.	-	-
19-22377	ATX Telecommunications Services of Virginia, LLC	-	-
19-22382	Birmingham Data Link, LLC	-	-
19-22387	BOB, LLC	38,972	41,497
19-22392	Boston Retail Partners, LLC	-	-
19-22403	BridgeCom Holdings, Inc.	-	-
19-22408	BridgeCom International, Inc.	-	-
19-22428	BridgeCom Solutions Group, Inc.	-	-
19-22440	Broadview Networks of Massachusetts, Inc.	-	-
19-22454	Broadview Networks of Virginia, Inc.	-	-
19-22456	Broadview Networks, Inc.	47,146,260	48,517,557
19-22461	Broadview NP Acquisition Corp.	-	-
19-22463	Buffalo Valley Management Services, Inc.	308,003	307,441
19-22466	Business Telecom of Virginia, Inc.	-	-
19-22469	Business Telecom, LLC	-	-
19-22471	BV-BC Acquisition Corporation	-	-
19-22474	Cavalier IP TV, LLC	-	-
19-22313	Cavalier Services, LLC	-	-
19-22315	Cavalier Telephone Mid-Atlantic, L.L.C.	-	-
19-22317	Cavalier Telephone, L.L.C.	610,781	484,105
19-22319	CCL Historical, Inc.	-	-
19-22322	Choice One Communications of Connecticut, Inc.	-	-
19-22324	Choice One Communications of Maine, Inc.	-	-
19-22326	Choice One Communications of Massachusetts, Inc.	-	-
19-22329	Choice One Communications of New York, Inc.	12,551,681	12,861,520
19-22331	Choice One Communications of Ohio, Inc.	-	-
19-22332	Choice One Communications of Pennsylvania, Inc.	-	-
19-22335	Choice One Communications of Rhode Island, Inc.	-	-
19-22339	Choice One Communications of Vermont, Inc.	-	-
19-22341	Choice One Communications Resale, L.L.C.	-	-
19-22344	Choice One of New Hampshire, Inc.	-	-
19-22353	Cinergy Communications Company of Virginia, LLC	-	-
19-22356	Conestoga Enterprises, Inc.	-	-
19-22358	Conestoga Management Services, Inc.	1,169,570	1,167,626
19-22360	Conestoga Wireless Company	-	-
19-22363	Connecticut Broadband, LLC	-	-
19-22365	Connecticut Telephone & Communication Systems, Inc.	-	-
19-22366	Conversent Communications Long Distance, LLC	-	-
19-22369	Conversent Communications of Connecticut, LLC	-	-
19-22372	Conversent Communications of Maine, LLC	-	-
19-22375	Conversent Communications of Massachusetts, Inc.	-	-
19-22378	Conversent Communications of New Hampshire, LLC	-	-
19-22380	Conversent Communications of New Jersey, LLC	-	-
19-22384	Conversent Communications of New York, LLC	-	-
19-22386	Conversent Communications of Pennsylvania, LLC	-	-
19-22388	Conversent Communications of Rhode Island, LLC	-	-
19-22391	Conversent Communications of Vermont, LLC	-	-
19-22394	Conversent Communications Resale, L.L.C.	-	-
19-22399	CoreComm Communications, LLC	-	-
19-22401	CoreComm-ATX, Inc.	-	-
19-22405	CTC Communications Corporation	-	-
19-22407	CTC Communications of Virginia, Inc.	-	-
19-22411	D&E Communications, LLC	-	-
19-22414	D&E Management Services, Inc.	520,997	522,714
19-22417	D&E Networks, Inc.	-	-
19-22419	D&E Wireless, Inc.	-	-
19-22423	Deltacom, LLC	28,058,474	27,064,496
19-22427	Earthlink Business, LLC	-	-

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS<sup>(1), (2)</sup>**

Case No.	Case Name	Cash Receipts	Cash Disbursements
19-22430	Earthlink Carrier, LLC	2,487,073	2,487,073
19-22432	Equity Leasing, Inc.	-	-
19-22435	Eureka Broadband Corporation	-	-
19-22437	Eureka Holdings, LLC	-	-
19-22438	Eureka Networks, LLC	-	-
19-22442	Eureka Telecom of VA, Inc.	-	-
19-22445	Eureka Telecom, Inc.	-	-
19-22447	Georgia Windstream, LLC	-	-
19-22451	Heart of the Lakes Cable Systems, Inc.	-	-
19-22314	Infocore, Inc.	-	-
19-22318	InfoHighway Communications Corporation	-	-
19-22321	Info-Highway International, Inc.	-	-
19-22325	InfoHighway of Virginia, Inc.	-	-
19-22328	Intellifiber Networks, LLC	-	-
19-22330	Iowa Telecom Data Services, L C	-	-
19-22333	Iowa Telecom Technologies, LLC	-	-
19-22336	IWA Services, LLC	-	-
19-22337	KDL Holdings, LLC	-	-
19-22342	LDMI Telecommunications, LLC	-	-
19-22346	Lightship Telecom, LLC	-	-
19-22347	MassComm, LLC	10,298	10,310
19-22350	McLeodUSA Information Services LLC	-	-
19-22352	McLeodUSA Purchasing, L L C	-	-
19-22355	McLeodUSA Telecommunications Services, L L C	-	-
19-22357	MPX, Inc.	-	-
19-22361	Nashville Data Link, LLC	-	-
19-22364	Network Telephone, LLC	-	-
19-22367	Norlight Telecommunications of Virginia, LLC	-	-
19-22370	Oklahoma Windstream, LLC	-	-
19-22373	Open Support Systems, LLC	-	-
19-22376	PaeTec Communications of Virginia, LLC	-	-
19-22311	PaeTec Communications, LLC	134,002,901	134,088,881
19-22381	PAETEC Holding, LLC	-	-
19-22385	PAETEC iTEL, L L C	-	-
19-22389	PAETEC Realty LLC	-	-
19-22393	PAETEC, LLC	-	-
19-22396	PCS Licenses, Inc.	5,123	4,031
19-22398	Progress Place Realty Holding Company, LLC	-	-
19-22402	RevChain Solutions, LLC	-	-
19-22406	SM Holdings, LLC	-	-
19-22409	Southwest Enhanced Network Services, LLC	-	-
19-22412	Talk America of Virginia, LLC	-	-
19-22416	Talk America, LLC	-	-
19-22420	Televue, LLC	-	-
19-22316	Texas Windstream, LLC	-	-
19-22323	The Other Phone Company, LLC	-	-
19-22327	TriNet, LLC	-	-
19-22334	TruCom Corporation	-	-
19-22340	US LEC Communications LLC	-	-
19-22343	US LEC of Alabama LLC	-	-
19-22348	US LEC of Florida LLC	-	-
19-22351	US LEC of Georgia LLC	-	-
19-22379	US LEC of Maryland LLC	-	-
19-22383	US LEC of North Carolina LLC	-	-
19-22395	US LEC of Pennsylvania LLC	-	-
19-22404	US LEC of South Carolina LLC	-	-
19-22410	US LEC of Tennessee LLC	-	-
19-22415	US LEC of Virginia LLC	-	-
19-22455	US Xchange, Inc.	-	-
19-22425	US Xchange of Illinois, L L C	-	-
19-22436	US Xchange of Indiana, L L C	-	-
19-22443	US Xchange of Michigan, L L C	-	-
19-22450	US Xchange of Wisconsin, L L C	-	-



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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Debtors

Case No. 19-22312 (RDD)

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Federal Tax I.D. # 46-2847717

**SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS<sup>(1), (2)</sup>**

Case No.	Case Name	Cash Receipts	Cash Disbursements
19-22460	Valor Telecommunications of Texas, LLC	315,380	315,380
19-22465	WaveTel NC License Corporation	-	-
19-22470	WIN Sales & Leasing, Inc.	-	-
19-22472	Windstream Accucomm Networks, LLC	-	-
19-22475	Windstream Accucomm Telecommunications, LLC	-	-
19-22478	Windstream Alabama, LLC	-	-
19-22483	Windstream Arkansas, LLC	-	-
19-22487	Windstream Buffalo Valley, Inc.	-	-
19-22310	Windstream Business Holdings, LLC	51,441,545	51,436,239
19-22494	Windstream BV Holdings, LLC	-	-
19-22500	Windstream Cavalier, LLC	-	-
19-22424	Windstream Communications Kerrville, LLC	3,077	12
19-22429	Windstream Communications Telecom, LLC	-	-
19-22433	Windstream Communications, LLC	408,547,455	402,197,163
19-22439	Windstream Concord Telephone, LLC	326,409	326,409
19-22446	Windstream Conestoga, Inc.	-	-
19-22448	Windstream CTC Internet Services, Inc.	-	-
19-22452	Windstream D&E Systems, LLC	28,187	28,187
19-22457	Windstream D&E, Inc.	-	-
19-22459	Windstream Direct, LLC	-	-
19-22464	Windstream Eagle Holdings, LLC	-	-
19-22467	Windstream Eagle Services, LLC	-	-
19-22390	Windstream EN-TEL, LLC	-	-
19-22397	Windstream Finance Corp.	-	-
19-22413	Windstream Florida, LLC	147,303	148,552
19-22418	Windstream Georgia Communications, LLC	670,034	670,778
19-22422	Windstream Georgia Telephone, LLC	-	-
19-22426	Windstream Georgia, LLC	9,175	7,906
19-22431	Windstream Holding of the Midwest, Inc.	-	-
19-22312	Windstream Holdings, Inc.	54,730,625	54,730,625
19-22434	Windstream Iowa Communications, LLC	-	-
19-22441	Windstream Iowa-Comm, LLC	-	-
19-22444	Windstream IT-Comm, LLC	-	-
19-22449	Windstream KDL, LLC	-	-
19-22453	Windstream KDL-VA, LLC	-	-
19-22458	Windstream Kentucky East, LLC	839,155	838,670
19-22462	Windstream Kentucky West, LLC	-	-
19-22468	Windstream Kerrville Long Distance, LLC	-	-
19-22473	Windstream Lakedale Link, Inc.	-	-
19-22477	Windstream Lakedale, Inc.	-	-
19-22482	Windstream Leasing, LLC	-	-
19-22486	Windstream Lexcom Communications, LLC	165,886	165,886
19-22491	Windstream Lexcom Entertainment, LLC	-	-
19-22498	Windstream Lexcom Long Distance, LLC	-	-
19-22502	Windstream Lexcom Wireless, LLC	-	-
19-22504	Windstream Mississippi, LLC	-	-
19-22506	Windstream Missouri, LLC	7,671	7,217
19-22508	Windstream Montezuma, LLC	43,828	44,114
19-22510	Windstream Nebraska, Inc.	99,919	99,593
19-22511	Windstream Network Services of the Midwest, Inc.	-	-
19-22512	Windstream New York, Inc.	304	1,186
19-22513	Windstream Norlight, LLC	-	-
19-22514	Windstream North Carolina, LLC	6,857	6,802
19-22515	Windstream NorthStar, LLC	-	-
19-22516	Windstream NTI, LLC	-	-
19-22517	Windstream NuVox Arkansas, LLC	-	-
19-22518	Windstream NuVox Illinois, LLC	-	-
19-22519	Windstream NuVox Indiana, LLC	-	-
19-22476	Windstream NuVox Kansas, LLC	-	-
19-22480	Windstream NuVox Missouri, LLC	-	-
19-22484	Windstream NuVox Ohio, LLC	-	-
19-22489	Windstream NuVox Oklahoma, LLC	-	-
19-22492	Windstream NuVox, LLC	7,188,684	7,188,684

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**SCHEDULE OF CASH RECEIPTS AND DISBURSEMENTS<sup>(1, 2)</sup>**

Case No.	Case Name	Cash Receipts	Cash Disbursements
19-22496	Windstream of the Midwest, Inc.	-	-
19-22501	Windstream Ohio, LLC	2,280	2,504
19-22503	Windstream Oklahoma, LLC	-	-
19-22505	Windstream Pennsylvania, LLC	-	-
19-22400	Windstream Services, LLC	1,232,298,768	1,139,190,500
19-22507	Windstream SHAL Networks, Inc.	-	-
19-22509	Windstream SHAL, LLC	-	-
19-22479	Windstream Shared Services, LLC	19,795	19,795
19-22481	Windstream South Carolina, LLC	19,212	19,212
19-22485	Windstream Southwest Long Distance, LLC	-	-
19-22488	Windstream Standard, LLC	664,567	687,627
19-22490	Windstream Sugar Land, LLC	-	-
19-22493	Windstream Supply, LLC	-	-
19-22495	Windstream Systems of the Midwest, Inc.	-	-
19-22497	Windstream Western Reserve, LLC	-	-
19-22499	Xeta Technologies, Inc.	5,639,801	5,437,275
	<b>Total Debtors</b>	<b>\$ 1,990,182,092</b>	<b>\$ 1,891,136,787</b>

**Notes:**

[1] Includes cash receipts and disbursements related to third party transactions as well as intercompany transfers between Debtors.

[2] The cash receipts and cash disbursements disclosed in this Monthly Operating Report reflect the bank activity records available to the Debtors. For the purpose of calculating the U.S. Trustee fee, cash disbursements disclosed in this Monthly Operating Report are allocated to the Debtor entity receiving the benefit of such disbursement.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**BANK ACCOUNT RECONCILIATIONS<sup>(1)</sup>**

Legal Entity	Case Number	Bank/Account Description	Account Number <sup>(2)</sup>	Ending Bank Balance
American Telephone Company LLC	19-22349	Bank of America / Disb.	9254	\$ 46,823
BOB, LLC	19-22387	CIBC/ Dep.	0393	8,396
Broadview Networks, Inc.	19-22456	Citibank/ Dep.	3276	444,003
Broadview Networks, Inc.	19-22456	RBC/ Disb.	1225 <sup>(3)</sup>	74,632
Broadview Networks, Inc.	19-22456	Citibank/ Dep.	3268	167,826
Broadview Networks, Inc.	19-22456	Citibank/ Other	1189	-
Broadview Networks, Inc.	19-22456	Citibank/ Other	7016	-
Broadview Networks, Inc.	19-22456	Citibank/ Other	9378	-
Broadview Networks, Inc.	19-22456	Citibank/ Other	2139	-
Broadview Networks, Inc.	19-22456	Citibank/ Other	5321	-
Broadview Networks, Inc.	19-22456	Citibank/ Other	8237	-
Buffalo Valley Management Services, Inc.	19-22463	Wells Fargo Bank/ Other	4234	2,834
Buffalo Valley Management Services, Inc.	19-22463	US Bank/ Other	0220	4,997
Cavalier Telephone, L.L.C.	19-22317	Bank of America/ Dep.	7841	132,117
Choice One Communications of New York, Inc.	19-22329	Bank of America/ Dep.	6429	519,690
Choice One Communications of New York, Inc.	19-22329	Bank of America/ Dep.	8396	50,807
Conestoga Management Services, Inc.	19-22358	US Bank/ Other	0195	8,263
Conestoga Management Services, Inc.	19-22358	Wells Fargo Bank/ Other	4247	90
D&E Management Services, Inc.	19-22414	Bank of America/ Other	3288	454
D&E Management Services, Inc.	19-22414	US Bank/ Other	8333	5,564
DeltaCom, LLC	19-22423	Regions/ Dep.	6996	1,404,677
DeltaCom, LLC	19-22423	Fifth Third Bank/ Dep.	8741	904,223
EarthLink Carrier, LLC	19-22430	Regions/ Dep.	6708	-
MassComm, LLC	19-22347	Chase Bank/ Dep.	7517	48,639
MassComm, LLC	19-22347	Chase Bank/ Disb.	9872	25,989
MassComm, LLC	19-22347	Chase Bank/ Dep.	7509	4,753
Paetec Communications, LLC	19-22311	HSBC/ Dep.	9204	508,046
Paetec Communications, LLC	19-22311	M&T Bank/ Dep.	2501	812,027
Paetec Communications, LLC	19-22311	Bank of America/ Dep.	0882	-
Paetec Communications, LLC	19-22311	Chase Bank/ Dep.	3425	-
PCS Licenses, Inc.	19-22396	Bank of America/ Other	3291	2
PCS Licenses, Inc.	19-22396	US Bank/ Other	3880	5,005
Valor Telecommunications of Texas, LLC	19-22460	Bank of America/ Dep.	1529	-
Valor Telecommunications of Texas, LLC	19-22460	Wells Fargo Bank/ Dep.	5518	-
Windstream Business Holdings, LLC	19-22310	Bank of America/ Dep.	5419	331,713
Windstream Business Holdings, LLC	19-22310	Bank of America/ Dep.	7948	-
Windstream Communications Kerville, LLC	19-22424	Security State Bank & Trust/ Dep.	xxxx	4,096
Windstream Communications, LLC	19-22433	Chase Bank/ Dep.	8972	3,745,688
Windstream Communications, LLC	19-22433	Wells Fargo Bank/ Dep.	3712	7,425,219
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	3741	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	0600	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	5301	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	5314	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	5327	-
Windstream Communications, LLC	19-22433	Bank of America/ Disb.	1672	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	1698	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	1724	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	1737	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	1795	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	1441	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	1454	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	4239	-
Windstream Communications, LLC	19-22433	Bank of America/ Dep.	4144	-
Windstream Communications, LLC	19-22433	Chase Bank/ Dep.	6643	-
Windstream Concord Telephone, LLC	19-22439	Bank of America/ Dep.	6399	-
Windstream Concord Telephone, LLC	19-22439	Bank of America/ Dep.	6412	-
Windstream D&E Systems, LLC	19-22452	Bank of America/ Dep.	0702	-
Windstream Florida, LLC	19-22413	First Federal Savings/ Dep.	7709	17,892
Windstream Georgia Communications, LLC	19-22418	Exchange Bank/ Dep.	xxxx	23,940
Windstream Georgia Communications, LLC	19-22418	Bank of America/ Dep.	7765	2,930
Windstream Georgia Communications, LLC	19-22418	Bank of America/ Dep.	3834	-
Windstream Georgia Communications, LLC	19-22418	Bank of America/ Dep.	1766	-
Windstream Georgia Communications, LLC	19-22418	Bank of America/ Dep.	4507	-

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**BANK ACCOUNT RECONCILIATIONS<sup>[1]</sup>**

Legal Entity	Case Number	Bank/Account Description	Account Number <sup>[2]</sup>	Ending Bank Balance
Windstream Georgia Communications, LLC	19-22418	Wells Fargo Bank/ Dep.	8115	-
Windstream Georgia, LLC	19-22426	The Farmers Bank/ Dep.	xxxx	2,299
Windstream Holdings, Inc.	19-22312	Bank of America/ Disb.	2369	-
Windstream Kentucky East, LLC	19-22458	Forcht Bank (Campbellsville)/ Dep.	9736	34,763
Windstream Kentucky East, LLC	19-22458	Chase Bank/ Dep.	2757	7,124
Windstream Kentucky East, LLC	19-22458	Chase Bank/ Dep.	2773	3,777
Windstream Kentucky East, LLC	19-22458	Bank of America/ Dep.	0571	-
Windstream Kentucky East, LLC	19-22458	Bank of America/ Dep.	0597	-
Windstream Lexcom Communications, LLC	19-22486	Wells Fargo Bank/ Dep.	5700	-
Windstream Missouri, LLC	19-22506	First Missouri Bank/ Dep.	0464	2,655
Windstream Montezuma, LLC	19-22508	Montezuma State Bank/ Dep.	xxxx	15,936
Windstream Nebraska, Inc.	19-22510	US Bank/ Dep.	9924	29,097
Windstream Nebraska, Inc.	19-22510	US Bank/ Dep.	3936	15,881
Windstream Nebraska, Inc.	19-22510	Wells Fargo Bank/ Dep.	1370	-
Windstream New York, Inc.	19-22512	Suntrust/ Dep.	9486	1,279
Windstream North Carolina, LLC	19-22514	First Bank/ Dep.	0206	1,670
Windstream North Carolina, LLC	19-22514	Suntrust/ Dep.	4078	1,254
Windstream NuVox, LLC	19-22492	Chase Bank/ Dep.	8595	-
Windstream Ohio, LLC	19-22501	First Central National Bank/ Dep.	xxxx	1,079
Windstream Services, LLC	19-22400	Bank of America/ Concen.	1805	487,157,437
Windstream Services, LLC	19-22400	Bank of America/ Other	5832	5,254,259
Windstream Services, LLC	19-22400	Bank of America/ Adeq Assur	3937	2,500,000
Windstream Services, LLC	19-22400	Bank of America/ Disb.	4885	-
Windstream Services, LLC	19-22400	Bank of America/ Disb.	4893	-
Windstream Services, LLC	19-22400	Bank of America/ Disb.	4919	-
Windstream Services, LLC	19-22400	Bank of America/ Disb.	8985	-
Windstream Services, LLC	19-22400	Bank of America/ Disb.	2933	-
Windstream Services, LLC	19-22400	Bank of America/ Disb.	2941	-
Windstream Services, LLC	19-22400	Bank of America/ Disb.	5089	-
Windstream Services, LLC	19-22400	Bank of America/ Dep.	6049	-
Windstream Services, LLC	19-22400	Bank of America/ Dep.	1821	-
Windstream Services, LLC	19-22400	Bank of America/ Disb.	7973	-
Windstream Services, LLC	19-22400	Bank of America/ Other	5309	-
Windstream Shared Services, LLC	19-22479	Chase Bank/ Dep.	8926	-
Windstream South Carolina, LLC	19-22481	Bank of America/ Dep.	5525	-
Windstream Standard, LLC	19-22488	Regions/ Dep.	2442	37,212
Windstream Standard, LLC	19-22488	Regions/ Dep.	2469	23,963
Windstream Standard, LLC	19-22488	United Community Bank/ Dep.	4351	15,704
Windstream Standard, LLC	19-22488	Bank of America/ Dep.	7781	3,797
Xeta Technologies, Inc.	19-22499	Commerce Bank/ Dep.	0382	388,650
Xeta Technologies, Inc.	19-22499	Commerce Bank/ Dep.	6094	4,695
Xeta Technologies, Inc.	19-22499	M&T Bank/ Disb.	2912	-
<b>Total Bank Balances</b>				<b>\$ 512,233,865</b>

**Bank-to-Book Cash Reconciliation**

Total Bank Balance	\$	512,233,865
(+) Credit Card Receipts in-Transit		12,382,459
(+/-) Other Cash-in-Transit/ Reconciling Items		892,428
(-) Restricted Cash		(7,753,395)
<b>Cash and Cash Equivalents Book Balance (MOR - 3)</b>	<b>\$</b>	<b>517,755,357</b>

**Notes:**

[1] Copies of Bank Statements and Cash Disbursement journals are available upon request.

[2] Last four digits of account number. Accounts listed as "xxxx" have account numbers of 6 or fewer digits and have been excluded herein for confidentiality purposes.

[3] Funds in this account are held in CAD; balance reflected herein is converted to USD using end of period exchange rates.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**STATEMENT OF OPERATIONS**

WINDSTREAM HOLDINGS, INC.  
(DEBTOR-IN-POSSESSION)  
CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)

Reporting period of Apr 1 through Apr 30, 2019

<b>Revenues and sales:</b>	
Service revenues:	\$ 428,683,757
Product sales	5,489,828
Total revenues and sales	434,173,585
<b>Costs and expenses:</b>	
Cost of services (exclusive of depreciation and amortization included below)	271,824,962
Cost of products sold	5,588,127
Selling, general, administrative and other	63,764,161
Depreciation and amortization	89,039,492
Merger and integration costs	741,833
Restructuring charges	2,217,790
Total costs and expenses	433,176,365
Operating profit	997,220
Other income, net	649,198
Reorganization items, net <sup>(1)</sup>	(18,655,797)
Interest expense	(27,313,655)
Loss before income taxes	(44,323,034)
Income tax benefit	(11,226,945)
Net loss	\$ (33,096,089)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

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Federal Tax I.D. # 46-2847717

**BALANCE SHEET**

WINDSTREAM HOLDINGS, INC.  
(DEBTOR-IN-POSSESSION)  
CONSOLIDATED BALANCE SHEETS (UNAUDITED)

	April 30, 2019
<b>Assets</b>	
Current Assets:	
Cash and cash equivalents	\$ 517,755,357
Restricted cash	7,753,395
Accounts receivable (less allowance for doubtful accounts)	621,713,359
Inventories	76,693,157
Prepaid expenses and other	205,718,725
Total current assets	1,429,633,993
Goodwill	434,683,854
Other intangibles, net	1,160,377,257
Net property, plant and equipment	3,629,529,908
Operating lease right-of-use assets	4,153,488,920
Other assets	84,026,529
<b>Total Assets</b>	<b>10,891,740,461</b>
<b>Liabilities and Shareholders' Deficit</b>	
Current Liabilities:	
Current portion of long-term debt	3,715,941,478
Accounts payable	201,609,074
Advance payments and customer deposits	163,819,167
Accrued taxes	64,685,804
Accrued interest	1,585,546
Other current liabilities	152,025,936
Total current liabilities	4,299,667,005
Other liabilities	18,073,856
Liabilities subject to compromise	7,800,535,582
<b>Total liabilities</b>	<b>12,118,276,443</b>
Commitments and Contingencies	
Shareholders' Deficit:	
Common stock, \$.0001 par value, 75,000,000 shares authorized, 42,997,926 shares issued and outstanding	4,275
Additional paid-in capital	1,252,935,764
Accumulated other comprehensive income	30,891,781
Accumulated deficit	(2,510,367,802)
Total shareholders' deficit	(1,226,535,982)
<b>Total Liabilities and Shareholders' Deficit</b>	<b>\$ 10,891,740,461</b>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**STATUS OF POST-PETITION TAXES <sup>(1)</sup>**

Tax Description	Classification	Beginning Tax	Amount Withheld and/or Accrued	Amount Paid	Ending Tax
Sales, Use Taxes and Government Fees	Accrued Taxes	\$ 22,336,109	\$ 19,668,073	\$ (19,471,636)	\$ 22,532,546
Real and Personal Property Taxes	Accrued Taxes	6,072,616	5,363,172	(1,472,083)	9,963,705
Income and Franchise Taxes	Accrued Taxes	1,297,687	471,237	(418,638)	1,350,286
Other Telecom Taxes / Fees	Other Accruals	4,427,897	4,391,540	(4,274,262)	4,545,175
Payroll Taxes	Other Current Liabilities	3,856,523	21,402,217	(20,984,450)	4,274,290
<b>Total Taxes</b>		<b>\$ 37,990,832</b>	<b>\$ 51,296,239</b>	<b>\$ (46,621,069)</b>	<b>\$ 42,666,002</b>

**Notes:**

[1] The tax roll-forward reflects the payment of post-petition taxes.

**SUMMARY OF UNPAID POST-PETITION DEBTS <sup>(2)</sup>**

Post-Petition Debts	Number of Days Past Due					Total
	Current	1 - 30	31 - 60	61 - 90	90 +	
Trade Accounts Payable	45,927,246	8,026,625	1,018,979	43,418	27,018	55,043,285
Other Accruals	144,610,964	-	-	-	-	144,610,964
<b>Total Accounts Payable</b>	<b>190,538,209</b>	<b>8,026,625</b>	<b>1,018,979</b>	<b>43,418</b>	<b>27,018</b>	<b>199,654,249</b>
Advance Payments and Customer Deposits	150,652,167	-	-	-	-	150,652,167
Accrued Taxes	33,846,537	-	-	-	-	33,846,537
Accrued Interest	1,585,546	-	-	-	-	1,585,546
Other Current Liabilities	127,703,838	-	-	-	-	127,703,838
Other Liabilities	5,464,856	-	-	-	-	5,464,856
<b>Total Unpaid Post-Petition Debts</b>	<b>\$ 509,791,153</b>	<b>\$ 8,026,625</b>	<b>\$ 1,018,979</b>	<b>\$ 43,418</b>	<b>\$ 27,018</b>	<b>\$ 518,907,193</b>

**Notes:**

[2] Excludes Current Portion of Long-Term Debt.

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**SUMMARY OF ACCOUNTS RECEIVABLE AGING**

Accounts Receivable	Number of Days Past Due				
	Current	1 - 30	31 - 60	61-90	Total
Gross Receivables <sup>[1]</sup>	\$ 512,416,702	\$ 75,328,650	\$ 40,533,198	\$ 83,521,673	\$ 711,800,222
Less: Allowances and Reserves	N/A	N/A	N/A	N/A	(90,086,864)
<b>Net Receivable Balance</b>	<b>\$ 512,416,702</b>	<b>\$ 75,328,650</b>	<b>\$ 40,533,198</b>	<b>\$ 83,521,673</b>	<b>\$ 621,713,359</b>

**Notes:**

[1] Gross Receivables include consumer and enterprise trade receivables, credit amounts from carriers, regulatory funding, unbilled revenues and unapplied funds.



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**PAYMENTS TO INSIDERS<sup>(1)</sup>**

Insider of the Debtors	Type of Payment	Amount Paid	Total Paid to Date
Thomas, Tony	Regular Wages, Reimbursable Expenses	\$ 76,923	\$ 130,812
Gunderman, Robert E	Regular Wages, Reimbursable Expenses	38,483	76,945
Moody, Kristi	Regular Wages	28,846	57,692
Small, Jeffery	Regular Wages	30,769	61,538
Levine, Layne	Regular Wages, Reimbursable Expenses	34,676	69,307
Board Members	Reimbursable Expenses	965	5,829
<b>Total Payments To Insiders</b>		<b>\$ 210,663</b>	<b>\$ 402,123</b>

**Notes:**

[1] For the purposes of this Monthly Operating Report, the Debtors have defined "insiders" as Tony Thomas (President and Chief Executive Officer), Robert E. Gunderman (Chief Financial Officer and Treasurer), Kristi Moody (Executive Vice President, General Counsel & Corporate Secretary), Jeffery Small (President of Kinetic), and Layne Levine (President of Enterprise & Wholesale), as well as members of the Debtors' boards of directors and boards of managers, as applicable. The parties identified as "insiders" have been included for informational purposes only. The inclusion of a party as an "insider" herein is not an acknowledgement or concession that such party is an insider under any applicable law. The payments to insiders disclosed herein only reflect payments made during the reporting period (i.e., February 25, 2019, through and including April 30, 2019) including payments made on account of prepetition obligations pursuant to the relief granted under the First Day Motions.

**PAYMENTS TO RETAINED PROFESSIONALS<sup>(2)</sup>**

Retained Professional	Amount Paid During Month	Total Paid To Date
Kirkland & Ellis, LLP	\$ -	\$ -
PJT Partners LP	5,000,000	5,000,000
Alvarez & Marsal North America, LLC	-	-
PricewaterhouseCoopers LLP	-	-
Kurtzman Carson Consultants LLC <sup>(3)</sup>	3,767,831	3,767,831
Katten Muchin Rosenman LLP	-	-
Morrison & Foerster LLP	-	-
Perella Weinberg Partners LP	-	-
AlixPartners, LLP	-	-
<b>Total Payments To Retained Professionals</b>	<b>\$ 8,767,831</b>	<b>\$ 8,767,831</b>

**Notes:**

[2] Schedule reflects retained professionals and payments made under filed retention applications.

[3] Payments to Kurtzman Carson Consultants LLC ("KCC"), as disclosed herein, include (a) amounts paid to KCC pursuant to the Order Authorizing Retention and Appointment of Kurtzman Carson Consultants LLC as Claims and Noticing Agent [Docket No. 59] (the "156(c) Order"), (b) amounts paid to KCC pursuant to the Order Authorizing the Debtors to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor Effective Nunc Pro Tunc to the Petition Date [Docket No. 371] (the "327(a) Order", and collectively with the 156(c) Order, the "KCC Retention Orders"), and (c) expenses incurred by and reimbursed to KCC pursuant to their employment and retention under the KCC Retention Orders.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**DIP FINANCING (TERM LOAN & REVOLVER) - PERIOD TO DATE**

Facility	Beginning Balance	Draw <sup>(1)</sup>	Paydowns	Ending Balance
DIP Revolver Financing	\$ -	\$ -	\$ -	\$ -
DIP Term Loan Financing	\$ 300,000,000	\$ 200,000,000	\$ -	\$ 500,000,000

**Notes:**

<sup>(1)</sup> Draw reflects gross amount of proceeds.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re WINDSTREAM HOLDINGS, INC. et al.  
Debtors

Case No. 19-22312 (RDD)

Reporting Period: 4/1/19 - 4/30/19

Federal Tax I.D. # 46-2847717

**DEBTOR QUESTIONNAIRE**

Must be completed each month. If the answer to any of the questions is "Yes", provide a detailed explanation of each item. Attach additional sheets if necessary.	Yes	No
Have any assets been sold or transferred outside the normal course of business this reporting period?		X
Have any funds been disbursed from any account other than a debtor in possession account this reporting period?		X
Is the Debtor delinquent in the timely filing of any post-petition tax returns?		X
Are workers compensation, general liability or other necessary insurance coverages expired or cancelled, or has the debtor received notice of expiration or cancellation of such policies?		X
Is the Debtor delinquent in paying any insurance premium payment?		X
Have any payments been made on pre-petition liabilities this reporting period?	X <sup>(1)</sup>	
Are any post petition receivables (accounts, notes or loans) due from related parties?		X
Are any post petition payroll taxes past due?		X
Are any post petition State or Federal income taxes past due?		X
Are any post petition real estate taxes past due?		X
Are any other post petition taxes past due?		X
Have any pre-petition taxes been paid during this reporting period?	X	
Are any amounts owed to post petition creditors delinquent?		X
Are any wage payments past due?		X
Have any post petition loans been received by the Debtor from any party?		X
Is the Debtor delinquent in paying any U.S. Trustee fees?		X
Is the Debtor delinquent with any court ordered payments to attorneys or other professionals?		X
Have the owners or shareholders received any compensation outside of the normal course of business?		X

**Notes:**

<sup>(1)</sup> Pursuant to the relief requested under "First Day Motions" and their respective interim orders, certain payments have been made on prepetition obligations as outlined in various motions (e.g. wage, customer programs, taxes, critical vendors, lien claimants and 503(b)(9) claimants).

Terence P. Ross  
Tami Kameda Sims (*admitted pro hac vice*)  
Shaya Rochester  
**KATTEN MUCHIN ROSENMAN LLP**  
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New York, NY 10022  
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Facsimile: (212) 940-8776

*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., et al., <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
	)	
WINDSTREAM HOLDINGS, INC., et al.,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. 19-08246
	)	
vs.	)	
	)	
CHARTER COMMUNICATIONS, INC. and	)	
CHARTER COMMUNICATIONS OPERATING, LLC,	)	
	)	
Defendants.	)	
	)	

---

<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.

**DEBTORS' RESPONSES AND OBJECTIONS TO CHARTER COMMUNICATIONS,  
INC.'S INTERROGATORIES**

Pursuant to Rules 7026 and 7033 of the Federal Rules of Bankruptcy Procedure, Rules 26 and 33 of the Federal Rules of Civil Procedure, the Local Rules of this District, and any other applicable rules (collectively, the “Applicable Rules”), Plaintiff Windstream Holdings, Inc. and its affiliated debtors (collectively, “Windstream”), by its undersigned attorneys, submits these Responses and Objections (the “Response”) to the Second Set of Interrogatories (the “Interrogatories”) of Defendants Charter Communications, Inc. and Charter Communications Operating, LLC (collectively, “Charter”) served in the above-captioned adversary proceeding (the “Action”).

**GENERAL OBJECTIONS**

Windstream asserts the following General Objections (“General Objections”) to the Interrogatories, each of which is hereby incorporated by reference into the response to each individual Interrogatory below. From time to time, and for purpose of emphasis, Windstream may restate one or more of the General Objections as specific objections to individual Interrogatories. Such restatement, or the failure to restate, should not be taken as a waiver of any General Objection not restated.

1. Windstream responds to the Interrogatories on the basis of the facts and circumstances as they are presently known to Windstream. Windstream has not yet completed its own discovery, investigation of the facts, or preparation for trial. Accordingly, all of the following objections and responses are provided without prejudice to the right of Windstream to introduce at trial any evidence that it subsequently discovers. Windstream reserves the right to supplement its objections and responses to the Interrogatories based upon newly-discovered evidence or information of which Windstream is not aware as of the present date.

2. Windstream objects to the Interrogatories insofar as they seek information or documents that are protected from disclosure by the attorney-client privilege, the work product doctrine, the privacy privilege, or any other privilege or immunity, and refuses to produce any such document(s). Windstream does not intend by these objections or responses to waive any claim of privilege or immunity. Windstream's objections and responses are conditioned specifically on the understanding that the provision of information or documents for which any claim of privilege is applicable shall be deemed inadvertent and not a waiver of the claim of privilege.

3. Windstream objects to the Interrogatories to the extent they call for the production of information that is protected by their privacy rights or those of any other person or entity as provided by the New York and United States Constitutions and/or any other statute or legal authority.

4. Windstream objects to the Interrogatories to the extent that they call for the production of trade secrets, confidential information, proprietary information, commercially-sensitive information, and competitively-significant information regarding Windstream's business activities and/or business operations. Notwithstanding this objection, Windstream will produce such information subject to the terms of the Stipulated Protective Order [Adv. Docket No. 75] entered by the Court in this Action.

5. Windstream objects to the Interrogatories to the extent that they seek information that is neither relevant to any party's claim or defense nor proportional to the needs of the case.

6. Windstream objects to the Interrogatories to the extent that they seek information that is not within Windstream's possession, custody, or control.

7. Windstream objects to the Interrogatories to the extent that they seek information that is readily obtainable by Charter, or that can be obtained from publicly available sources, where

the burden of searching for, collecting, or compiling such information or documents is substantially the same for Charter as it is for Windstream.

9. Windstream objects to the Interrogatories to the extent that they purport to require Windstream to undertake a search for, and to produce, electronically stored information (“ESI”) that would impose unreasonable search costs and burdens or that would exceed Windstream’s obligations under the Applicable Rules.

### **RESPONSE TO INTERROGATORIES**

#### **INTERROGATORY NO. 2**

Identify all Windstream customers that you contend received the Charter advertisements that are the subject of your claims in this adversary proceeding.

#### **RESPONSE TO INTERROGATORY NO. 2**

Windstream incorporates by reference its General Objections stated above as though set forth fully herein. Windstream further objects that this Interrogatory is unduly burdensome, overbroad, and disproportionate to the needs of the case as the burden and cost associated with obtaining such documents outweigh any minimal benefit, if any. Indeed, as Charter well knows, it sent its advertisements to over 800,000 customers in Windstream’s footprint, including Windstream customers and potential customers. It would be unduly burdensome and extremely time consuming and expensive for Windstream to attempt to cross-reference over 800,000 recipients against its customer accounts, and the identification of each Windstream customer is not in and of itself relevant to the claims in this action. Additionally, the account information associated with Windstream’s records may not match the information provided in Charter’s list of customers that received the advertisements; for example, the account holder of record may be a different member of the household than the recipient of the Charter advertisement, addresses and

names may have been inputted with different abbreviations, and such information—even if inaccurate given the foregoing—would need to be searched, reviewed, and compared from at least four distinct billing systems, all of which makes the ability to cross-reference the list overly burdensome, unreasonable, and extremely time consuming and expensive. Windstream further objects to this Interrogatory on the grounds that it seeks the disclosure of confidential, proprietary, or sensitive information regarding Windstream’s business and/or business operations. Windstream further objects to the Interrogatory to the extent it calls for the disclosure of confidential information protected by the privacy rights of non-parties. Windstream further objects to this Interrogatory because it seeks information that is readily obtainable by Charter as it is by Windstream.

Subject to and without waiver of the previously asserted objections, Windstream responds that it does not know to whom the Charter false and misleading advertisements were sent. Windstream has identified customers who have contacted Windstream and have indicated that they received the Charter advertisements. Indeed, pursuant to a Court order, Windstream has received from Charter a list of approximately 800,000 individuals to whom the advertisements were sent. Windstream reasonably believes that this is the best evidence identifying those individuals that were sent the Charter advertisements and hereby incorporates that document in response to this Interrogatory pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.



Dated: July 3, 2019  
New York, NY

/s/ Terence P. Ross  
Terence P. Ross  
Tami Kameda Sims (*admitted pro hac vice*)  
Shaya Rochester  
**KATTEN MUCHIN ROSENMAN LLP**  
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*Conflicts Counsel to the Debtors and Debtors in  
Possession*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of July 2019, a true and correct copy of the Debtors' Responses And Objections To Charter Communications, Inc.'s Interrogatories was served by email on all counsel of record in this adversary proceeding.

Dated: July 3, 2019

/s/ Kristin Lockhart  
Kristin D. Lockhart

**VERIFICATION**

I, Lewis Langston, declare under penalty of perjury that I have reviewed **DEBTORS'**  
**RESPONSES AND OBJECTIONS TO CHARTER COMMUNICATIONS, INC.'S**  
**INTERROGATORIES**, and that the responses provided therein are true and correct to the best  
of my knowledge and belief.

Executed on this 28 day of June, 2019, in Little Rock, AR.

Signed: 

Fill in this information to identify the case:

United States Bankruptcy Court for the:  
Southern District of New York  
(State)

Case number (if known): Chapter 11

☐ Check if this is an amended filing

Official Form 201

**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

04/16

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name

Choice One Communications of Maine, Inc.

2. All other names debtor used in the last 8 years

N/A

Include any assumed names, trade names, and doing business as names

EarthLink Business; EarthLink Business II; One Communications.

3. Debtor's federal Employer Identification Number (EIN)

16-1564112

4. Debtor's address

Principal place of business

4001 North Rodney Parham Road

Number Street

Little Rock, Arkansas 72212

City State Zip Code

Pulaski County

County

Mailing address, if different from principal place of business

Number Street

P.O. Box

City State Zip Code

Location of principal assets, if different from principal place of business

Number Street

City State Zip Code

5. Debtor's website (URL)

https://www.windstream.com/

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))

☐ Partnership (excluding LLP)

☐ Other. Specify:



Debtor Choice One Communications of Maine, Inc. Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

7. Describe debtor's business

A. Check One:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))  
☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))  
☐ Railroad (as defined in 11 U.S.C. § 101(44))  
☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))  
☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))  
☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))  
☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)  
☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)  
☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes> .  
**5172 - Wireless Telecommunications Carriers (except Satellite)**

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check One:

- ☐ Chapter 7  
☐ Chapter 9  
☒ Chapter 11. Check all that apply:

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,566,050 (amount subject to adjustment on 4/01/19 and every 3 years after that).  
☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).  
☐ A plan is being filed with this petition.  
☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).  
☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.  
☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

- ☒ No  
☐ Yes.

District	_____	When	MM/DD/YYYY	Case number	_____
District	_____	When	MM/DD/YYYY	Case number	_____

If more than 2 cases, attach a separate list.

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- ☐ No  
☒ Yes.

Debtor	<u>See attached Schedule 1</u>	Relationship	<u>Affiliate</u>
District	<u>Southern District of New York</u>	When	<u>02/25/2019</u>
Case number, if known	_____		MM / DD / YYYY

Debtor Choice One Communications of Maine, Inc. Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

**11. Why is the case filed in this district?**

*Check all that apply:*

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

**12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?**

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

**Why does the property need immediate attention? (Check all that apply.)**

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? \_\_\_\_\_

- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other \_\_\_\_\_

**Where is the property?**

Number	Street	
_____		
City	State	Zip Code
_____	_____	_____

**Is the property insured?**

- ☐ No
- ☐ Yes. Insurance agency \_\_\_\_\_
- Contact name \_\_\_\_\_
- Phone \_\_\_\_\_

**Statistical and administrative information**

**13. Debtor's estimation of available funds**

*Check one:*

- ☒ Funds will be available for distribution to unsecured creditors.
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

**14. Estimated number of creditors (on a consolidated basis)**

- |                                  |  |   |
|----------------------------------|--|---|
| <input type="checkbox"/> 1-49    | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000                |
| <input type="checkbox"/> 50-99   | <input type="checkbox"/> 5,001-10,000  | <input type="checkbox"/> 50,001-100,000               |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input checked="" type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 |  |   |

**15. Estimated assets (on a consolidated basis)**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion                |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion             |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input checked="" type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion                   |

Debtor Choice One Communications of Maine, Inc. Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

16. Estimated liabilities (on a consolidated basis)
- |  |  |   |
|--|--|---|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion                |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion             |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input checked="" type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion                   |

**Request for Relief, Declaration, and Signatures**

**WARNING --** Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor
- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02/25/2019  
MM/ DD / YYYY

X /s/ Kristi M. Moody Kristi M. Moody  
Signature of authorized representative of debtor Printed name

Title Authorized Officer

18. Signature of attorney X /s/ Stephen E. Hessler Date 02/25/2019  
Signature of attorney for debtor MM/ DD/YYYY

Stephen E. Hessler  
Printed name

Kirkland & Ellis LLP  
Firm name

601 Lexington Avenue  
Number Street

New York New York 10022  
City State ZIP Code

(212) 446-4800 stephen.hessler@kirkland.com  
Contact phone Email address

4576856 New York  
Bar number State

Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter 11

☐ Check if this is an amended filing

**Schedule 1**  
**Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor**

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Windstream Holdings, Inc.

- |   |   |   |
|---|---|---|
| 1. Windstream Holdings, Inc.                        | 41. Conestoga Management Services, Inc.                 | 80. Iowa Telecom Data Services, L.C.              |
| 2. Windstream Business Holdings, LLC                | 42. Conestoga Wireless Company                          | 81. Iowa Telecom Technologies, LLC                |
| 3. Allworx Corp.                                    | 43. Connecticut Broadband, LLC                          | 82. IWA Services, LLC                             |
| 4. American Telephone Company, LLC                  | 44. Connecticut Telephone & Communication Systems, Inc. | 83. KDL Holdings, LLC                             |
| 5. ARC Networks, Inc.                               | 45. Conversent Communications Long Distance, LLC        | 84. LDMI Telecommunications, LLC                  |
| 6. A.R.C. Networks, Inc.                            | 46. Conversent Communications of Connecticut, LLC       | 85. Lightship Telecom, LLC                        |
| 7. ATX Communications, Inc.                         | 47. Conversent Communications of Maine, LLC             | 86. MassComm, LLC                                 |
| 8. ATX Licensing, Inc.                              | 48. Conversent Communications of Massachusetts, Inc.    | 87. McLeodUSA Information Services LLC            |
| 9. ATX Telecommunications Services of Virginia, LLC | 49. Conversent Communications of New Hampshire, LLC     | 88. McLeodUSA Purchasing, LLC                     |
| 10. Birmingham Data Link, LLC                       | 50. Conversent Communications of New Jersey, LLC        | 89. McLeodUSA Telecommunications Services, L.L.C. |
| 11. BOB, LLC  | 51. Conversent Communications of New York, LLC          | 90. MPX, Inc.                                     |
| 12. Boston Retail Partners LLC                      | 52. Conversent Communications of Pennsylvania, LLC      | 91. Nashville Data Link, LLC                      |
| 13. BridgeCom Holdings, Inc.                        | 53. Conversent Communications of Rhode Island, LLC      | 92. Network Telephone, LLC                        |
| 14. BridgeCom International, Inc.                   | 54. Conversent Communications of Vermont, LLC           | 93. Norlight Telecommunications of Virginia, LLC  |
| 15. BridgeCom Solutions Group, Inc.                 | 55. Conversent Communications Resale L.L.C.             | 94. Oklahoma Windstream, LLC                      |
| 16. Broadview Networks, Inc.                        | 56. CoreComm-ATX, Inc.                                  | 95. Open Support Systems, LLC                     |
| 17. Broadview Networks of Massachusetts, Inc.       | 57. CoreComm Communications, LLC                        | 96. PaeTec Communications of Virginia, LLC        |
| 18. Broadview Networks of Virginia, Inc.            | 58. CTC Communications Corporation                      | 97. PaeTec Communications, LLC                    |
| 19. Broadview NP Acquisition Corp.                  | 59. CTC Communications of Virginia, Inc.                | 98. PAETEC Holding, LLC                           |
| 20. Buffalo Valley Management Services, Inc.        | 60. D&E Communications, LLC                             | 99. PAETEC iTEL, L.L.C.                           |
| 21. Business Telecom of Virginia, Inc.              | 61. D&E Management Services, Inc.                       | 100. PAETEC Realty LLC                            |
| 22. Business Telecom, LLC                           | 62. D&E Networks, Inc.                                  | 101. PAETEC, LLC                                  |
| 23. BV-BC Acquisition Corporation                   | 63. D&E Wireless, Inc.                                  | 102. PCS Licenses, Inc.                           |
| 24. Cavalier IP TV, LLC                             | 64. Deltacom, LLC                                       | 103. Progress Place Realty Holding Company, LLC   |
| 25. Cavalier Services, LLC                          | 65. Earthlink Business, LLC                             | 104. RevChain Solutions, LLC                      |
| 26. Cavalier Telephone Mid-Atlantic, L.L.C.         | 66. Earthlink Carrier, LLC                              | 105. SM Holdings, LLC                             |
| 27. Cavalier Telephone, L.L.C.                      | 67. Equity Leasing, Inc.                                | 106. Southwest Enhanced Network Services, LLC     |
| 28. CCL Historical, Inc.                            | 68. Eureka Broadband Corporation                        | 107. Talk America of Virginia, LLC                |
| 29. Choice One Communications of Connecticut Inc.   | 69. Eureka Holdings, LLC                                | 108. Talk America, LLC                            |
| 30. Choice One Communications of Maine Inc.         | 70. Eureka Networks, LLC                                | 109. Televue, LLC                                 |
| 31. Choice One Communications of Massachusetts Inc. | 71. Eureka Telecom, Inc.                                | 110. Texas Windstream, LLC                        |
| 32. Choice One Communications of New York Inc.      | 72. Eureka Telecom of VA, Inc.                          | 111. The Other Phone Company, LLC                 |
| 33. Choice One Communications of Ohio Inc.          | 73. Georgia Windstream, LLC                             | 112. TriNet, LLC                                  |
| 34. Choice One Communications of Pennsylvania Inc.  | 74. Heart of the Lakes Cable Systems, Inc.              | 113. TruCom Corporation                           |
| 35. Choice One Communications of Rhode Island Inc.  | 75. Infocore, Inc.                                      | 114. US LEC Communications LLC                    |
| 36. Choice One Communications Resale L.L.C.         | 76. Info-Highway International, Inc.                    | 115. US LEC of Alabama LLC                        |
| 37. Choice One Communications of Vermont Inc.       | 77. InfoHighway Communications Corporation              | 116. US LEC of Florida LLC                        |
| 38. Choice One of New Hampshire, Inc.               | 78. InfoHighway of Virginia, Inc.                       | 117. US LEC of Georgia LLC                        |
| 39. Cinergy Communications Company of Virginia, LLC | 79. Intellifiber Networks, LLC                          | 118. US LEC of Maryland LLC                       |
| 40. Conestoga Enterprises, Inc.                     |   | 119. US LEC of North Carolina LLC                 |
|   |   | 120. US LEC of Pennsylvania LLC                   |
|   |   | 121. US LEC of South Carolina LLC                 |
|   |   | 122. US LEC of Tennessee LLC                      |
|   |   | 123. US LEC of Virginia LLC                       |
|   |   | 124. US Xchange Inc.                              |
|   |   | 125. US Xchange of Illinois, L.L.C.               |
|   |   | 126. US Xchange of Indiana, L.L.C.                |



- |  |   |  |
|--|---|--|
| 127. US Xchange of Michigan, L.L.C.              | 153. Windstream Georgia Communications, LLC           | 179. Windstream North Carolina, LLC          |
| 128. US Xchange of Wisconsin, L.L.C.             | 154. Windstream Georgia Telephone, LLC                | 180. Windstream NorthStar, LLC               |
| 129. Valor Telecommunications of Texas, LLC      | 155. Windstream Georgia, LLC                          | 181. Windstream NTI, LLC                     |
| 130. WaveTel NC License Corporation              | 156. Windstream Holding of the Midwest, Inc.          | 182. Windstream NuVox Arkansas, LLC          |
| 131. WIN Sales & Leasing, Inc.                   | 157. Windstream Iowa Communications, LLC              | 183. Windstream NuVox Illinois, LLC          |
| 132. Windstream Accucomm Networks, LLC           | 158. Windstream Iowa-Comm, LLC                        | 184. Windstream NuVox Indiana, LLC           |
| 133. Windstream Accucomm Telecommunications, LLC | 159. Windstream IT-Comm, LLC                          | 185. Windstream NuVox Kansas, LLC            |
| 134. Windstream Alabama, LLC                     | 160. Windstream KDL, LLC                              | 186. Windstream NuVox Missouri, LLC          |
| 135. Windstream Arkansas, LLC                    | 161. Windstream KDL-VA, LLC                           | 187. Windstream NuVox Ohio, LLC              |
| 136. Windstream Buffalo Valley, Inc.             | 162. Windstream Kentucky East, LLC                    | 188. Windstream NuVox Oklahoma, LLC          |
| 137. Windstream BV Holdings, LLC                 | 163. Windstream Kentucky West, LLC                    | 189. Windstream NuVox, LLC                   |
| 138. Windstream Cavalier, LLC                    | 164. Windstream Kerrville Long Distance, LLC          | 190. Windstream of the Midwest, Inc.         |
| 139. Windstream Communications Kerrville, LLC    | 165. Windstream Lakedale Link, Inc.                   | 191. Windstream Ohio, LLC                    |
| 140. Windstream Communications Telecom, LLC      | 166. Windstream Lakedale, Inc.                        | 192. Windstream Oklahoma, LLC                |
| 141. Windstream Communications, LLC              | 167. Windstream Leasing, LLC                          | 193. Windstream Pennsylvania, LLC            |
| 142. Windstream Concord Telephone, LLC           | 168. Windstream Lexcom Communications, LLC            | 194. Windstream Services, LLC                |
| 143. Windstream Conestoga, Inc.                  | 169. Windstream Lexcom Entertainment, LLC             | 195. Windstream SHAL Networks, Inc.          |
| 144. Windstream CTC Internet Services, Inc.      | 170. Windstream Lexcom Long Distance, LLC             | 196. Windstream SHAL, LLC                    |
| 145. Windstream D&E Systems, LLC                 | 171. Windstream Lexcom Wireless, LLC                  | 197. Windstream Shared Services, LLC         |
| 146. Windstream D&E, Inc.                        | 172. Windstream Mississippi, LLC                      | 198. Windstream South Carolina, LLC          |
| 147. Windstream Direct, LLC                      | 173. Windstream Missouri, LLC                         | 199. Windstream Southwest Long Distance, LLC |
| 148. Windstream Eagle Holdings LLC               | 174. Windstream Montezuma, LLC                        | 200. Windstream Standard, LLC                |
| 149. Windstream Eagle Services, LLC              | 175. Windstream Nebraska, Inc.                        | 201. Windstream Sugar Land, LLC              |
| 150. Windstream EN-TEL, LLC                      | 176. Windstream Network Services of the Midwest, Inc. | 202. Windstream Supply, LLC                  |
| 151. Windstream Finance Corp                     | 177. Windstream New York, Inc.                        | 203. Windstream Systems of the Midwest, Inc. |
| 152. Windstream Florida, LLC                     | 178. Windstream Norlight, LLC                         | 204. Windstream Western Reserve, LLC         |
|  |   | 205. Xeta Technologies, Inc.                 |

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

_____	)	
In re:	)	Chapter 11
	)	
CHOICE ONE COMMUNICATIONS OF MAINE,	)	Case No. 19-_____( )
INC.,	)	
	)	
Debtor.	)	
_____	)	

**LIST OF EQUITY SECURITY HOLDERS<sup>1</sup>**

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Choice One Communications of Maine, Inc.	Windstream Eagle Services, LLC	4001 N. Rodney Parham Rd., Little Rock, AR 72212	100%

<sup>1</sup> This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

	)	
In re:	)	Chapter 11
	)	
CHOICE ONE COMMUNICATIONS OF MAINE,	)	Case No. 19-_____ (____)
INC.,	)	
	)	
Debtor.	)	
	)	

**CORPORATE OWNERSHIP STATEMENT**

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Windstream Eagle Services, LLC	100%

**Fill in this information to identify the case:**

Debtor name Windstream Holdings, Inc., et al.

United States Bankruptcy Court for the: Southern District of New York

Case number (If known): \_\_\_\_\_ (State)



Check if this is an amended filing

## Official Form 204

### Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
1	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$806,900,000.00
2	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$105,800,000.00
3	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$78,100,000.00
4	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$70,100,000.00
5	AT&T 208 SOUTH AKARD STREET DALLAS, TX 75202	ATTN: GENERAL COUNSEL TELEPHONE: 210-821-4105 FAX: 210-351-2198 EMAIL: DAVID.MCATEE@ATT.COM; WW0118@ATT.COM	TRADE				\$49,551,947.00

<sup>1</sup> The Debtors reserve the right to assert setoff and other rights with respect to any of the claims listed herein.

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
6	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$36,200,000.00
7	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$34,400,000.00
8	VERIZON 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036	ATTN: GENERAL COUNSEL TELEPHONE: 212-395-1000 FAX: 212-517-1897 EMAIL: CRAIG.SILLIMAN@VERIZON.COM	TRADE				\$34,054,820.00
9	AT&T PRO CABS 208 SOUTH AKARD STREET DALLAS, TX 75202	ATTN: GENERAL COUNSEL TELEPHONE: 210-821-4105 FAX: 210-351-2198 EMAIL: DAVID.MCATEE@ATT.COM; WW0118@ATT.COM	TRADE				\$8,802,645 .00
10	GLOBE COMMUNICATIONS INC. 950 48TH AVE NORTH SUITE 100 MYRTLE BEACH, SC 29577	ATTN: DIRECTOR OR OFFICER TELEPHONE: 843- 839-5544 FAX: 843-839-5545 EMAIL: RUSTYLUNDY@GLOBEINC.COM	TRADE				\$8,368,733.00
11	BELLSOUTH PRO CABS 600 N POINT PKWY ALPHARETTA, GA 30005	ATTN: ROC-CABS TELEPHONE: 555-555-5555; 404-249-2000 FAX: 404-249-2071 EMAIL: RT2547@ATT.COM	TRADE				\$7,467,897.00
12	CENTURYLINK 100 CENTURYLINK DRIVE MONROE, LA 71203	ATTN: GENERAL COUNSEL TELEPHONE: 318-388-9000 FAX: 318-388-9064 EMAIL: STACEY.GOFF@CENTURYLINK.COM	TRADE				\$7,028,123.00
13	FRONTIER 401 MERRITT 7 NORWALK, CT 06851	ATTN: GENERAL COUNSEL TELEPHONE: 203-614-5600 FAX: 203-614-4651 EMAIL: MARK.NIELSEN@FTR.COM	TRADE				\$6,892,743.00
14	LEC SERVICES INC. 138 VAN CAMP BLVD LOS LUNAS, NM 87031	ATTN: DIRECTOR OR OFFICER TELEPHONE: 505-301-3404 FAX: N/A EMAIL: DSCROSSLEY@ISP.COM	TRADE				\$6,582,326.00
15	INFINERA 140 CASPIAN COURT SUNNYVALE, CA 94089	ATTN: DIRECTOR OR OFFICER TELEPHONE: 408-572-5200 FAX: 408-572-5454 EMAIL: DHEARD@INFINERA.COM	TRADE				\$6,081,389.00
16	TRIPLE D COMMUNICATIONS 3006 PARK CENTRAL AVENUE NICHOLASVILLE, KY 40356	ATTN: DANNY WHITE TELEPHONE: 859-887-4683 FAX: 859-885-9824 EMAIL: DWHITE@TRIPLEDLLC.COM	TRADE				\$5,928,006.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
17	VELOCLOUD NETWORKS INC. 3429 HILLVIEW AVE PALO ALTO, CA 94304	ATTN: VMWARE HILLTOP TELEPHONE: 650-209-4180 FAX: 650-475-5001 EMAIL: AOLLI@VMWARE.COM; CONTACT@VELOCLOUD.COM	TRADE				\$5,598,590.00
18	ELEMENT - FKA PHH 655 BUSINESS CENTER DRIVE SUITE 250 HORSHAM, PA 19044	ATTN: DIRECTOR OR OFFICER TELEPHONE: 267-960-4000 FAX: 267-960-4001 EMAIL: N/A	TRADE				\$5,435,197.00
19	TRAWICK CONSTRUCTION CO 1555 SOUTH BOULEVARD CHIPLEY, FL 32428-1626	ATTN: DIRECTOR OR OFFICER TELEPHONE: 850-638-0429 FAX: 850-638-8373 EMAIL: DOUG.TRAWICK@TRAWICKCONST RUCTION.COM	TRADE				\$5,418,813.00
20	ADTRAN 901 EXPLORER BOULEVARD HUNTSVILLE, AL 35806	ATTN: DIRECTOR OR OFFICER TELEPHONE: 256-963-8000 FAX: 256-963-6300 EMAIL: KEITH.KALMAN@ADTRAN.COM	TRADE				\$5,279,202.00
21	LEVEL 3 COMMUNICATIONS, LLC GENERAL COUNSEL BROOMFIELD, CO 80021	ATTN: C/O CENTURYLINK TELEPHONE: 720-888-2750 FAX: 720-888-5422 EMAIL: STACEY.GOFF@CENTURYLINK.CO M	TRADE				\$5,211,613.00
22	LIGHTOWER FIBER NETWORKS 80 CENTRAL STREET BOXBOROUGH, MA 01719	ATTN: DIRECTOR OR OFFICER TELEPHONE: 978-264-6000 FAX: 978-264-6100 EMAIL: ESANDMAN@LIGHTOWER.COM	TRADE				\$4,721,163.00
23	MICROSOFT ONE MICROSOFT WAY REDMOND, WA 98052	ATTN: DIRECTOR OR OFFICER TELEPHONE: 425-882-8080 FAX: 425-706-7329 EMAIL: BUSCOND@MICROSOFT.COM	TRADE				\$4,519,318.00
24	QWEST CORP GENERAL COUNSEL MONROE, LA 71203	ATTN: C/O CENTURYLINK TELEPHONE: 318-388-9000 FAX: 318-388-9064 EMAIL: STACEY.GOFF@CENTURYLINK.CO M	TRADE				\$4,484,967.00
25	GENERAL DATATECH LP 999 METROMEDIA PLACE DALLAS, TX 75247	ATTN: DIRECTOR OR OFFICER TELEPHONE: 214-857-6165; 214-857-6100 FAX: 214-857-6500 EMAIL: EBLATARIC@GDT.COM	TRADE				\$4,118,389.00
26	FORSYTHE SOLUTIONS GROUP INC. 7770 FRONTAGE ROAD SKOKIE, IL 60077	ATTN: DIRECTOR OR OFFICER TELEPHONE: 847-213-7000 FAX: 847-675-8017 EMAIL: THOFFMAN@FORSYTHE.COM	TRADE				\$3,855,195.00
27	ACTIONTEC ELECTRONICS 3301 OLCOTT ST SANTA CLARA, CA 95054	ATTN: TONG KHUC, VP TELEPHONE: 408-548-4762 FAX: 408-541-9003 EMAIL: TKHUC@ACTIONTEC.COM	TRADE				\$3,757,838.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
28	TIME WARNER CABLE 400 ATLANTIC STREET, CT, ROOM 407 STAMFORD, CT 06901	ATTN: LEGAL DEPARTMENT TELEPHONE: 203-428-0281 FAX: 212-364-8460 EMAIL: SERENA.PARKER@CHARTER.COM	TRADE				\$3,591,108.00
29	EXCLUSIVE NETWORKS USA 2075 ZANKER ROAD SAN JOSE, CA 95131	ATTN: FRED SILVERMAN TELEPHONE: 954-782-6056 FAX: 408-943-9198 EMAIL: FSILVERMAN@EXCLUSIVE-NETWORKS.COM	TRADE				\$3,466,808.00
30	T3 WIRELESS INC 220 W MAIN STREET COUNCIL GROVE, KS 66846	ATTN: CHRIS CROWE, PRESIDENT TELEPHONE: 214-228-0930; 620-767-7193 FAX: 661-458-2329 EMAIL: INFO@T3WIRELESS.NET	TRADE				\$3,459,329.00
31	ZAYO 1821 30TH STREET UNIT A BOULDER, CO 80301	ATTN: DIRECTOR OR OFFICER TELEPHONE: 303-381-4683 FAX: N/A EMAIL: BRAD.KORCH@ZAYO.COM; SHIRA.COOKS@ZAYO.COM	TRADE				\$3,219,650.00
32	EQUINIX INC. 4252 SOLUTIONS CENTER CHICAGO, IL 60677-4002	ATTN: DIRECTOR OR OFFICER TELEPHONE: 650-598-6000 FAX: 650-598-6900 EMAIL: COLLECTIONS@EQUINIX.COM	TRADE				\$2,997,406.00
33	CIENA CORP 7035 RIDGE ROAD HANOVER, MD 21076	ATTN: DIRECTOR OR OFFICER TELEPHONE: 410-694-5700 FAX: 410-694-5750 EMAIL: N/A	TRADE				\$2,952,217.00
34	CBRE INC. 400 S HOPE STREET LOS ANGELES, CA 90071	ATTN: DIRECTOR OR OFFICER TELEPHONE: 213-613-3333 FAX: 216-613-3005 EMAIL: CORPCOMM@CBRE.COM; LEW.HORNE@CBRE.COM	TRADE				\$2,885,755.00
35	BELLSOUTH 600 N POINT PKWY ALPHARETTA, GA 30005	ATTN: ROC-CABS TELEPHONE: 404-249-2000 FAX: 404-249-2071 EMAIL: RT2547@ATT.COM	TRADE				\$2,596,089.00
36	MP NEXLEVEL LLC 500 COUNTY RD 37 E MAPLE LAKE, MN 55358	ATTN: DIRECTOR OR OFFICER TELEPHONE: 320-963-2410; 320-963-2400 FAX: 320-963-2438 EMAIL: N/A	TRADE				\$2,430,702.00
37	ENSONO LP 3333 FINLEY ROAD DOWNERS GROVE, IL 60515	ATTN: DIRECTOR OR OFFICER TELEPHONE: 630-944-9337 FAX: 630-944-1432 EMAIL: JUDY.RASMUSSEN@ENSONO.COM; RICHARD.DRESDEN@ENSONO.COM	TRADE				\$2,161,902.00
38	FIBERTECH NETWORKS LLC 300 MERIDAN CENTRE ROCHESTER, NY 14618	ATTN: ACCOUNTS RECEIVABLE TELEPHONE: 585-697-5100 FAX: 585-442-8845 EMAIL: BDANGLER@FIBERTECH.COM	TRADE				\$2,133,547.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
39	METASWITCH NETWORKS 12007 SUNRISE VALLEY DR. STE 250 RESTON, VA 20191	ATTN: LEGAL DEPARTMENT TELEPHONE: 703-480-0500 FAX: 703-480-0499 EMAIL: N/A	TRADE				\$2,118,722.00
40	CONDUENT COMMERCIAL SOLUTIONS LLC 100 CAMPUS DRIVE FLORHAM PARK, NJ 07932	ATTN: DIRECTOR OR OFFICER TELEPHONE: 844-663-2638 FAX: N/A EMAIL: N/A	TRADE				\$2,083,394.00
41	PRODAPT 7565 SW MOHAWK STREET BUILDING M TUALATIN, OR 97062	ATTN: HEADQUARTERS TELEPHONE: 503-636-3737 FAX: 503-885-0850 EMAIL: N/A	TRADE				\$2,016,429.00
42	OUTPUT SERVICES GROUP BILLING SERVICES 100 CHALLENGER ROAD SUITE 303 RIDGEFIELD PARK, NJ 07660	ATTN: DIRECTOR OR OFFICER TELEPHONE: 201-871-1100 FAX: 201-871-3350 EMAIL: INFO@OSGBILLING.COM	TRADE				\$1,980,488.00
43	FAST TRACK CONSTRUCTION 1919 SW LOOP 304 CROCKETT, TX 75835	ATTN: DIRECTOR OR OFFICER TELEPHONE: 936-545-1506 FAX: 936-545-1598 EMAIL: CAROLYN@FASTTRACKTEXAS.COM	TRADE				\$1,804,801.00
44	COMCAST COMCAST CENTER PHILADELPHIA, PA 19103	ATTN: COMCAST CORPORATION TELEPHONE: FAX: 215-981-7790 EMAIL: N/A	TRADE				\$1,786,797.00
45	HOUSLEY COMMUNICATIONS INC. 3550 SOUTH BRYANT BOULEVARD SAN ANGELO, TX 76903	ATTN: DIRECTOR OR OFFICER TELEPHONE: 325-944-9905 FAX: 325-944-1781 EMAIL: INFO@HC-INC.COM	TRADE				\$1,715,204.00
46	TATA CONSULTANCY SERVICES LIMITED 379 THORNAL STREET 4TH FLOOR EDISON, NJ 08837	ATTN: JANARTHANAN ANGIYA TELEPHONE: 469-230-8743 FAX: 212-867-8652 EMAIL: N/A	TRADE				\$1,562,096.00
47	MITELTECHNOLOGIES INC. 1615 SOUTH 52ND STREET TEMPE, AZ 85281	ATTN: DIRECTOR OR OFFICER TELEPHONE: 480-449-8900 FAX: 480-449-8901 EMAIL: N/A	TRADE				\$1,526,652.00
48	USIC INC. 9045 NORTH RIVER ROAD INDIANAPOLIS, IN 46240	ATTN: DIRECTOR OR OFFICER TELEPHONE: 317-575-7800 FAX: 317-575-7881 EMAIL: N/A	TRADE				\$1,477,432.00
49	COMMSCOPE TECHNOLOGIES LLC 1100 COMMSCOPE PLACE, SE HICKORY, NC 28602-3619	ATTN: DIRECTOR OR OFFICER TELEPHONE: 828-324-2200 FAX: 828-323-4849 EMAIL: N/A	TRADE				\$1,426,259.00
50	COX COMMUNICATIONS 1400 LAKE HEARN DRIVE ATLANTA, GA 30319	ATTN: DIRECTOR OR OFFICER TELEPHONE: 866-961-0027 FAX: 404-843-5280 EMAIL: COXCORP.CUSTOMERRELATIONS@COX.COM; VICTOR.COOPER@COX.COM	TRADE				\$1,396,561.00



Fill in this information to identify the case and this filing:	
Debtor Name	Choice One Communications of Maine, Inc.
United States Bankruptcy Court for the:	Southern District of New York (State)
Case number (If known):	

Official Form 202  
**Declaration Under Penalty of Perjury for Non-Individual Debtors** 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

**WARNING --** Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

<b>Declaration and signature</b>
I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.
I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:
<input type="checkbox"/> <i>Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)</i>
<input type="checkbox"/> <i>Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)</i>
<input type="checkbox"/> <i>Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)</i>
<input type="checkbox"/> <i>Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)</i>
<input type="checkbox"/> <i>Schedule H: Codebtors (Official Form 206H)</i>
<input type="checkbox"/> <i>Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)</i>
<input type="checkbox"/> Amended Schedule
<input checked="" type="checkbox"/> <i>Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)</i>
<input checked="" type="checkbox"/> Other document that requires a declaration <u>List of Equity Security Holders, Corporate Ownership Statement</u>

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

02/25/2019  
MM/ DD/YYYY

☒ /s/ Kristi M. Moody

Signature of individual signing on behalf of debtor

Kristi M. Moody

Printed name

Authorized Officer

Position or relationship to debtor

## UNANIMOUS WRITTEN CONSENT IN LIEU OF A MEETING

February 24, 2019

The undersigned, being the members of the board of directors, members of the board of managers, members of the board of governors, individual managers, sole managers, sole governors, and sole members (each, a “Board” and collectively, the “Boards”), as applicable, of each entity set forth in Annex A attached hereto (each, a “Company” and collectively, the “Companies”), in lieu of holding a meeting of the board of directors, board of managers, board of governors, or members as applicable, hereby take the following actions and adopt the following resolutions by unanimous written consent pursuant to each such Company’s bylaws, limited liability company agreement, or operating agreement, as applicable, and the applicable laws of the jurisdiction in which such Company is organized:

**WHEREAS**, the respective Board of each Company considered presentations by management and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of the Companies, the strategic alternatives available, and the effect of the foregoing on such Companies’ businesses and the businesses of such Companies’ subsidiaries;

**WHEREAS**, the respective Board of each Company has had the opportunity to consult with management and the financial and legal advisors of such Company and to fully consider each of the strategic alternatives available to such Company; and

**WHEREAS**, the respective Board of each Company has determined, in the judgment of such Board, that the following resolutions are advisable and in the best interests of the Companies, their subsidiaries, their creditors, and other parties in interest.

**NOW, THEREFORE, BE IT:**

### **CHAPTER 11 FILING**

**RESOLVED**, that in the judgment of the respective Board of each Company, it is desirable and in the best interests of the Companies, its creditors, and other parties in interest, that such Company shall be, and hereby is, authorized to file or cause to be filed a voluntary petition for relief (such voluntary petition, and the voluntary petitions to be filed by each Company, collectively, the “Chapter 11 Cases”) under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) or other court of competent jurisdiction; and

**RESOLVED FURTHER**, that the duly appointed officers of each Company (collectively, the “Authorized Officers”), acting alone or with one or more other Authorized Officers be, and each of them hereby is, authorized, empowered, and directed to execute and file on behalf of such Company all petitions, schedules, lists, and other motions, objections, replies, applications, papers, or documents, and to take any and all action that they deem necessary, appropriate, or desirable to obtain such relief, including, without limitation, any action necessary, appropriate, or desirable to maintain the ordinary course operation of such Company’s businesses or to assist such Company in the Chapter 11 Cases and in carrying out its duties under the provisions of the Bankruptcy Code.

### **RETENTION OF PROFESSIONALS**

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the law firm of Kirkland & Ellis LLP, as general bankruptcy counsel, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company’s rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain Kirkland & Ellis LLP in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of PJT Partners LP, as financial advisor and investment banker, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company’s rights and obligations; and in connection therewith, each of the Authorized Officers is, with power of delegation, hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain PJT Partners LP in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of Alvarez & Marsal North America, LLC, as restructuring advisor, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each of such Company's rights and obligations; and in connection therewith, each of the Authorized Officers is, with power of delegation, hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain Alvarez & Marsal North America, LLC in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of Kurtzman Carson Consultants, as notice, claims, and balloting agent, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company's rights and obligations; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kurtzman Carson Consultants LLC in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, objections, replies, applications, pleadings, lists, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, investment bankers, financial advisors, restructuring advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Officers deem necessary, proper, or desirable in connection with each Company's Chapter 11 case, with a view to the successful prosecution of the case.

## **CASH COLLATERAL**

**RESOLVED FURTHER**, that to the extent applicable to each Company, in the judgment of the Board, it is desirable and in the best interest of such Company, its interest holders, its creditors, and other parties in interest, to obtain the benefits from the use of cash collateral (the “Cash Collateral,” as such term is defined in section 363(a) of the Bankruptcy Code), which is security for certain of the Company’s prepetition secured lenders under certain credit facilities by and among the Company, the guarantors party thereto, and the lenders party thereto (the “Prepetition Secured Lenders”); and

**RESOLVED FURTHER**, that to the extent applicable to each Company, the Authorized Officers be, and hereby are, authorized, directed and empowered in the name of, and on behalf of, such Company to seek approval of the use of cash collateral pursuant to a cash collateral order in interim and final form (a “Cash Collateral Order”), and, to the extent applicable to each Company, any Authorized Officer be, and hereby is, authorized, empowered, and directed to negotiate, execute (under the common seal of the Company, if appropriate), and deliver any and all agreements, instruments, or documents, by or on behalf of the Company, necessary or advisable to implement the Cash Collateral Order, including providing for adequate protection to the Prepetition Secured Lenders in accordance with section 363 of the Bankruptcy Code, as well as any additional or further agreements for the use of cash collateral in connection with the Company’s chapter 11 cases, which agreement(s) may require each Company to grant adequate protection and security interests to the Prepetition Secured Lenders and each other agreement, instrument, or document to be executed and delivered in connection therewith, by or on behalf of each Company pursuant thereto or in connection therewith, all with such changes therein and additions thereto as any Authorized Officer in his absolute discretion approves, such approval to be conclusively evidenced by the taking of such action or by the execution and delivery thereof; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to execute (under the common seal of the Company, if appropriate) and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions, and extensions of the Cash Collateral Order or to do such other things which shall in his/her absolute discretion be necessary, desirable, proper, or advisable to give effect

to the foregoing resolutions, which determination shall be conclusively evidenced by his or their execution thereof.

### **DEBTOR-IN-POSSESSION FINANCING**

**WHEREAS**, reference is made to those certain debtor-in-possession financing proposals that set forth the terms and conditions of the debtor-in-possession financing to be provided to the Companies (the “Borrowers”) by the lenders listed therein (the “DIP Lenders”); and

**WHEREAS**, the Borrowers have requested that the DIP Lenders provide senior secured debtor-in-possession credit facilities (together, the “DIP Facilities”) to the Companies; and

**WHEREAS**, each Company will obtain benefits from the incurrence of the DIP Obligations (as defined below), and it is advisable and in the best interest of each Company to enter into the DIP Loan Documents (as defined below), and to perform its obligations thereunder, including granting security interests in all or substantially all of its assets; and

**WHEREAS**, the obligation of the DIP Lenders to make the extensions of credit to the Borrowers under the DIP Facilities is subject to, among other things, each Company entering into a binding credit agreement and/or commitment letters with the DIP Lenders and one or more agents acting on behalf of the DIP Lenders (the “DIP Agents”) (collectively with any other documents and agreements related thereto or contemplated thereunder, including and any documents, instruments or certificates as may be reasonably requested by the DIP Agents (as defined below), the “DIP Loan Documents”), and otherwise satisfying certain conditions in connection therewith (the obligations thereunder, the “DIP Obligations”); and

**WHEREAS**, the Borrowers and the DIP Lenders are continuing negotiations regarding the final form of the DIP Loan Documents.

**NOW, THEREFORE, BE IT RESOLVED**, that the form, terms and provisions of the DIP Loan Documents presently before the Boards, and the transactions contemplated thereunder (including, without limitation, the borrowings and the incurrence of the DIP Obligations thereunder), and the guaranties, liabilities, obligations, security interest granted and notes issued, if any, in connection therewith, be and hereby are authorized, adopted and approved, subject to such changes, additions, and modifications thereto as an

Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by an Authorized Officer's execution and delivery thereof; and

**RESOLVED FURTHER**, that each Company will obtain benefits from its entry into the DIP Loan Documents and incurrence and performance of the DIP Obligations thereunder and it is advisable and in the best interest of each Company to enter into the DIP Loan Documents, and to perform its obligations thereunder, including granting security interests in all or substantially all of its assets; and

**RESOLVED FURTHER**, that each Company shall be, and hereby is, authorized to enter into the DIP Loan Documents and incur the DIP Obligations, and the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized and empowered to execute and deliver the DIP Loan Documents, with such changes, additions, and modifications thereto as an Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by an Authorized Officer's execution and delivery thereof; and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, in the name and on behalf of each Company, to assign, transfer, pledge and grant to the DIP Agents, for the ratable benefit of the respective or applicable DIP Lenders, a security interest in all or substantially all the assets of such Company, as collateral security for the prompt and complete payment and performance when due of the DIP Obligations under the documents to which such Company is a party and to take or cause to be taken any such actions as may be necessary, appropriate or desirable to cause each Company to create, perfect and maintain a security interest in each Company's property or assets constituting "Collateral" as described or contemplated in the DIP Loan Documents (the "Collateral"); and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, in the name and on behalf of each Company, to enter into the guarantees as described or contemplated by the DIP Loan Documents or any other documents, certificates, instruments, agreements, intercreditor agreements, any extension amendment or any incremental agreement required to consummate the transactions contemplated by the DIP Loan Documents and perform its obligations thereunder and to guarantee the payment and

performance of the DIP Obligations of the Borrowers and any other guarantor thereunder; and

**RESOLVED FURTHER**, that the DIP Agents are authorized to file or record financing statements and other filing or recording documents or instruments with respect to the Collateral without the signature of each Company in such form and in such offices as such DIP Agent determines appropriate to perfect the security interests of the DIP Lenders granted under the DIP Loan Documents. The DIP Agents are authorized to use the collateral description “all assets” or “all or substantially all personal property assets” or any similar description in any such financing statements; and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, empowered and directed in the name of, and on behalf of, each Company to seek authorization to incur the DIP Obligations and to seek approval of the use of cash collateral pursuant to a postpetition financing order in interim and final form, and any Authorized Officer be, and hereby is, authorized, empowered, and directed to negotiate, execute, and deliver any and all agreements, instruments, or documents, by or on behalf of each Company, necessary to implement the postpetition financing, including providing for adequate protection to the Prepetition Secured Lenders in accordance with section 363 of the Bankruptcy Code, as well as any additional or further agreements for entry into the DIP Loan Documents and the use of cash collateral in connection with each Company’s Chapter 11 Cases, which agreements may require each Company to grant adequate protection and liens to each Company’s Prepetition Secured Lenders and each other agreement, instrument, or document to be executed and delivered in connection therewith, by or on behalf of each Company pursuant thereto or in connection therewith, all with such changes therein and additions thereto as any Authorized Officer approves, such approval to be conclusively evidenced by the taking of such action or by the execution and delivery thereof; and

**RESOLVED FURTHER**, that any Authorized Officer or other officer of each Company is hereby authorized, empowered, and directed, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, each of the transactions contemplated by the DIP Loan Documents and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party or any order entered into in connection with the



Chapter 11 Cases (collectively, and together with the DIP Credit Agreement and the other DIP Loan Documents, the “Financing Documents”), incur and pay or cause to be paid all related fees and expenses, with such changes, additions, and modifications thereto as an Authorized Officer executing the same shall approve; and

**RESOLVED FURTHER**, that each Company, as debtor and debtor-in-possession under the Bankruptcy Code be, and hereby is, authorized, empowered, and directed to incur any and all obligations and to undertake any and all related transactions on substantially the same terms as contemplated under the Financing Documents (collectively, the “Financing Transactions”), including granting liens on its assets to secure such obligations; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized, empowered and directed in the name of, and on behalf of, each Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions, and extensions of the postpetition financing or any of the Financing Documents or to do such other things which shall in their sole judgment be necessary, desirable, proper, or advisable in order to perform each Company’s DIP Obligations and to give effect to the foregoing resolutions, which determination shall be conclusively evidenced by his/her or their execution thereof.

#### **NO TERMINATION OF EXISTENCE**

**RESOLVED**, that notwithstanding any provision in the governing documents of any Company, no Company shall be automatically dissolved upon the filing of the voluntary petitions or any action taken in accordance with these resolutions.

**GENERAL**

**RESOLVED FURTHER**, that in addition to the specific authorizations heretofore conferred upon the Authorized Officers, each of the Authorized Officers (and their designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further action, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents and to pay all expenses, including but not limited to filing fees, in the case as in such officer's or officers' judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein; and

**RESOLVED FURTHER**, that each Company and the respective Board of each Company has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of such Company, or hereby waives any right to have received such notice; and

**RESOLVED FURTHER**, that all acts, actions, and transactions relating to the matters contemplated by the foregoing resolutions done in the name of and on behalf of each Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of such Company with the same force and effect as if each such act, transaction, agreement, or certificate has been specifically authorized in advance by resolution of the respective Board of each Company; and

**RESOLVED FURTHER**, that each of the Authorized Officers (and their designees and delegates) be, and hereby is, authorized and empowered to take all actions or to not take any action in the name of each Company with respect to the transactions contemplated by these resolutions hereunder as the sole shareholder, partner, member, managing member, or manager of each direct subsidiary of such Company, in each case, as such Authorized Officer shall deem necessary or desirable in such Authorized Officers' reasonable business judgment as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein; and

**RESOLVED FURTHER**, that to the extent any Company serves as the the sole member, general partner, managing member, equivalent manager, or other governing body (each, a "Controlling

Company”) of any other Company, each Authorized Officer, as applicable, is authorized, empowered and directed to take each of the actions described in these resolutions or any of the actions authorized by these resolutions on behalf of each such applicable Controlling Company; and

**RESOLVED FURTHER**, that this Action may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute but one and the same consent; and

**RESOLVED FURTHER**, that electronic or photostatic copies of signatures to this Action shall be deemed to be originals and may be relied on to the same extent as the originals; and

**RESOLVED FURTHER**, that the actions taken by this Action shall have the same force and effect as if taken at a meeting of the Board of each of the Companies, as applicable, duly called and constituted pursuant to each such Company’s bylaws, operating agreement, or limited liability company agreement, as applicable, and the applicable laws of the jurisdiction in which such Company is organized.

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned has executed this Action via Written Consent as of the date above first written.

By: Tony Thomas

Name: Tony Thomas

Title: Manager, Governor and Director

By: Kristi Moody

Name: Kristi Moody

Title: Manager, Governor and Director

**BEING THE MANAGERS, GOVERNOR, OR  
DIRECTOR, AS APPLICABLE, OF EACH  
ENTITY LISTED ON EXHIBIT A**

By: Kristi Moody

Name: Kristi Moody

Title: Senior/Vice President – General Counsel &  
Corporate Secretary

**AS OFFICER OF THE SOLE MEMBER OR SOLE  
SHAREHOLDER, AS APPLICABLE, OF EACH  
ENTITY LISTED ON EXHIBIT A**

**Exhibit A**

COMPANY	JURISDICTION
Allworx Corp.	DE
American Telephone Company, LLC	NY
ARC Networks, Inc.	DE
A.R.C. Networks, Inc.	NY
ATX Communications, Inc.	DE
ATX Licensing, Inc.	DE
ATX Telecommunications Services of Virginia, LLC	DE
Birmingham Data Link, LLC	AL
BOB, LLC	IL
Boston Retail Partners LLC	MA
BridgeCom Holdings, Inc.	DE
BridgeCom International, Inc.	DE
BridgeCom Solutions Group, Inc.	DE
Broadview Networks, Inc.	NY
Broadview Networks of Massachusetts, Inc.	DE
Broadview Networks of Virginia, Inc.	VA
Broadview NP Acquisition Corp.	DE
Buffalo Valley Management Services, Inc.	DE
Business Telecom of Virginia, Inc.	VA
Business Telecom, LLC	NC
BV-BC Acquisition Corporation	DE
Cavalier IP TV, LLC	DE
Cavalier Services, LLC	DE
Cavalier Telephone Mid-Atlantic, L.L.C.	DE
Cavalier Telephone, L.L.C.	VA
CCL Historical, Inc.	DE
Choice One Communications of Connecticut Inc.	DE
Choice One Communications of Maine Inc.	DE
Choice One Communications of Massachusetts Inc.	DE
Choice One Communications of New York Inc.	DE
Choice One Communications of Ohio Inc.	DE
Choice One Communications of Pennsylvania Inc.	DE
Choice One Communications of Rhode Island Inc.	DE
Choice One Communications Resale L.L.C.	DE
Choice One Communications of Vermont Inc.	DE
Choice One of New Hampshire, Inc.	DE
Cinergy Communications Company of Virginia, LLC	VA
Conestoga Enterprises, Inc.	PA
Conestoga Management Services, Inc.	DE
Conestoga Wireless Company	PA
Connecticut Broadband, LLC	CT

COMPANY	JURISDICTION
Connecticut Telephone & Communication Systems, Inc.	CT
Conversent Communications Long Distance, LLC	NH
Conversent Communications of Connecticut, LLC	CT
Conversent Communications of Maine, LLC	ME
Conversent Communications of Massachusetts, Inc.	MA
Conversent Communications of New Hampshire, LLC	NH
Conversent Communications of New Jersey, LLC	NJ
Conversent Communications of New York, LLC	NY
Conversent Communications of Pennsylvania, LLC	PA
Conversent Communications of Rhode Island, LLC	RI
Conversent Communications of Vermont, LLC	VT
Conversent Communications Resale L.L.C.	DE
CoreComm-ATX, Inc.	DE
CoreComm Communications, LLC	DE
CTC Communications Corporation	MA
CTC Communications of Virginia, Inc.	VA
D&E Communications, LLC	DE
D&E Management Services, Inc.	NV
D&E Networks, Inc.	PA
D&E Wireless, Inc.	PA
Deltacom, LLC	AL
Earthlink Business, LLC	DE
Earthlink Carrier, LLC	DE
Equity Leasing, Inc.	NV
Eureka Broadband Corporation	DE
Eureka Holdings, LLC	DE
Eureka Networks, LLC	DE
Eureka Telecom, Inc.	NY
Eureka Telecom of VA, Inc.	VA
Georgia Windstream, LLC	DE
Heart of the Lakes Cable Systems, Inc.	MN
Infocore, Inc.	PA
Info-Highway International, Inc.	TX
InfoHighway Communications Corporation	DE
InfoHighway of Virginia, Inc.	VA
Intellifiber Networks, LLC	VA
Iowa Telecom Data Services, L.C.	IA
Iowa Telecom Technologies, LLC	IA
IWA Services, LLC	IA
KDL Holdings, LLC	DE
LDMI Telecommunications, LLC	MI
Lightship Telecom, LLC	DE
MassComm, LLC	NY

COMPANY	JURISDICTION
McLeodUSA Information Services LLC	DE
McLeodUSA Purchasing, LLC	IA
McLeodUSA Telecommunications Services, L.L.C.	IA
MPX, Inc.	DE
Nashville Data Link, LLC	TN
Network Telephone, LLC	FL
Norlight Telecommunications of Virginia, LLC	VA
Oklahoma Windstream, LLC	OK
Open Support Systems, LLC	CT
PaeTec Communications of Virginia, LLC	VA
PaeTec Communications, LLC	DE
PAETEC Holding, LLC	DE
PAETEC iTEL, L.L.C.	NC
PAETEC Realty LLC	NY
PAETEC, LLC	DE
PCS Licenses, Inc.	NV
Progress Place Realty Holding Company, LLC	NC
RevChain Solutions, LLC	DE
SM Holdings, LLC	DE
Southwest Enhanced Network Services, LLC	DE
Talk America of Virginia, LLC	VA
Talk America, LLC	DE
Televue, LLC	GA
Texas Windstream, LLC	TX
The Other Phone Company, LLC	FL
TriNet, LLC	GA
TruCom Corporation	NY
US LEC Communications LLC	NC
US LEC of Alabama LLC	NC
US LEC of Florida LLC	NC
US LEC of Georgia LLC	DE
US LEC of Maryland LLC	NC
US LEC of North Carolina LLC	NC
US LEC of Pennsylvania LLC	NC
US LEC of South Carolina LLC	DE
US LEC of Tennessee LLC	DE
US LEC of Virginia LLC	DE
US Xchange Inc.	DE
US Xchange of Illinois, L.L.C.	DE
US Xchange of Indiana, L.L.C.	DE
US Xchange of Michigan, L.L.C.	DE
US Xchange of Wisconsin, L.L.C.	DE
Valor Telecommunications of Texas, LLC	DE

COMPANY	JURISDICTION
WaveTel NC License Corporation	DE
WIN Sales & Leasing, Inc.	MN
Windstream Accucomm Networks, LLC	GA
Windstream Accucomm Telecommunications, LLC	GA
Windstream Alabama, LLC	AL
Windstream Arkansas, LLC	DE
Windstream Buffalo Valley, Inc.	PA
Windstream Business Holdings, LLC	DE
Windstream BV Holdings, LLC	DE
Windstream Cavalier, LLC	DE
Windstream Communications Kerrville, LLC	TX
Windstream Communications Telecom, LLC	TX
Windstream Communications, LLC	DE
Windstream Concord Telephone, LLC	NC
Windstream Conestoga, Inc.	PA
Windstream CTC Internet Services, Inc.	NC
Windstream D&E Systems, LLC	DE
Windstream D&E, Inc.	PA
Windstream Direct, LLC	MN
Windstream Eagle Holdings LLC	DE
Windstream Eagle Services, LLC	DE
Windstream EN-TEL, LLC	MN
Windstream Finance Corp	DE
Windstream Florida, LLC	FL
Windstream Georgia Communications, LLC	GA
Windstream Georgia Telephone, LLC	GA
Windstream Georgia, LLC	GA
Windstream Holding of the Midwest, Inc.	NE
Windstream Iowa Communications, LLC	DE
Windstream Iowa-Comm, LLC	IA
Windstream IT-Comm, LLC	IA
Windstream KDL, LLC	KY
Windstream KDL-VA, LLC	VA
Windstream Kentucky East, LLC	DE
Windstream Kentucky West, LLC	KY
Windstream Kerrville Long Distance, LLC	TX
Windstream Lakedale Link, Inc.	MN
Windstream Lakedale, Inc.	MN
Windstream Leasing, LLC	DE
Windstream Lexcom Communications, LLC	NC
Windstream Lexcom Entertainment, LLC	NC
Windstream Lexcom Long Distance, LLC	NC
Windstream Lexcom Wireless, LLC	NC



COMPANY	JURISDICTION
Windstream Mississippi, LLC	DE
Windstream Missouri, LLC	DE
Windstream Montezuma, LLC	IA
Windstream Nebraska, Inc.	DE
Windstream Network Services of the Midwest, Inc.	NE
Windstream New York, Inc.	NY
Windstream Norlight, LLC	KY
Windstream North Carolina, LLC	NC
Windstream NorthStar, LLC	MN
Windstream NTI, LLC	WI
Windstream NuVox Arkansas, LLC	DE
Windstream NuVox Illinois, LLC	DE
Windstream NuVox Indiana, LLC	DE
Windstream NuVox Kansas, LLC	DE
Windstream NuVox Missouri, LLC	DE
Windstream NuVox Ohio, LLC	DE
Windstream NuVox Oklahoma, LLC	DE
Windstream NuVox, LLC	DE
Windstream of the Midwest, Inc.	NE
Windstream Ohio, LLC	OH
Windstream Oklahoma, LLC	DE
Windstream Pennsylvania, LLC	DE
Windstream SHAL Networks, Inc.	MN
Windstream SHAL, LLC	MN
Windstream Shared Services, LLC	DE
Windstream South Carolina, LLC	SC
Windstream Southwest Long Distance, LLC	DE
Windstream Standard, LLC	GA
Windstream Sugar Land, LLC	TX
Windstream Supply, LLC	OH
Windstream Systems of the Midwest, Inc.	NE
Windstream Western Reserve, LLC	OH
Xeta Technologies, Inc.	OK

Fill in this information to identify the case:	
United States Bankruptcy Court for the: Southern District of New York (State)	
Case number (if known):	Chapter 11

☐ Check if this is an amended filing

Official Form 201  
Voluntary Petition for Non-Individuals Filing for  
Bankruptcy

04/16

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name	PaeTec Communications, LLC		
2. All other names debtor used in the last 8 years	PaeTec Communications, Inc.		
Include any assumed names, trade names, and <i>doing business as</i> names	None.		
3. Debtor's federal Employer Identification Number (EIN)	16-1551095		
4. Debtor's address	Principal place of business	Mailing address, if different from principal place of business	
	2700 Westchester Avenue	4001 North Rodney Parham Road	
	Number Street	Number Street	
	Suite 421	P.O. Box	
	Purchase, New York 10577	Little Rock, Arkansas 72212	
	City State Zip Code	City State Zip Code	
	Westchester County	Location of principal assets, if different from principal place of business	
	County	Number Street	
		City State Zip Code	
5. Debtor's website (URL)	https://www.windstream.com/		
6. Type of debtor	<input checked="" type="checkbox"/> Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))		
	<input type="checkbox"/> Partnership (excluding LLP)		
	<input type="checkbox"/> Other. Specify:		



Debtor **PaeTec Communications, LLC** Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

**7. Describe debtor's business**

**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

**B. Check all that apply:**

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

**C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes> .**  
**5172 - Wireless Telecommunications Carriers (except Satellite)**

**8. Under which chapter of the Bankruptcy Code is the debtor filing?**

**Check One:**

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,566,050 (amount subject to adjustment on 4/01/19 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**

- ☒ No
- ☐ Yes.

District _____	When _____	Case number _____
	MM/DD/YYYY	
District _____	When _____	Case number _____
	MM/DD/YYYY	

If more than 2 cases, attach a separate list.

**10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?**

- ☐ No
- ☒ Yes.

Debtor <b>See attached Schedule 1</b>	Relationship <b>Affiliate</b>
District <b>Southern District of New York</b>	
When <b>02/25/2019</b>	
Case number, if known _____	MM / DD / YYYY

List all cases. If more than 1, attach a separate list.

Debtor **PaeTec Communications, LLC** Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

**11. Why is the case filed in this district?**

*Check all that apply:*

- ☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

**12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?**

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

**Why does the property need immediate attention? (Check all that apply.)**

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? \_\_\_\_\_

- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other \_\_\_\_\_

**Where is the property?**

Number	Street	
_____		
City	State	Zip Code
_____	_____	_____

**Is the property insured?**

- ☐ No
- ☐ Yes. Insurance agency \_\_\_\_\_
- Contact name \_\_\_\_\_
- Phone \_\_\_\_\_

**Statistical and administrative information**

**13. Debtor's estimation of available funds**

*Check one:*

- ☒ Funds will be available for distribution to unsecured creditors.
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

**14. Estimated number of creditors (on a consolidated basis)**

- |                                  |  |   |
|----------------------------------|--|---|
| <input type="checkbox"/> 1-49    | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000                |
| <input type="checkbox"/> 50-99   | <input type="checkbox"/> 5,001-10,000  | <input type="checkbox"/> 50,001-100,000               |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input checked="" type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 |  |   |

**15. Estimated assets (on a consolidated basis)**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion                |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion             |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input checked="" type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion                   |

Debtor **PaeTec Communications, LLC** Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

- 16. Estimated liabilities (on a consolidated basis)**
- |  |  |   |
|--|--|---|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion                |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion             |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input checked="" type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion                   |

**Request for Relief, Declaration, and Signatures**

**WARNING --** Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

- 17. Declaration and signature of authorized representative of debtor**
- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02/25/2019  
MM/ DD / YYYY

**X** /s/ Kristi M. Moody Kristi M. Moody  
Signature of authorized representative of debtor Printed name

Title Authorized Officer

- 18. Signature of attorney** **X** /s/ Stephen E. Hessler Date 02/25/2019  
Signature of attorney for debtor MM/ DD/YYYY

Stephen E. Hessler  
Printed name

Kirkland & Ellis LLP  
Firm name

601 Lexington Avenue  
Number Street

New York New York 10022  
City State ZIP Code

(212) 446-4800 stephen.hessler@kirkland.com  
Contact phone Email address

4576856 New York  
Bar number State

Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter 11

☐ Check if this is an amended filing

**Schedule 1**  
**Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor**

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Windstream Holdings, Inc.

- |   |   |   |
|---|---|---|
| 1. Windstream Holdings, Inc.                        | 41. Conestoga Management Services, Inc.                 | 80. Iowa Telecom Data Services, L.C.              |
| 2. Windstream Business Holdings, LLC                | 42. Conestoga Wireless Company                          | 81. Iowa Telecom Technologies, LLC                |
| 3. Allworx Corp.                                    | 43. Connecticut Broadband, LLC                          | 82. IWA Services, LLC                             |
| 4. American Telephone Company, LLC                  | 44. Connecticut Telephone & Communication Systems, Inc. | 83. KDL Holdings, LLC                             |
| 5. ARC Networks, Inc.                               | 45. Conversent Communications Long Distance, LLC        | 84. LDMI Telecommunications, LLC                  |
| 6. A.R.C. Networks, Inc.                            | 46. Conversent Communications of Connecticut, LLC       | 85. Lightship Telecom, LLC                        |
| 7. ATX Communications, Inc.                         | 47. Conversent Communications of Maine, LLC             | 86. MassComm, LLC                                 |
| 8. ATX Licensing, Inc.                              | 48. Conversent Communications of Massachusetts, Inc.    | 87. McLeodUSA Information Services LLC            |
| 9. ATX Telecommunications Services of Virginia, LLC | 49. Conversent Communications of New Hampshire, LLC     | 88. McLeodUSA Purchasing, LLC                     |
| 10. Birmingham Data Link, LLC                       | 50. Conversent Communications of New Jersey, LLC        | 89. McLeodUSA Telecommunications Services, L.L.C. |
| 11. BOB, LLC  | 51. Conversent Communications of New York, LLC          | 90. MPX, Inc.                                     |
| 12. Boston Retail Partners LLC                      | 52. Conversent Communications of Pennsylvania, LLC      | 91. Nashville Data Link, LLC                      |
| 13. BridgeCom Holdings, Inc.                        | 53. Conversent Communications of Rhode Island, LLC      | 92. Network Telephone, LLC                        |
| 14. BridgeCom International, Inc.                   | 54. Conversent Communications of Vermont, LLC           | 93. Norlight Telecommunications of Virginia, LLC  |
| 15. BridgeCom Solutions Group, Inc.                 | 55. Conversent Communications Resale L.L.C.             | 94. Oklahoma Windstream, LLC                      |
| 16. Broadview Networks, Inc.                        | 56. CoreComm-ATX, Inc.                                  | 95. Open Support Systems, LLC                     |
| 17. Broadview Networks of Massachusetts, Inc.       | 57. CoreComm Communications, LLC                        | 96. PaeTec Communications of Virginia, LLC        |
| 18. Broadview Networks of Virginia, Inc.            | 58. CTC Communications Corporation                      | 97. PaeTec Communications, LLC                    |
| 19. Broadview NP Acquisition Corp.                  | 59. CTC Communications of Virginia, Inc.                | 98. PAETEC Holding, LLC                           |
| 20. Buffalo Valley Management Services, Inc.        | 60. D&E Communications, LLC                             | 99. PAETEC iTEL, L.L.C.                           |
| 21. Business Telecom of Virginia, Inc.              | 61. D&E Management Services, Inc.                       | 100. PAETEC Realty LLC                            |
| 22. Business Telecom, LLC                           | 62. D&E Networks, Inc.                                  | 101. PAETEC, LLC                                  |
| 23. BV-BC Acquisition Corporation                   | 63. D&E Wireless, Inc.                                  | 102. PCS Licenses, Inc.                           |
| 24. Cavalier IP TV, LLC                             | 64. Deltacom, LLC                                       | 103. Progress Place Realty Holding Company, LLC   |
| 25. Cavalier Services, LLC                          | 65. Earthlink Business, LLC                             | 104. RevChain Solutions, LLC                      |
| 26. Cavalier Telephone Mid-Atlantic, L.L.C.         | 66. Earthlink Carrier, LLC                              | 105. SM Holdings, LLC                             |
| 27. Cavalier Telephone, L.L.C.                      | 67. Equity Leasing, Inc.                                | 106. Southwest Enhanced Network Services, LLC     |
| 28. CCL Historical, Inc.                            | 68. Eureka Broadband Corporation                        | 107. Talk America of Virginia, LLC                |
| 29. Choice One Communications of Connecticut Inc.   | 69. Eureka Holdings, LLC                                | 108. Talk America, LLC                            |
| 30. Choice One Communications of Maine Inc.         | 70. Eureka Networks, LLC                                | 109. Televue, LLC                                 |
| 31. Choice One Communications of Massachusetts Inc. | 71. Eureka Telecom, Inc.                                | 110. Texas Windstream, LLC                        |
| 32. Choice One Communications of New York Inc.      | 72. Eureka Telecom of VA, Inc.                          | 111. The Other Phone Company, LLC                 |
| 33. Choice One Communications of Ohio Inc.          | 73. Georgia Windstream, LLC                             | 112. TriNet, LLC                                  |
| 34. Choice One Communications of Pennsylvania Inc.  | 74. Heart of the Lakes Cable Systems, Inc.              | 113. TruCom Corporation                           |
| 35. Choice One Communications of Rhode Island Inc.  | 75. Infocore, Inc.                                      | 114. US LEC Communications LLC                    |
| 36. Choice One Communications Resale L.L.C.         | 76. Info-Highway International, Inc.                    | 115. US LEC of Alabama LLC                        |
| 37. Choice One Communications of Vermont Inc.       | 77. InfoHighway Communications Corporation              | 116. US LEC of Florida LLC                        |
| 38. Choice One of New Hampshire, Inc.               | 78. InfoHighway of Virginia, Inc.                       | 117. US LEC of Georgia LLC                        |
| 39. Cinergy Communications Company of Virginia, LLC | 79. Intellifiber Networks, LLC                          | 118. US LEC of Maryland LLC                       |
| 40. Conestoga Enterprises, Inc.                     |   | 119. US LEC of North Carolina LLC                 |
|   |   | 120. US LEC of Pennsylvania LLC                   |
|   |   | 121. US LEC of South Carolina LLC                 |
|   |   | 122. US LEC of Tennessee LLC                      |
|   |   | 123. US LEC of Virginia LLC                       |
|   |   | 124. US Xchange Inc.                              |
|   |   | 125. US Xchange of Illinois, L.L.C.               |
|   |   | 126. US Xchange of Indiana, L.L.C.                |

- |  |   |  |
|--|---|--|
| 127. US Xchange of Michigan, L.L.C.              | 153. Windstream Georgia Communications, LLC           | 179. Windstream North Carolina, LLC          |
| 128. US Xchange of Wisconsin, L.L.C.             | 154. Windstream Georgia Telephone, LLC                | 180. Windstream NorthStar, LLC               |
| 129. Valor Telecommunications of Texas, LLC      | 155. Windstream Georgia, LLC                          | 181. Windstream NTI, LLC                     |
| 130. WaveTel NC License Corporation              | 156. Windstream Holding of the Midwest, Inc.          | 182. Windstream NuVox Arkansas, LLC          |
| 131. WIN Sales & Leasing, Inc.                   | 157. Windstream Iowa Communications, LLC              | 183. Windstream NuVox Illinois, LLC          |
| 132. Windstream Accucomm Networks, LLC           | 158. Windstream Iowa-Comm, LLC                        | 184. Windstream NuVox Indiana, LLC           |
| 133. Windstream Accucomm Telecommunications, LLC | 159. Windstream IT-Comm, LLC                          | 185. Windstream NuVox Kansas, LLC            |
| 134. Windstream Alabama, LLC                     | 160. Windstream KDL, LLC                              | 186. Windstream NuVox Missouri, LLC          |
| 135. Windstream Arkansas, LLC                    | 161. Windstream KDL-VA, LLC                           | 187. Windstream NuVox Ohio, LLC              |
| 136. Windstream Buffalo Valley, Inc.             | 162. Windstream Kentucky East, LLC                    | 188. Windstream NuVox Oklahoma, LLC          |
| 137. Windstream BV Holdings, LLC                 | 163. Windstream Kentucky West, LLC                    | 189. Windstream NuVox, LLC                   |
| 138. Windstream Cavalier, LLC                    | 164. Windstream Kerrville Long Distance, LLC          | 190. Windstream of the Midwest, Inc.         |
| 139. Windstream Communications Kerrville, LLC    | 165. Windstream Lakedale Link, Inc.                   | 191. Windstream Ohio, LLC                    |
| 140. Windstream Communications Telecom, LLC      | 166. Windstream Lakedale, Inc.                        | 192. Windstream Oklahoma, LLC                |
| 141. Windstream Communications, LLC              | 167. Windstream Leasing, LLC                          | 193. Windstream Pennsylvania, LLC            |
| 142. Windstream Concord Telephone, LLC           | 168. Windstream Lexcom Communications, LLC            | 194. Windstream Services, LLC                |
| 143. Windstream Conestoga, Inc.                  | 169. Windstream Lexcom Entertainment, LLC             | 195. Windstream SHAL Networks, Inc.          |
| 144. Windstream CTC Internet Services, Inc.      | 170. Windstream Lexcom Long Distance, LLC             | 196. Windstream SHAL, LLC                    |
| 145. Windstream D&E Systems, LLC                 | 171. Windstream Lexcom Wireless, LLC                  | 197. Windstream Shared Services, LLC         |
| 146. Windstream D&E, Inc.                        | 172. Windstream Mississippi, LLC                      | 198. Windstream South Carolina, LLC          |
| 147. Windstream Direct, LLC                      | 173. Windstream Missouri, LLC                         | 199. Windstream Southwest Long Distance, LLC |
| 148. Windstream Eagle Holdings LLC               | 174. Windstream Montezuma, LLC                        | 200. Windstream Standard, LLC                |
| 149. Windstream Eagle Services, LLC              | 175. Windstream Nebraska, Inc.                        | 201. Windstream Sugar Land, LLC              |
| 150. Windstream EN-TEL, LLC                      | 176. Windstream Network Services of the Midwest, Inc. | 202. Windstream Supply, LLC                  |
| 151. Windstream Finance Corp                     | 177. Windstream New York, Inc.                        | 203. Windstream Systems of the Midwest, Inc. |
| 152. Windstream Florida, LLC                     | 178. Windstream Norlight, LLC                         | 204. Windstream Western Reserve, LLC         |
|  |   | 205. Xeta Technologies, Inc.                 |

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

_____	)	
In re:	)	Chapter 11
	)	
PAETEC COMMUNICATIONS, LLC,	)	Case No. 19-_____ (____)
	)	
Debtor.	)	
_____	)	

**LIST OF EQUITY SECURITY HOLDERS<sup>1</sup>**

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
PaeTec Communications, LLC	PAETEC, LLC	4001 N. Rodney Parham Rd., Little Rock, AR 72212	100%

<sup>1</sup> This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

	)	
In re:	)	Chapter 11
	)	
PAETEC COMMUNICATIONS, LLC,	)	Case No. 19-_____ (___)
	)	
Debtor.	)	
	)	

**CORPORATE OWNERSHIP STATEMENT**

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor’s equity interest:

Shareholder	Approximate Percentage of Shares Held
PAETEC, LLC	100%

Fill in this information to identify the case:	
Debtor name	Windstream Holdings, Inc., et al.
United States Bankruptcy Court for the:	Southern District of New York
Case number (If known):	(State)

☐ Check if this is an amended filing

## Official Form 204

### Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
1	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$806,900,000.00
2	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$105,800,000.00
3	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$78,100,000.00
4	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$70,100,000.00
5	AT&T 208 SOUTH AKARD STREET DALLAS, TX 75202	ATTN: GENERAL COUNSEL TELEPHONE: 210-821-4105 FAX: 210-351-2198 EMAIL: DAVID.MCATEE@ATT.COM; WW0118@ATT.COM	TRADE				\$49,551,947.00

<sup>1</sup> The Debtors reserve the right to assert setoff and other rights with respect to any of the claims listed herein.

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
6	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$36,200,000.00
7	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$34,400,000.00
8	VERIZON 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036	ATTN: GENERAL COUNSEL TELEPHONE: 212-395-1000 FAX: 212-517-1897 EMAIL: CRAIG.SILLIMAN@VERIZON.COM	TRADE				\$34,054,820.00
9	AT&T PRO CABS 208 SOUTH AKARD STREET DALLAS, TX 75202	ATTN: GENERAL COUNSEL TELEPHONE: 210-821-4105 FAX: 210-351-2198 EMAIL: DAVID.MCATEE@ATT.COM; WW0118@ATT.COM	TRADE				\$8,802,645 .00
10	GLOBE COMMUNICATIONS INC. 950 48TH AVE NORTH SUITE 100 MYRTLE BEACH, SC 29577	ATTN: DIRECTOR OR OFFICER TELEPHONE: 843- 839-5544 FAX: 843-839-5545 EMAIL: RUSTYLUNDY@GLOBEINC.COM	TRADE				\$8,368,733.00
11	BELLSOUTH PRO CABS 600 N POINT PKWY ALPHARETTA, GA 30005	ATTN: ROC-CABS TELEPHONE: 555-555-5555; 404-249-2000 FAX: 404-249-2071 EMAIL: RT2547@ATT.COM	TRADE				\$7,467,897.00
12	CENTURYLINK 100 CENTURYLINK DRIVE MONROE, LA 71203	ATTN: GENERAL COUNSEL TELEPHONE: 318-388-9000 FAX: 318-388-9064 EMAIL: STACEY.GOFF@CENTURYLINK.COM	TRADE				\$7,028,123.00
13	FRONTIER 401 MERRITT 7 NORWALK, CT 06851	ATTN: GENERAL COUNSEL TELEPHONE: 203-614-5600 FAX: 203-614-4651 EMAIL: MARK.NIELSEN@FTR.COM	TRADE				\$6,892,743.00
14	LEC SERVICES INC. 138 VAN CAMP BLVD LOS LUNAS, NM 87031	ATTN: DIRECTOR OR OFFICER TELEPHONE: 505-301-3404 FAX: N/A EMAIL: DSCROSSLEY@ISP.COM	TRADE				\$6,582,326.00
15	INFINERA 140 CASPIAN COURT SUNNYVALE, CA 94089	ATTN: DIRECTOR OR OFFICER TELEPHONE: 408-572-5200 FAX: 408-572-5454 EMAIL: DHEARD@INFINERA.COM	TRADE				\$6,081,389.00
16	TRIPLE D COMMUNICATIONS 3006 PARK CENTRAL AVENUE NICHOLASVILLE, KY 40356	ATTN: DANNY WHITE TELEPHONE: 859-887-4683 FAX: 859-885-9824 EMAIL: DWHITE@TRIPLEDLLC.COM	TRADE				\$5,928,006.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
17	VELOCLOUD NETWORKS INC. 3429 HILLVIEW AVE PALO ALTO, CA 94304	ATTN: VMWARE HILLTOP TELEPHONE: 650-209-4180 FAX: 650-475-5001 EMAIL: AOLLI@VMWARE.COM; CONTACT@VELOCLOUD.COM	TRADE				\$5,598,590.00
18	ELEMENT - FKA PHH 655 BUSINESS CENTER DRIVE SUITE 250 HORSHAM, PA 19044	ATTN: DIRECTOR OR OFFICER TELEPHONE: 267-960-4000 FAX: 267-960-4001 EMAIL: N/A	TRADE				\$5,435,197.00
19	TRAWICK CONSTRUCTION CO 1555 SOUTH BOULEVARD CHIPLEY, FL 32428-1626	ATTN: DIRECTOR OR OFFICER TELEPHONE: 850-638-0429 FAX: 850-638-8373 EMAIL: DOUG.TRAWICK@TRAWICKCONST RUCTION.COM	TRADE				\$5,418,813.00
20	ADTRAN 901 EXPLORER BOULEVARD HUNTSVILLE, AL 35806	ATTN: DIRECTOR OR OFFICER TELEPHONE: 256-963-8000 FAX: 256-963-6300 EMAIL: KEITH.KALMAN@ADTRAN.COM	TRADE				\$5,279,202.00
21	LEVEL 3 COMMUNICATIONS, LLC GENERAL COUNSEL BROOMFIELD, CO 80021	ATTN: C/O CENTURYLINK TELEPHONE: 720-888-2750 FAX: 720-888-5422 EMAIL: STACEY.GOFF@CENTURYLINK.CO M	TRADE				\$5,211,613.00
22	LIGHTOWER FIBER NETWORKS 80 CENTRAL STREET BOXBOROUGH, MA 01719	ATTN: DIRECTOR OR OFFICER TELEPHONE: 978-264-6000 FAX: 978-264-6100 EMAIL: ESANDMAN@LIGHTOWER.COM	TRADE				\$4,721,163.00
23	MICROSOFT ONE MICROSOFT WAY REDMOND, WA 98052	ATTN: DIRECTOR OR OFFICER TELEPHONE: 425-882-8080 FAX: 425-706-7329 EMAIL: BUSCOND@MICROSOFT.COM	TRADE				\$4,519,318.00
24	QWEST CORP GENERAL COUNSEL MONROE, LA 71203	ATTN: C/O CENTURYLINK TELEPHONE: 318-388-9000 FAX: 318-388-9064 EMAIL: STACEY.GOFF@CENTURYLINK.CO M	TRADE				\$4,484,967.00
25	GENERAL DATATECH LP 999 METROMEDIA PLACE DALLAS, TX 75247	ATTN: DIRECTOR OR OFFICER TELEPHONE: 214-857-6165; 214-857-6100 FAX: 214-857-6500 EMAIL: EBLATARIC@GDT.COM	TRADE				\$4,118,389.00
26	FORSYTHE SOLUTIONS GROUP INC. 7770 FRONTAGE ROAD SKOKIE, IL 60077	ATTN: DIRECTOR OR OFFICER TELEPHONE: 847-213-7000 FAX: 847-675-8017 EMAIL: THOFFMAN@FORSYTHE.COM	TRADE				\$3,855,195.00
27	ACTIONTEC ELECTRONICS 3301 OLCOTT ST SANTA CLARA, CA 95054	ATTN: TONG KHUC, VP TELEPHONE: 408-548-4762 FAX: 408-541-9003 EMAIL: TKHUC@ACTIONTEC.COM	TRADE				\$3,757,838.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
28	TIME WARNER CABLE 400 ATLANTIC STREET, CT, ROOM 407 STAMFORD, CT 06901	ATTN: LEGAL DEPARTMENT TELEPHONE: 203-428-0281 FAX: 212-364-8460 EMAIL: SERENA.PARKER@CHARTER.COM	TRADE				\$3,591,108.00
29	EXCLUSIVE NETWORKS USA 2075 ZANKER ROAD SAN JOSE, CA 95131	ATTN: FRED SILVERMAN TELEPHONE: 954-782-6056 FAX: 408-943-9198 EMAIL: FSILVERMAN@EXCLUSIVE-NETWORKS.COM	TRADE				\$3,466,808.00
30	T3 WIRELESS INC 220 W MAIN STREET COUNCIL GROVE, KS 66846	ATTN: CHRIS CROWE, PRESIDENT TELEPHONE: 214-228-0930; 620-767-7193 FAX: 661-458-2329 EMAIL: INFO@T3WIRELESS.NET	TRADE				\$3,459,329.00
31	ZAYO 1821 30TH STREET UNIT A BOULDER, CO 80301	ATTN: DIRECTOR OR OFFICER TELEPHONE: 303-381-4683 FAX: N/A EMAIL: BRAD.KORCH@ZAYO.COM; SHIRA.COOKS@ZAYO.COM	TRADE				\$3,219,650.00
32	EQUINIX INC. 4252 SOLUTIONS CENTER CHICAGO, IL 60677-4002	ATTN: DIRECTOR OR OFFICER TELEPHONE: 650-598-6000 FAX: 650-598-6900 EMAIL: COLLECTIONS@EQUINIX.COM	TRADE				\$2,997,406.00
33	CIENA CORP 7035 RIDGE ROAD HANOVER, MD 21076	ATTN: DIRECTOR OR OFFICER TELEPHONE: 410-694-5700 FAX: 410-694-5750 EMAIL: N/A	TRADE				\$2,952,217.00
34	CBRE INC. 400 S HOPE STREET LOS ANGELES, CA 90071	ATTN: DIRECTOR OR OFFICER TELEPHONE: 213-613-3333 FAX: 216-613-3005 EMAIL: CORPCOMM@CBRE.COM; LEW.HORNE@CBRE.COM	TRADE				\$2,885,755.00
35	BELLSOUTH 600 N POINT PKWY ALPHARETTA, GA 30005	ATTN: ROC-CABS TELEPHONE: 404-249-2000 FAX: 404-249-2071 EMAIL: RT2547@ATT.COM	TRADE				\$2,596,089.00
36	MP NEXLEVEL LLC 500 COUNTY RD 37 E MAPLE LAKE, MN 55358	ATTN: DIRECTOR OR OFFICER TELEPHONE: 320-963-2410; 320-963-2400 FAX: 320-963-2438 EMAIL: N/A	TRADE				\$2,430,702.00
37	ENSONO LP 3333 FINLEY ROAD DOWNERS GROVE, IL 60515	ATTN: DIRECTOR OR OFFICER TELEPHONE: 630-944-9337 FAX: 630-944-1432 EMAIL: JUDY.RASMUSSEN@ENSONO.COM; RICHARD.DRESDEN@ENSONO.COM	TRADE				\$2,161,902.00
38	FIBERTECH NETWORKS LLC 300 MERIDAN CENTRE ROCHESTER, NY 14618	ATTN: ACCOUNTS RECEIVABLE TELEPHONE: 585-697-5100 FAX: 585-442-8845 EMAIL: BDANGLER@FIBERTECH.COM	TRADE				\$2,133,547.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
39	METASWITCH NETWORKS 12007 SUNRISE VALLEY DR. STE 250 RESTON, VA 20191	ATTN: LEGAL DEPARTMENT TELEPHONE: 703-480-0500 FAX: 703-480-0499 EMAIL: N/A	TRADE				\$2,118,722.00
40	CONDUENT COMMERCIAL SOLUTIONS LLC 100 CAMPUS DRIVE FLORHAM PARK, NJ 07932	ATTN: DIRECTOR OR OFFICER TELEPHONE: 844-663-2638 FAX: N/A EMAIL: N/A	TRADE				\$2,083,394.00
41	PRODAPT 7565 SW MOHAWK STREET BUILDING M TUALATIN, OR 97062	ATTN: HEADQUARTERS TELEPHONE: 503-636-3737 FAX: 503-885-0850 EMAIL: N/A	TRADE				\$2,016,429.00
42	OUTPUT SERVICES GROUP BILLING SERVICES 100 CHALLENGER ROAD SUITE 303 RIDGEFIELD PARK, NJ 07660	ATTN: DIRECTOR OR OFFICER TELEPHONE: 201-871-1100 FAX: 201-871-3350 EMAIL: INFO@OSGBILLING.COM	TRADE				\$1,980,488.00
43	FAST TRACK CONSTRUCTION 1919 SW LOOP 304 CROCKETT, TX 75835	ATTN: DIRECTOR OR OFFICER TELEPHONE: 936-545-1506 FAX: 936-545-1598 EMAIL: CAROLYN@FASTTRACKTEXAS.COM	TRADE				\$1,804,801.00
44	COMCAST COMCAST CENTER PHILADELPHIA, PA 19103	ATTN: COMCAST CORPORATION TELEPHONE: FAX: 215-981-7790 EMAIL: N/A	TRADE				\$1,786,797.00
45	HOUSLEY COMMUNICATIONS INC. 3550 SOUTH BRYANT BOULEVARD SAN ANGELO, TX 76903	ATTN: DIRECTOR OR OFFICER TELEPHONE: 325-944-9905 FAX: 325-944-1781 EMAIL: INFO@HC-INC.COM	TRADE				\$1,715,204.00
46	TATA CONSULTANCY SERVICES LIMITED 379 THORNAL STREET 4TH FLOOR EDISON, NJ 08837	ATTN: JANARTHANAN ANGIYA TELEPHONE: 469-230-8743 FAX: 212-867-8652 EMAIL: N/A	TRADE				\$1,562,096.00
47	MITELTECHNOLOGIES INC. 1615 SOUTH 52ND STREET TEMPE, AZ 85281	ATTN: DIRECTOR OR OFFICER TELEPHONE: 480-449-8900 FAX: 480-449-8901 EMAIL: N/A	TRADE				\$1,526,652.00
48	USIC INC. 9045 NORTH RIVER ROAD INDIANAPOLIS, IN 46240	ATTN: DIRECTOR OR OFFICER TELEPHONE: 317-575-7800 FAX: 317-575-7881 EMAIL: N/A	TRADE				\$1,477,432.00
49	COMMSCOPE TECHNOLOGIES LLC 1100 COMMSCOPE PLACE, SE HICKORY, NC 28602-3619	ATTN: DIRECTOR OR OFFICER TELEPHONE: 828-324-2200 FAX: 828-323-4849 EMAIL: N/A	TRADE				\$1,426,259.00
50	COX COMMUNICATIONS 1400 LAKE HEARN DRIVE ATLANTA, GA 30319	ATTN: DIRECTOR OR OFFICER TELEPHONE: 866-961-0027 FAX: 404-843-5280 EMAIL: COXCORP.CUSTOMERRELATIONS@COX.COM; VICTOR.COOPER@COX.COM	TRADE				\$1,396,561.00

Fill in this information to identify the case and this filing:	
Debtor Name	PaeTec Communications, LLC
United States Bankruptcy Court for the:	Southern District of New York
Case number (If known):	(State)

## Official Form 202

### Declaration Under Penalty of Perjury for Non-Individual Debtors

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

**WARNING** -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

#### Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

02/25/2019  
MM/ DD/YYYY

☒

/s/ Kristi M. Moody

Signature of individual signing on behalf of debtor

Kristi M. Moody

Printed name

Authorized Officer

Position or relationship to debtor

## UNANIMOUS WRITTEN CONSENT IN LIEU OF A MEETING

February 24, 2019

The undersigned, being the members of the board of directors, members of the board of managers, members of the board of governors, individual managers, sole managers, sole governors, and sole members (each, a “Board” and collectively, the “Boards”), as applicable, of each entity set forth in Annex A attached hereto (each, a “Company” and collectively, the “Companies”), in lieu of holding a meeting of the board of directors, board of managers, board of governors, or members as applicable, hereby take the following actions and adopt the following resolutions by unanimous written consent pursuant to each such Company’s bylaws, limited liability company agreement, or operating agreement, as applicable, and the applicable laws of the jurisdiction in which such Company is organized:

**WHEREAS**, the respective Board of each Company considered presentations by management and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of the Companies, the strategic alternatives available, and the effect of the foregoing on such Companies’ businesses and the businesses of such Companies’ subsidiaries;

**WHEREAS**, the respective Board of each Company has had the opportunity to consult with management and the financial and legal advisors of such Company and to fully consider each of the strategic alternatives available to such Company; and

**WHEREAS**, the respective Board of each Company has determined, in the judgment of such Board, that the following resolutions are advisable and in the best interests of the Companies, their subsidiaries, their creditors, and other parties in interest.

**NOW, THEREFORE, BE IT:**

### **CHAPTER 11 FILING**

**RESOLVED**, that in the judgment of the respective Board of each Company, it is desirable and in the best interests of the Companies, its creditors, and other parties in interest, that such Company shall be, and hereby is, authorized to file or cause to be filed a voluntary petition for relief (such voluntary petition, and the voluntary petitions to be filed by each Company, collectively, the “Chapter 11 Cases”) under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) or other court of competent jurisdiction; and



**RESOLVED FURTHER**, that the duly appointed officers of each Company (collectively, the “Authorized Officers”), acting alone or with one or more other Authorized Officers be, and each of them hereby is, authorized, empowered, and directed to execute and file on behalf of such Company all petitions, schedules, lists, and other motions, objections, replies, applications, papers, or documents, and to take any and all action that they deem necessary, appropriate, or desirable to obtain such relief, including, without limitation, any action necessary, appropriate, or desirable to maintain the ordinary course operation of such Company’s businesses or to assist such Company in the Chapter 11 Cases and in carrying out its duties under the provisions of the Bankruptcy Code.

### **RETENTION OF PROFESSIONALS**

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the law firm of Kirkland & Ellis LLP, as general bankruptcy counsel, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company’s rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain Kirkland & Ellis LLP in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of PJT Partners LP, as financial advisor and investment banker, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company’s rights and obligations; and in connection therewith, each of the Authorized Officers is, with power of delegation, hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain PJT Partners LP in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of Alvarez & Marsal North America, LLC, as restructuring advisor, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each of such Company's rights and obligations; and in connection therewith, each of the Authorized Officers is, with power of delegation, hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain Alvarez & Marsal North America, LLC in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of Kurtzman Carson Consultants, as notice, claims, and balloting agent, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company's rights and obligations; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kurtzman Carson Consultants LLC in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, objections, replies, applications, pleadings, lists, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, investment bankers, financial advisors, restructuring advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Officers deem necessary, proper, or desirable in connection with each Company's Chapter 11 case, with a view to the successful prosecution of the case.

### **CASH COLLATERAL**

**RESOLVED FURTHER**, that to the extent applicable to each Company, in the judgment of the Board, it is desirable and in the best interest of such Company, its interest holders, its creditors, and other parties in interest, to obtain the benefits from the use of cash collateral (the “Cash Collateral,” as such term is defined in section 363(a) of the Bankruptcy Code), which is security for certain of the Company’s prepetition secured lenders under certain credit facilities by and among the Company, the guarantors party thereto, and the lenders party thereto (the “Prepetition Secured Lenders”); and

**RESOLVED FURTHER**, that to the extent applicable to each Company, the Authorized Officers be, and hereby are, authorized, directed and empowered in the name of, and on behalf of, such Company to seek approval of the use of cash collateral pursuant to a cash collateral order in interim and final form (a “Cash Collateral Order”), and, to the extent applicable to each Company, any Authorized Officer be, and hereby is, authorized, empowered, and directed to negotiate, execute (under the common seal of the Company, if appropriate), and deliver any and all agreements, instruments, or documents, by or on behalf of the Company, necessary or advisable to implement the Cash Collateral Order, including providing for adequate protection to the Prepetition Secured Lenders in accordance with section 363 of the Bankruptcy Code, as well as any additional or further agreements for the use of cash collateral in connection with the Company’s chapter 11 cases, which agreement(s) may require each Company to grant adequate protection and security interests to the Prepetition Secured Lenders and each other agreement, instrument, or document to be executed and delivered in connection therewith, by or on behalf of each Company pursuant thereto or in connection therewith, all with such changes therein and additions thereto as any Authorized Officer in his absolute discretion approves, such approval to be conclusively evidenced by the taking of such action or by the execution and delivery thereof; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to execute (under the common seal of the Company, if appropriate) and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions, and extensions of the Cash Collateral Order or to do such other things which shall in his/her absolute discretion be necessary, desirable, proper, or advisable to give effect

to the foregoing resolutions, which determination shall be conclusively evidenced by his or their execution thereof.

### **DEBTOR-IN-POSSESSION FINANCING**

**WHEREAS**, reference is made to those certain debtor-in-possession financing proposals that set forth the terms and conditions of the debtor-in-possession financing to be provided to the Companies (the “Borrowers”) by the lenders listed therein (the “DIP Lenders”); and

**WHEREAS**, the Borrowers have requested that the DIP Lenders provide senior secured debtor-in-possession credit facilities (together, the “DIP Facilities”) to the Companies; and

**WHEREAS**, each Company will obtain benefits from the incurrence of the DIP Obligations (as defined below), and it is advisable and in the best interest of each Company to enter into the DIP Loan Documents (as defined below), and to perform its obligations thereunder, including granting security interests in all or substantially all of its assets; and

**WHEREAS**, the obligation of the DIP Lenders to make the extensions of credit to the Borrowers under the DIP Facilities is subject to, among other things, each Company entering into a binding credit agreement and/or commitment letters with the DIP Lenders and one or more agents acting on behalf of the DIP Lenders (the “DIP Agents”) (collectively with any other documents and agreements related thereto or contemplated thereunder, including and any documents, instruments or certificates as may be reasonably requested by the DIP Agents (as defined below), the “DIP Loan Documents”), and otherwise satisfying certain conditions in connection therewith (the obligations thereunder, the “DIP Obligations”); and

**WHEREAS**, the Borrowers and the DIP Lenders are continuing negotiations regarding the final form of the DIP Loan Documents.

**NOW, THEREFORE, BE IT RESOLVED**, that the form, terms and provisions of the DIP Loan Documents presently before the Boards, and the transactions contemplated thereunder (including, without limitation, the borrowings and the incurrence of the DIP Obligations thereunder), and the guaranties, liabilities, obligations, security interest granted and notes issued, if any, in connection therewith, be and hereby are authorized, adopted and approved, subject to such changes, additions, and modifications thereto as an

Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by an Authorized Officer's execution and delivery thereof; and

**RESOLVED FURTHER**, that each Company will obtain benefits from its entry into the DIP Loan Documents and incurrence and performance of the DIP Obligations thereunder and it is advisable and in the best interest of each Company to enter into the DIP Loan Documents, and to perform its obligations thereunder, including granting security interests in all or substantially all of its assets; and

**RESOLVED FURTHER**, that each Company shall be, and hereby is, authorized to enter into the DIP Loan Documents and incur the DIP Obligations, and the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized and empowered to execute and deliver the DIP Loan Documents, with such changes, additions, and modifications thereto as an Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by an Authorized Officer's execution and delivery thereof; and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, in the name and on behalf of each Company, to assign, transfer, pledge and grant to the DIP Agents, for the ratable benefit of the respective or applicable DIP Lenders, a security interest in all or substantially all the assets of such Company, as collateral security for the prompt and complete payment and performance when due of the DIP Obligations under the documents to which such Company is a party and to take or cause to be taken any such actions as may be necessary, appropriate or desirable to cause each Company to create, perfect and maintain a security interest in each Company's property or assets constituting "Collateral" as described or contemplated in the DIP Loan Documents (the "Collateral"); and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, in the name and on behalf of each Company, to enter into the guarantees as described or contemplated by the DIP Loan Documents or any other documents, certificates, instruments, agreements, intercreditor agreements, any extension amendment or any incremental agreement required to consummate the transactions contemplated by the DIP Loan Documents and perform its obligations thereunder and to guarantee the payment and

performance of the DIP Obligations of the Borrowers and any other guarantor thereunder; and

**RESOLVED FURTHER**, that the DIP Agents are authorized to file or record financing statements and other filing or recording documents or instruments with respect to the Collateral without the signature of each Company in such form and in such offices as such DIP Agent determines appropriate to perfect the security interests of the DIP Lenders granted under the DIP Loan Documents. The DIP Agents are authorized to use the collateral description “all assets” or “all or substantially all personal property assets” or any similar description in any such financing statements; and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, empowered and directed in the name of, and on behalf of, each Company to seek authorization to incur the DIP Obligations and to seek approval of the use of cash collateral pursuant to a postpetition financing order in interim and final form, and any Authorized Officer be, and hereby is, authorized, empowered, and directed to negotiate, execute, and deliver any and all agreements, instruments, or documents, by or on behalf of each Company, necessary to implement the postpetition financing, including providing for adequate protection to the Prepetition Secured Lenders in accordance with section 363 of the Bankruptcy Code, as well as any additional or further agreements for entry into the DIP Loan Documents and the use of cash collateral in connection with each Company’s Chapter 11 Cases, which agreements may require each Company to grant adequate protection and liens to each Company’s Prepetition Secured Lenders and each other agreement, instrument, or document to be executed and delivered in connection therewith, by or on behalf of each Company pursuant thereto or in connection therewith, all with such changes therein and additions thereto as any Authorized Officer approves, such approval to be conclusively evidenced by the taking of such action or by the execution and delivery thereof; and

**RESOLVED FURTHER**, that any Authorized Officer or other officer of each Company is hereby authorized, empowered, and directed, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, each of the transactions contemplated by the DIP Loan Documents and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party or any order entered into in connection with the

Chapter 11 Cases (collectively, and together with the DIP Credit Agreement and the other DIP Loan Documents, the “Financing Documents”), incur and pay or cause to be paid all related fees and expenses, with such changes, additions, and modifications thereto as an Authorized Officer executing the same shall approve; and

**RESOLVED FURTHER**, that each Company, as debtor and debtor-in-possession under the Bankruptcy Code be, and hereby is, authorized, empowered, and directed to incur any and all obligations and to undertake any and all related transactions on substantially the same terms as contemplated under the Financing Documents (collectively, the “Financing Transactions”), including granting liens on its assets to secure such obligations; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized, empowered and directed in the name of, and on behalf of, each Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions, and extensions of the postpetition financing or any of the Financing Documents or to do such other things which shall in their sole judgment be necessary, desirable, proper, or advisable in order to perform each Company’s DIP Obligations and to give effect to the foregoing resolutions, which determination shall be conclusively evidenced by his/her or their execution thereof.

#### **NO TERMINATION OF EXISTENCE**

**RESOLVED**, that notwithstanding any provision in the governing documents of any Company, no Company shall be automatically dissolved upon the filing of the voluntary petitions or any action taken in accordance with these resolutions.

**GENERAL**

**RESOLVED FURTHER**, that in addition to the specific authorizations heretofore conferred upon the Authorized Officers, each of the Authorized Officers (and their designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further action, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents and to pay all expenses, including but not limited to filing fees, in the case as in such officer's or officers' judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein; and

**RESOLVED FURTHER**, that each Company and the respective Board of each Company has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of such Company, or hereby waives any right to have received such notice; and

**RESOLVED FURTHER**, that all acts, actions, and transactions relating to the matters contemplated by the foregoing resolutions done in the name of and on behalf of each Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of such Company with the same force and effect as if each such act, transaction, agreement, or certificate has been specifically authorized in advance by resolution of the respective Board of each Company; and

**RESOLVED FURTHER**, that each of the Authorized Officers (and their designees and delegates) be, and hereby is, authorized and empowered to take all actions or to not take any action in the name of each Company with respect to the transactions contemplated by these resolutions hereunder as the sole shareholder, partner, member, managing member, or manager of each direct subsidiary of such Company, in each case, as such Authorized Officer shall deem necessary or desirable in such Authorized Officers' reasonable business judgment as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein; and

**RESOLVED FURTHER**, that to the extent any Company serves as the the sole member, general partner, managing member, equivalent manager, or other governing body (each, a "Controlling



Company”) of any other Company, each Authorized Officer, as applicable, is authorized, empowered and directed to take each of the actions described in these resolutions or any of the actions authorized by these resolutions on behalf of each such applicable Controlling Company; and

**RESOLVED FURTHER**, that this Action may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute but one and the same consent; and

**RESOLVED FURTHER**, that electronic or photostatic copies of signatures to this Action shall be deemed to be originals and may be relied on to the same extent as the originals; and

**RESOLVED FURTHER**, that the actions taken by this Action shall have the same force and effect as if taken at a meeting of the Board of each of the Companies, as applicable, duly called and constituted pursuant to each such Company’s bylaws, operating agreement, or limited liability company agreement, as applicable, and the applicable laws of the jurisdiction in which such Company is organized.

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned has executed this Action via Written Consent as of the date above first written.

By: 

Name: Tony Thomas

Title: Manager, Governor and Director

By: 

Name: Kristi Moody

Title: Manager, Governor and Director

**BEING THE MANAGERS, GOVERNOR, OR  
DIRECTOR, AS APPLICABLE, OF EACH  
ENTITY LISTED ON EXHIBIT A**

By: 

Name: Kristi Moody

Title: Senior/Vice President – General Counsel &  
Corporate Secretary

**AS OFFICER OF THE SOLE MEMBER OR SOLE  
SHAREHOLDER, AS APPLICABLE, OF EACH  
ENTITY LISTED ON EXHIBIT A**

**Exhibit A**

COMPANY	JURISDICTION
Allworx Corp.	DE
American Telephone Company, LLC	NY
ARC Networks, Inc.	DE
A.R.C. Networks, Inc.	NY
ATX Communications, Inc.	DE
ATX Licensing, Inc.	DE
ATX Telecommunications Services of Virginia, LLC	DE
Birmingham Data Link, LLC	AL
BOB, LLC	IL
Boston Retail Partners LLC	MA
BridgeCom Holdings, Inc.	DE
BridgeCom International, Inc.	DE
BridgeCom Solutions Group, Inc.	DE
Broadview Networks, Inc.	NY
Broadview Networks of Massachusetts, Inc.	DE
Broadview Networks of Virginia, Inc.	VA
Broadview NP Acquisition Corp.	DE
Buffalo Valley Management Services, Inc.	DE
Business Telecom of Virginia, Inc.	VA
Business Telecom, LLC	NC
BV-BC Acquisition Corporation	DE
Cavalier IP TV, LLC	DE
Cavalier Services, LLC	DE
Cavalier Telephone Mid-Atlantic, L.L.C.	DE
Cavalier Telephone, L.L.C.	VA
CCL Historical, Inc.	DE
Choice One Communications of Connecticut Inc.	DE
Choice One Communications of Maine Inc.	DE
Choice One Communications of Massachusetts Inc.	DE
Choice One Communications of New York Inc.	DE
Choice One Communications of Ohio Inc.	DE
Choice One Communications of Pennsylvania Inc.	DE
Choice One Communications of Rhode Island Inc.	DE
Choice One Communications Resale L.L.C.	DE
Choice One Communications of Vermont Inc.	DE
Choice One of New Hampshire, Inc.	DE
Cinergy Communications Company of Virginia, LLC	VA
Conestoga Enterprises, Inc.	PA
Conestoga Management Services, Inc.	DE
Conestoga Wireless Company	PA
Connecticut Broadband, LLC	CT

COMPANY	JURISDICTION
Connecticut Telephone & Communication Systems, Inc.	CT
Conversent Communications Long Distance, LLC	NH
Conversent Communications of Connecticut, LLC	CT
Conversent Communications of Maine, LLC	ME
Conversent Communications of Massachusetts, Inc.	MA
Conversent Communications of New Hampshire, LLC	NH
Conversent Communications of New Jersey, LLC	NJ
Conversent Communications of New York, LLC	NY
Conversent Communications of Pennsylvania, LLC	PA
Conversent Communications of Rhode Island, LLC	RI
Conversent Communications of Vermont, LLC	VT
Conversent Communications Resale L.L.C.	DE
CoreComm-ATX, Inc.	DE
CoreComm Communications, LLC	DE
CTC Communications Corporation	MA
CTC Communications of Virginia, Inc.	VA
D&E Communications, LLC	DE
D&E Management Services, Inc.	NV
D&E Networks, Inc.	PA
D&E Wireless, Inc.	PA
Deltacom, LLC	AL
Earthlink Business, LLC	DE
Earthlink Carrier, LLC	DE
Equity Leasing, Inc.	NV
Eureka Broadband Corporation	DE
Eureka Holdings, LLC	DE
Eureka Networks, LLC	DE
Eureka Telecom, Inc.	NY
Eureka Telecom of VA, Inc.	VA
Georgia Windstream, LLC	DE
Heart of the Lakes Cable Systems, Inc.	MN
Infocore, Inc.	PA
Info-Highway International, Inc.	TX
InfoHighway Communications Corporation	DE
InfoHighway of Virginia, Inc.	VA
Intellifiber Networks, LLC	VA
Iowa Telecom Data Services, L.C.	IA
Iowa Telecom Technologies, LLC	IA
IWA Services, LLC	IA
KDL Holdings, LLC	DE
LDMI Telecommunications, LLC	MI
Lightship Telecom, LLC	DE
MassComm, LLC	NY

COMPANY	JURISDICTION
McLeodUSA Information Services LLC	DE
McLeodUSA Purchasing, LLC	IA
McLeodUSA Telecommunications Services, L.L.C.	IA
MPX, Inc.	DE
Nashville Data Link, LLC	TN
Network Telephone, LLC	FL
Norlight Telecommunications of Virginia, LLC	VA
Oklahoma Windstream, LLC	OK
Open Support Systems, LLC	CT
PaeTec Communications of Virginia, LLC	VA
PaeTec Communications, LLC	DE
PAETEC Holding, LLC	DE
PAETEC iTEL, L.L.C.	NC
PAETEC Realty LLC	NY
PAETEC, LLC	DE
PCS Licenses, Inc.	NV
Progress Place Realty Holding Company, LLC	NC
RevChain Solutions, LLC	DE
SM Holdings, LLC	DE
Southwest Enhanced Network Services, LLC	DE
Talk America of Virginia, LLC	VA
Talk America, LLC	DE
Televue, LLC	GA
Texas Windstream, LLC	TX
The Other Phone Company, LLC	FL
TriNet, LLC	GA
TruCom Corporation	NY
US LEC Communications LLC	NC
US LEC of Alabama LLC	NC
US LEC of Florida LLC	NC
US LEC of Georgia LLC	DE
US LEC of Maryland LLC	NC
US LEC of North Carolina LLC	NC
US LEC of Pennsylvania LLC	NC
US LEC of South Carolina LLC	DE
US LEC of Tennessee LLC	DE
US LEC of Virginia LLC	DE
US Xchange Inc.	DE
US Xchange of Illinois, L.L.C.	DE
US Xchange of Indiana, L.L.C.	DE
US Xchange of Michigan, L.L.C.	DE
US Xchange of Wisconsin, L.L.C.	DE
Valor Telecommunications of Texas, LLC	DE

COMPANY	JURISDICTION
WaveTel NC License Corporation	DE
WIN Sales & Leasing, Inc.	MN
Windstream Accucomm Networks, LLC	GA
Windstream Accucomm Telecommunications, LLC	GA
Windstream Alabama, LLC	AL
Windstream Arkansas, LLC	DE
Windstream Buffalo Valley, Inc.	PA
Windstream Business Holdings, LLC	DE
Windstream BV Holdings, LLC	DE
Windstream Cavalier, LLC	DE
Windstream Communications Kerrville, LLC	TX
Windstream Communications Telecom, LLC	TX
Windstream Communications, LLC	DE
Windstream Concord Telephone, LLC	NC
Windstream Conestoga, Inc.	PA
Windstream CTC Internet Services, Inc.	NC
Windstream D&E Systems, LLC	DE
Windstream D&E, Inc.	PA
Windstream Direct, LLC	MN
Windstream Eagle Holdings LLC	DE
Windstream Eagle Services, LLC	DE
Windstream EN-TEL, LLC	MN
Windstream Finance Corp	DE
Windstream Florida, LLC	FL
Windstream Georgia Communications, LLC	GA
Windstream Georgia Telephone, LLC	GA
Windstream Georgia, LLC	GA
Windstream Holding of the Midwest, Inc.	NE
Windstream Iowa Communications, LLC	DE
Windstream Iowa-Comm, LLC	IA
Windstream IT-Comm, LLC	IA
Windstream KDL, LLC	KY
Windstream KDL-VA, LLC	VA
Windstream Kentucky East, LLC	DE
Windstream Kentucky West, LLC	KY
Windstream Kerrville Long Distance, LLC	TX
Windstream Lakedale Link, Inc.	MN
Windstream Lakedale, Inc.	MN
Windstream Leasing, LLC	DE
Windstream Lexcom Communications, LLC	NC
Windstream Lexcom Entertainment, LLC	NC
Windstream Lexcom Long Distance, LLC	NC
Windstream Lexcom Wireless, LLC	NC

COMPANY	JURISDICTION
Windstream Mississippi, LLC	DE
Windstream Missouri, LLC	DE
Windstream Montezuma, LLC	IA
Windstream Nebraska, Inc.	DE
Windstream Network Services of the Midwest, Inc.	NE
Windstream New York, Inc.	NY
Windstream Norlight, LLC	KY
Windstream North Carolina, LLC	NC
Windstream NorthStar, LLC	MN
Windstream NTI, LLC	WI
Windstream NuVox Arkansas, LLC	DE
Windstream NuVox Illinois, LLC	DE
Windstream NuVox Indiana, LLC	DE
Windstream NuVox Kansas, LLC	DE
Windstream NuVox Missouri, LLC	DE
Windstream NuVox Ohio, LLC	DE
Windstream NuVox Oklahoma, LLC	DE
Windstream NuVox, LLC	DE
Windstream of the Midwest, Inc.	NE
Windstream Ohio, LLC	OH
Windstream Oklahoma, LLC	DE
Windstream Pennsylvania, LLC	DE
Windstream SHAL Networks, Inc.	MN
Windstream SHAL, LLC	MN
Windstream Shared Services, LLC	DE
Windstream South Carolina, LLC	SC
Windstream Southwest Long Distance, LLC	DE
Windstream Standard, LLC	GA
Windstream Sugar Land, LLC	TX
Windstream Supply, LLC	OH
Windstream Systems of the Midwest, Inc.	NE
Windstream Western Reserve, LLC	OH
Xeta Technologies, Inc.	OK

Fill in this information to identify the case:	
United States Bankruptcy Court for the: Southern District of New York (State)	
Case number (if known):	Chapter 11

☐ Check if this is an amended filing

Official Form 201  
**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

04/16

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name	<u>Windstream Georgia Communications, LLC</u>		
2. All other names debtor used in the last 8 years	<u>N/A</u>		
Include any assumed names, trade names, and <i>doing business as</i> names	<u>None.</u>		
3. Debtor's federal Employer Identification Number (EIN)	<u>58-2046299</u>		
4. Debtor's address	Principal place of business	Mailing address, if different from principal place of business	
	<u>4001 North Rodney Parham Road</u>		
	Number Street	Number Street	
	<u>Little Rock, Arkansas 72212</u>	P.O. Box	
	City State Zip Code	City State Zip Code	
	<u>Pulaski County</u>	Location of principal assets, if different from principal place of business	
	County	Number Street	
		City State Zip Code	
5. Debtor's website (URL)	<u>https://www.windstream.com/</u>		
6. Type of debtor	<input checked="" type="checkbox"/> Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))		
	<input type="checkbox"/> Partnership (excluding LLP)		
	<input type="checkbox"/> Other. Specify: _____		





Debtor Windstream Georgia Communications, LLC Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

7. Describe debtor's business

A. Check One:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))  
☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))  
☐ Railroad (as defined in 11 U.S.C. § 101(44))  
☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))  
☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))  
☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))  
☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)  
☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)  
☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes> .  
**5172 - Wireless Telecommunications Carriers (except Satellite)**

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check One:

- ☐ Chapter 7  
☐ Chapter 9  
☒ Chapter 11. Check all that apply:

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,566,050 (amount subject to adjustment on 4/01/19 and every 3 years after that).  
☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).  
☐ A plan is being filed with this petition.  
☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).  
☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.  
☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

- ☒ No  
☐ Yes.

District _____	When _____	Case number _____
	MM/DD/YYYY	
District _____	When _____	Case number _____
	MM/DD/YYYY	

If more than 2 cases, attach a separate list.

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- ☐ No  
☒ Yes.

Debtor <u>See attached Schedule 1</u>	Relationship <u>Affiliate</u>
District <u>Southern District of New York</u>	When <u>02/25/2019</u>
Case number, if known _____	MM / DD / YYYY

List all cases. If more than 1, attach a separate list.

Debtor Windstream Georgia Communications, LLC Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

**11. Why is the case filed in this district?**

*Check all that apply:*

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

**12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?**

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

**Why does the property need immediate attention? (Check all that apply.)**

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? \_\_\_\_\_

- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other \_\_\_\_\_

**Where is the property?**

Number	Street	
_____		
City	State	Zip Code
_____	_____	_____

**Is the property insured?**

- ☐ No
- ☐ Yes. Insurance agency \_\_\_\_\_
- Contact name \_\_\_\_\_
- Phone \_\_\_\_\_

**Statistical and administrative information**

**13. Debtor's estimation of available funds**

*Check one:*

- ☒ Funds will be available for distribution to unsecured creditors.
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

**14. Estimated number of creditors (on a consolidated basis)**

- |                                  |  |   |
|----------------------------------|--|---|
| <input type="checkbox"/> 1-49    | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000                |
| <input type="checkbox"/> 50-99   | <input type="checkbox"/> 5,001-10,000  | <input type="checkbox"/> 50,001-100,000               |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input checked="" type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 |  |   |

**15. Estimated assets (on a consolidated basis)**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion                |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion             |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input checked="" type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion                   |

Debtor Windstream Georgia Communications, LLC Case number (if known) \_\_\_\_\_  
Name \_\_\_\_\_

16. Estimated liabilities (on a consolidated basis)
- |  |  |   |
|--|--|---|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion                |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion             |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input checked="" type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion                   |

**Request for Relief, Declaration, and Signatures**

**WARNING --** Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor
- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.
- I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02/25/2019  
MM/ DD / YYYY

X /s/ Kristi M. Moody Kristi M. Moody  
Signature of authorized representative of debtor Printed name

Title Authorized Officer

18. Signature of attorney X /s/ Stephen E. Hessler Date 02/25/2019  
Signature of attorney for debtor MM/ DD/YYYY

Stephen E. Hessler  
Printed name

Kirkland & Ellis LLP  
Firm name

601 Lexington Avenue  
Number Street

New York New York 10022  
City State ZIP Code

(212) 446-4800 stephen.hessler@kirkland.com  
Contact phone Email address

4576856 New York  
Bar number State

Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter 11

☐ Check if this is an amended filing

**Schedule 1**  
**Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor**

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Windstream Holdings, Inc.

- |   |   |   |
|---|---|---|
| 1. Windstream Holdings, Inc.                        | 41. Conestoga Management Services, Inc.                 | 80. Iowa Telecom Data Services, L.C.              |
| 2. Windstream Business Holdings, LLC                | 42. Conestoga Wireless Company                          | 81. Iowa Telecom Technologies, LLC                |
| 3. Allworx Corp.                                    | 43. Connecticut Broadband, LLC                          | 82. IWA Services, LLC                             |
| 4. American Telephone Company, LLC                  | 44. Connecticut Telephone & Communication Systems, Inc. | 83. KDL Holdings, LLC                             |
| 5. ARC Networks, Inc.                               | 45. Conversent Communications Long Distance, LLC        | 84. LDMI Telecommunications, LLC                  |
| 6. A.R.C. Networks, Inc.                            | 46. Conversent Communications of Connecticut, LLC       | 85. Lightship Telecom, LLC                        |
| 7. ATX Communications, Inc.                         | 47. Conversent Communications of Maine, LLC             | 86. MassComm, LLC                                 |
| 8. ATX Licensing, Inc.                              | 48. Conversent Communications of Massachusetts, Inc.    | 87. McLeodUSA Information Services LLC            |
| 9. ATX Telecommunications Services of Virginia, LLC | 49. Conversent Communications of New Hampshire, LLC     | 88. McLeodUSA Purchasing, LLC                     |
| 10. Birmingham Data Link, LLC                       | 50. Conversent Communications of New Jersey, LLC        | 89. McLeodUSA Telecommunications Services, L.L.C. |
| 11. BOB, LLC  | 51. Conversent Communications of New York, LLC          | 90. MPX, Inc.                                     |
| 12. Boston Retail Partners LLC                      | 52. Conversent Communications of Pennsylvania, LLC      | 91. Nashville Data Link, LLC                      |
| 13. BridgeCom Holdings, Inc.                        | 53. Conversent Communications of Rhode Island, LLC      | 92. Network Telephone, LLC                        |
| 14. BridgeCom International, Inc.                   | 54. Conversent Communications of Vermont, LLC           | 93. Norlight Telecommunications of Virginia, LLC  |
| 15. BridgeCom Solutions Group, Inc.                 | 55. Conversent Communications Resale L.L.C.             | 94. Oklahoma Windstream, LLC                      |
| 16. Broadview Networks, Inc.                        | 56. CoreComm-ATX, Inc.                                  | 95. Open Support Systems, LLC                     |
| 17. Broadview Networks of Massachusetts, Inc.       | 57. CoreComm Communications, LLC                        | 96. PaeTec Communications of Virginia, LLC        |
| 18. Broadview Networks of Virginia, Inc.            | 58. CTC Communications Corporation                      | 97. PaeTec Communications, LLC                    |
| 19. Broadview NP Acquisition Corp.                  | 59. CTC Communications of Virginia, Inc.                | 98. PAETEC Holding, LLC                           |
| 20. Buffalo Valley Management Services, Inc.        | 60. D&E Communications, LLC                             | 99. PAETEC iTEL, L.L.C.                           |
| 21. Business Telecom of Virginia, Inc.              | 61. D&E Management Services, Inc.                       | 100. PAETEC Realty LLC                            |
| 22. Business Telecom, LLC                           | 62. D&E Networks, Inc.                                  | 101. PAETEC, LLC                                  |
| 23. BV-BC Acquisition Corporation                   | 63. D&E Wireless, Inc.                                  | 102. PCS Licenses, Inc.                           |
| 24. Cavalier IP TV, LLC                             | 64. Deltacom, LLC                                       | 103. Progress Place Realty Holding Company, LLC   |
| 25. Cavalier Services, LLC                          | 65. Earthlink Business, LLC                             | 104. RevChain Solutions, LLC                      |
| 26. Cavalier Telephone Mid-Atlantic, L.L.C.         | 66. Earthlink Carrier, LLC                              | 105. SM Holdings, LLC                             |
| 27. Cavalier Telephone, L.L.C.                      | 67. Equity Leasing, Inc.                                | 106. Southwest Enhanced Network Services, LLC     |
| 28. CCL Historical, Inc.                            | 68. Eureka Broadband Corporation                        | 107. Talk America of Virginia, LLC                |
| 29. Choice One Communications of Connecticut Inc.   | 69. Eureka Holdings, LLC                                | 108. Talk America, LLC                            |
| 30. Choice One Communications of Maine Inc.         | 70. Eureka Networks, LLC                                | 109. Televue, LLC                                 |
| 31. Choice One Communications of Massachusetts Inc. | 71. Eureka Telecom, Inc.                                | 110. Texas Windstream, LLC                        |
| 32. Choice One Communications of New York Inc.      | 72. Eureka Telecom of VA, Inc.                          | 111. The Other Phone Company, LLC                 |
| 33. Choice One Communications of Ohio Inc.          | 73. Georgia Windstream, LLC                             | 112. TriNet, LLC                                  |
| 34. Choice One Communications of Pennsylvania Inc.  | 74. Heart of the Lakes Cable Systems, Inc.              | 113. TruCom Corporation                           |
| 35. Choice One Communications of Rhode Island Inc.  | 75. Infocore, Inc.                                      | 114. US LEC Communications LLC                    |
| 36. Choice One Communications Resale L.L.C.         | 76. Info-Highway International, Inc.                    | 115. US LEC of Alabama LLC                        |
| 37. Choice One Communications of Vermont Inc.       | 77. InfoHighway Communications Corporation              | 116. US LEC of Florida LLC                        |
| 38. Choice One of New Hampshire, Inc.               | 78. InfoHighway of Virginia, Inc.                       | 117. US LEC of Georgia LLC                        |
| 39. Cinergy Communications Company of Virginia, LLC | 79. Intellifiber Networks, LLC                          | 118. US LEC of Maryland LLC                       |
| 40. Conestoga Enterprises, Inc.                     |   | 119. US LEC of North Carolina LLC                 |
|   |   | 120. US LEC of Pennsylvania LLC                   |
|   |   | 121. US LEC of South Carolina LLC                 |
|   |   | 122. US LEC of Tennessee LLC                      |
|   |   | 123. US LEC of Virginia LLC                       |
|   |   | 124. US Xchange Inc.                              |
|   |   | 125. US Xchange of Illinois, L.L.C.               |
|   |   | 126. US Xchange of Indiana, L.L.C.                |

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| 127. US Xchange of Michigan, L.L.C.              | 153. Windstream Georgia Communications, LLC           | 179. Windstream North Carolina, LLC          |
| 128. US Xchange of Wisconsin, L.L.C.             | 154. Windstream Georgia Telephone, LLC                | 180. Windstream NorthStar, LLC               |
| 129. Valor Telecommunications of Texas, LLC      | 155. Windstream Georgia, LLC                          | 181. Windstream NTI, LLC                     |
| 130. WaveTel NC License Corporation              | 156. Windstream Holding of the Midwest, Inc.          | 182. Windstream NuVox Arkansas, LLC          |
| 131. WIN Sales & Leasing, Inc.                   | 157. Windstream Iowa Communications, LLC              | 183. Windstream NuVox Illinois, LLC          |
| 132. Windstream Accucomm Networks, LLC           | 158. Windstream Iowa-Comm, LLC                        | 184. Windstream NuVox Indiana, LLC           |
| 133. Windstream Accucomm Telecommunications, LLC | 159. Windstream IT-Comm, LLC                          | 185. Windstream NuVox Kansas, LLC            |
| 134. Windstream Alabama, LLC                     | 160. Windstream KDL, LLC                              | 186. Windstream NuVox Missouri, LLC          |
| 135. Windstream Arkansas, LLC                    | 161. Windstream KDL-VA, LLC                           | 187. Windstream NuVox Ohio, LLC              |
| 136. Windstream Buffalo Valley, Inc.             | 162. Windstream Kentucky East, LLC                    | 188. Windstream NuVox Oklahoma, LLC          |
| 137. Windstream BV Holdings, LLC                 | 163. Windstream Kentucky West, LLC                    | 189. Windstream NuVox, LLC                   |
| 138. Windstream Cavalier, LLC                    | 164. Windstream Kerrville Long Distance, LLC          | 190. Windstream of the Midwest, Inc.         |
| 139. Windstream Communications Kerrville, LLC    | 165. Windstream Lakedale Link, Inc.                   | 191. Windstream Ohio, LLC                    |
| 140. Windstream Communications Telecom, LLC      | 166. Windstream Lakedale, Inc.                        | 192. Windstream Oklahoma, LLC                |
| 141. Windstream Communications, LLC              | 167. Windstream Leasing, LLC                          | 193. Windstream Pennsylvania, LLC            |
| 142. Windstream Concord Telephone, LLC           | 168. Windstream Lexcom Communications, LLC            | 194. Windstream Services, LLC                |
| 143. Windstream Conestoga, Inc.                  | 169. Windstream Lexcom Entertainment, LLC             | 195. Windstream SHAL Networks, Inc.          |
| 144. Windstream CTC Internet Services, Inc.      | 170. Windstream Lexcom Long Distance, LLC             | 196. Windstream SHAL, LLC                    |
| 145. Windstream D&E Systems, LLC                 | 171. Windstream Lexcom Wireless, LLC                  | 197. Windstream Shared Services, LLC         |
| 146. Windstream D&E, Inc.                        | 172. Windstream Mississippi, LLC                      | 198. Windstream South Carolina, LLC          |
| 147. Windstream Direct, LLC                      | 173. Windstream Missouri, LLC                         | 199. Windstream Southwest Long Distance, LLC |
| 148. Windstream Eagle Holdings LLC               | 174. Windstream Montezuma, LLC                        | 200. Windstream Standard, LLC                |
| 149. Windstream Eagle Services, LLC              | 175. Windstream Nebraska, Inc.                        | 201. Windstream Sugar Land, LLC              |
| 150. Windstream EN-TEL, LLC                      | 176. Windstream Network Services of the Midwest, Inc. | 202. Windstream Supply, LLC                  |
| 151. Windstream Finance Corp                     | 177. Windstream New York, Inc.                        | 203. Windstream Systems of the Midwest, Inc. |
| 152. Windstream Florida, LLC                     | 178. Windstream Norlight, LLC                         | 204. Windstream Western Reserve, LLC         |
|  |   | 205. Xeta Technologies, Inc.                 |

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

_____	)	
In re:	)	Chapter 11
	)	
WINDSTREAM GEORGIA COMMUNICATIONS,	)	Case No. 19-_____ (____)
LLC,	)	
	)	
Debtor.	)	
_____	)	

**LIST OF EQUITY SECURITY HOLDERS<sup>1</sup>**

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Windstream Georgia Communications, LLC	Windstream Services, LLC	4001 N. Rodney Parham Rd., Little Rock, AR 72212	100%

<sup>1</sup> This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

_____	)	
In re:	)	Chapter 11
	)	
WINDSTREAM GEORGIA COMMUNICATIONS,	)	Case No. 19-_____ (____)
LLC,	)	
	)	
Debtor.	)	
_____	)	

**CORPORATE OWNERSHIP STATEMENT**

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Windstream Services, LLC	100%

Fill in this information to identify the case:	
Debtor name	Windstream Holdings, Inc., et al.
United States Bankruptcy Court for the:	Southern District of New York
Case number (If known):	(State)

☐ Check if this is an amended filing

## Official Form 204

### Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
1	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$806,900,000.00
2	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$105,800,000.00
3	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$78,100,000.00
4	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$70,100,000.00
5	AT&T 208 SOUTH AKARD STREET DALLAS, TX 75202	ATTN: GENERAL COUNSEL TELEPHONE: 210-821-4105 FAX: 210-351-2198 EMAIL: DAVID.MCATEE@ATT.COM; WW0118@ATT.COM	TRADE				\$49,551,947.00

<sup>1</sup> The Debtors reserve the right to assert setoff and other rights with respect to any of the claims listed herein.



	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
6	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$36,200,000.00
7	U.S. BANK NATIONAL ASSOCIATION TWO MIDTOWN PLAZA 1349 WEST PEACHTREE STREET SUITE 1050 ATLANTA, GEORGIA 30309	ATTN: GLOBAL CORPORATE TRUST SERVICES TELEPHONE: (404) 898-8830 FACSIMILE: (404) 898-8844 EMAIL: N/A	BOND DEBT				\$34,400,000.00
8	VERIZON 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036	ATTN: GENERAL COUNSEL TELEPHONE: 212-395-1000 FAX: 212-517-1897 EMAIL: CRAIG.SILLIMAN@VERIZON.COM	TRADE				\$34,054,820.00
9	AT&T PRO CABS 208 SOUTH AKARD STREET DALLAS, TX 75202	ATTN: GENERAL COUNSEL TELEPHONE: 210-821-4105 FAX: 210-351-2198 EMAIL: DAVID.MCATEE@ATT.COM; WW0118@ATT.COM	TRADE				\$8,802,645 .00
10	GLOBE COMMUNICATIONS INC. 950 48TH AVE NORTH SUITE 100 MYRTLE BEACH, SC 29577	ATTN: DIRECTOR OR OFFICER TELEPHONE: 843- 839-5544 FAX: 843-839-5545 EMAIL: RUSTYLUNDY@GLOBEINC.COM	TRADE				\$8,368,733.00
11	BELLSOUTH PRO CABS 600 N POINT PKWY ALPHARETTA, GA 30005	ATTN: ROC-CABS TELEPHONE: 555-555-5555; 404-249-2000 FAX: 404-249-2071 EMAIL: RT2547@ATT.COM	TRADE				\$7,467,897.00
12	CENTURYLINK 100 CENTURYLINK DRIVE MONROE, LA 71203	ATTN: GENERAL COUNSEL TELEPHONE: 318-388-9000 FAX: 318-388-9064 EMAIL: STACEY.GOFF@CENTURYLINK.COM	TRADE				\$7,028,123.00
13	FRONTIER 401 MERRITT 7 NORWALK, CT 06851	ATTN: GENERAL COUNSEL TELEPHONE: 203-614-5600 FAX: 203-614-4651 EMAIL: MARK.NIELSEN@FTR.COM	TRADE				\$6,892,743.00
14	LEC SERVICES INC. 138 VAN CAMP BLVD LOS LUNAS, NM 87031	ATTN: DIRECTOR OR OFFICER TELEPHONE: 505-301-3404 FAX: N/A EMAIL: DSCROSSLEY@ISP.COM	TRADE				\$6,582,326.00
15	INFINERA 140 CASPIAN COURT SUNNYVALE, CA 94089	ATTN: DIRECTOR OR OFFICER TELEPHONE: 408-572-5200 FAX: 408-572-5454 EMAIL: DHEARD@INFINERA.COM	TRADE				\$6,081,389.00
16	TRIPLE D COMMUNICATIONS 3006 PARK CENTRAL AVENUE NICHOLASVILLE, KY 40356	ATTN: DANNY WHITE TELEPHONE: 859-887-4683 FAX: 859-885-9824 EMAIL: DWHITE@TRIPLEDLLC.COM	TRADE				\$5,928,006.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
17	VELOCLOUD NETWORKS INC. 3429 HILLVIEW AVE PALO ALTO, CA 94304	ATTN: VMWARE HILLTOP TELEPHONE: 650-209-4180 FAX: 650-475-5001 EMAIL: AOLLI@VMWARE.COM; CONTACT@VELOCLOUD.COM	TRADE				\$5,598,590.00
18	ELEMENT - FKA PHH 655 BUSINESS CENTER DRIVE SUITE 250 HORSHAM, PA 19044	ATTN: DIRECTOR OR OFFICER TELEPHONE: 267-960-4000 FAX: 267-960-4001 EMAIL: N/A	TRADE				\$5,435,197.00
19	TRAWICK CONSTRUCTION CO 1555 SOUTH BOULEVARD CHIPLEY, FL 32428-1626	ATTN: DIRECTOR OR OFFICER TELEPHONE: 850-638-0429 FAX: 850-638-8373 EMAIL: DOUG.TRAWICK@TRAWICKCONST RUCTION.COM	TRADE				\$5,418,813.00
20	ADTRAN 901 EXPLORER BOULEVARD HUNTSVILLE, AL 35806	ATTN: DIRECTOR OR OFFICER TELEPHONE: 256-963-8000 FAX: 256-963-6300 EMAIL: KEITH.KALMAN@ADTRAN.COM	TRADE				\$5,279,202.00
21	LEVEL 3 COMMUNICATIONS, LLC GENERAL COUNSEL BROOMFIELD, CO 80021	ATTN: C/O CENTURYLINK TELEPHONE: 720-888-2750 FAX: 720-888-5422 EMAIL: STACEY.GOFF@CENTURYLINK.CO M	TRADE				\$5,211,613.00
22	LIGHTOWER FIBER NETWORKS 80 CENTRAL STREET BOXBOROUGH, MA 01719	ATTN: DIRECTOR OR OFFICER TELEPHONE: 978-264-6000 FAX: 978-264-6100 EMAIL: ESANDMAN@LIGHTOWER.COM	TRADE				\$4,721,163.00
23	MICROSOFT ONE MICROSOFT WAY REDMOND, WA 98052	ATTN: DIRECTOR OR OFFICER TELEPHONE: 425-882-8080 FAX: 425-706-7329 EMAIL: BUSCOND@MICROSOFT.COM	TRADE				\$4,519,318.00
24	QWEST CORP GENERAL COUNSEL MONROE, LA 71203	ATTN: C/O CENTURYLINK TELEPHONE: 318-388-9000 FAX: 318-388-9064 EMAIL: STACEY.GOFF@CENTURYLINK.CO M	TRADE				\$4,484,967.00
25	GENERAL DATATECH LP 999 METROMEDIA PLACE DALLAS, TX 75247	ATTN: DIRECTOR OR OFFICER TELEPHONE: 214-857-6165; 214-857-6100 FAX: 214-857-6500 EMAIL: EBLATARIC@GDT.COM	TRADE				\$4,118,389.00
26	FORSYTHE SOLUTIONS GROUP INC. 7770 FRONTAGE ROAD SKOKIE, IL 60077	ATTN: DIRECTOR OR OFFICER TELEPHONE: 847-213-7000 FAX: 847-675-8017 EMAIL: THOFFMAN@FORSYTHE.COM	TRADE				\$3,855,195.00
27	ACTIONTEC ELECTRONICS 3301 OLCOTT ST SANTA CLARA, CA 95054	ATTN: TONG KHUC, VP TELEPHONE: 408-548-4762 FAX: 408-541-9003 EMAIL: TKHUC@ACTIONTEC.COM	TRADE				\$3,757,838.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
28	TIME WARNER CABLE 400 ATLANTIC STREET, CT, ROOM 407 STAMFORD, CT 06901	ATTN: LEGAL DEPARTMENT TELEPHONE: 203-428-0281 FAX: 212-364-8460 EMAIL: SERENA.PARKER@CHARTER.COM	TRADE				\$3,591,108.00
29	EXCLUSIVE NETWORKS USA 2075 ZANKER ROAD SAN JOSE, CA 95131	ATTN: FRED SILVERMAN TELEPHONE: 954-782-6056 FAX: 408-943-9198 EMAIL: FSILVERMAN@EXCLUSIVE-NETWORKS.COM	TRADE				\$3,466,808.00
30	T3 WIRELESS INC 220 W MAIN STREET COUNCIL GROVE, KS 66846	ATTN: CHRIS CROWE, PRESIDENT TELEPHONE: 214-228-0930; 620-767-7193 FAX: 661-458-2329 EMAIL: INFO@T3WIRELESS.NET	TRADE				\$3,459,329.00
31	ZAYO 1821 30TH STREET UNIT A BOULDER, CO 80301	ATTN: DIRECTOR OR OFFICER TELEPHONE: 303-381-4683 FAX: N/A EMAIL: BRAD.KORCH@ZAYO.COM; SHIRA.COOKS@ZAYO.COM	TRADE				\$3,219,650.00
32	EQUINIX INC. 4252 SOLUTIONS CENTER CHICAGO, IL 60677-4002	ATTN: DIRECTOR OR OFFICER TELEPHONE: 650-598-6000 FAX: 650-598-6900 EMAIL: COLLECTIONS@EQUINIX.COM	TRADE				\$2,997,406.00
33	CIENA CORP 7035 RIDGE ROAD HANOVER, MD 21076	ATTN: DIRECTOR OR OFFICER TELEPHONE: 410-694-5700 FAX: 410-694-5750 EMAIL: N/A	TRADE				\$2,952,217.00
34	CBRE INC. 400 S HOPE STREET LOS ANGELES, CA 90071	ATTN: DIRECTOR OR OFFICER TELEPHONE: 213-613-3333 FAX: 216-613-3005 EMAIL: CORPCOMM@CBRE.COM; LEW.HORNE@CBRE.COM	TRADE				\$2,885,755.00
35	BELLSOUTH 600 N POINT PKWY ALPHARETTA, GA 30005	ATTN: ROC-CABS TELEPHONE: 404-249-2000 FAX: 404-249-2071 EMAIL: RT2547@ATT.COM	TRADE				\$2,596,089.00
36	MP NEXLEVEL LLC 500 COUNTY RD 37 E MAPLE LAKE, MN 55358	ATTN: DIRECTOR OR OFFICER TELEPHONE: 320-963-2410; 320-963-2400 FAX: 320-963-2438 EMAIL: N/A	TRADE				\$2,430,702.00
37	ENSONO LP 3333 FINLEY ROAD DOWNERS GROVE, IL 60515	ATTN: DIRECTOR OR OFFICER TELEPHONE: 630-944-9337 FAX: 630-944-1432 EMAIL: JUDY.RASMUSSEN@ENSONO.COM; RICHARD.DRESDEN@ENSONO.COM	TRADE				\$2,161,902.00
38	FIBERTECH NETWORKS LLC 300 MERIDAN CENTRE ROCHESTER, NY 14618	ATTN: ACCOUNTS RECEIVABLE TELEPHONE: 585-697-5100 FAX: 585-442-8845 EMAIL: BDANGLER@FIBERTECH.COM	TRADE				\$2,133,547.00

	Name of creditor and complete mailing address, including zip code	Name, telephone number and email address of creditor contact	Nature of claim  (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of claim  If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
					Total claim, if partially secured	Deduction for value of collateral or setoff [1]	Unsecured Claim
39	METASWITCH NETWORKS 12007 SUNRISE VALLEY DR. STE 250 RESTON, VA 20191	ATTN: LEGAL DEPARTMENT TELEPHONE: 703-480-0500 FAX: 703-480-0499 EMAIL: N/A	TRADE				\$2,118,722.00
40	CONDUENT COMMERCIAL SOLUTIONS LLC 100 CAMPUS DRIVE FLORHAM PARK, NJ 07932	ATTN: DIRECTOR OR OFFICER TELEPHONE: 844-663-2638 FAX: N/A EMAIL: N/A	TRADE				\$2,083,394.00
41	PRODAPT 7565 SW MOHAWK STREET BUILDING M TUALATIN, OR 97062	ATTN: HEADQUARTERS TELEPHONE: 503-636-3737 FAX: 503-885-0850 EMAIL: N/A	TRADE				\$2,016,429.00
42	OUTPUT SERVICES GROUP BILLING SERVICES 100 CHALLENGER ROAD SUITE 303 RIDGEFIELD PARK, NJ 07660	ATTN: DIRECTOR OR OFFICER TELEPHONE: 201-871-1100 FAX: 201-871-3350 EMAIL: INFO@OSGBILLING.COM	TRADE				\$1,980,488.00
43	FAST TRACK CONSTRUCTION 1919 SW LOOP 304 CROCKETT, TX 75835	ATTN: DIRECTOR OR OFFICER TELEPHONE: 936-545-1506 FAX: 936-545-1598 EMAIL: CAROLYN@FASTTRACKTEXAS.COM	TRADE				\$1,804,801.00
44	COMCAST COMCAST CENTER PHILADELPHIA, PA 19103	ATTN: COMCAST CORPORATION TELEPHONE: FAX: 215-981-7790 EMAIL: N/A	TRADE				\$1,786,797.00
45	HOUSLEY COMMUNICATIONS INC. 3550 SOUTH BRYANT BOULEVARD SAN ANGELO, TX 76903	ATTN: DIRECTOR OR OFFICER TELEPHONE: 325-944-9905 FAX: 325-944-1781 EMAIL: INFO@HC-INC.COM	TRADE				\$1,715,204.00
46	TATA CONSULTANCY SERVICES LIMITED 379 THORNAL STREET 4TH FLOOR EDISON, NJ 08837	ATTN: JANARTHANAN ANGIYA TELEPHONE: 469-230-8743 FAX: 212-867-8652 EMAIL: N/A	TRADE				\$1,562,096.00
47	MITELTECHNOLOGIES INC. 1615 SOUTH 52ND STREET TEMPE, AZ 85281	ATTN: DIRECTOR OR OFFICER TELEPHONE: 480-449-8900 FAX: 480-449-8901 EMAIL: N/A	TRADE				\$1,526,652.00
48	USIC INC. 9045 NORTH RIVER ROAD INDIANAPOLIS, IN 46240	ATTN: DIRECTOR OR OFFICER TELEPHONE: 317-575-7800 FAX: 317-575-7881 EMAIL: N/A	TRADE				\$1,477,432.00
49	COMMSCOPE TECHNOLOGIES LLC 1100 COMMSCOPE PLACE, SE HICKORY, NC 28602-3619	ATTN: DIRECTOR OR OFFICER TELEPHONE: 828-324-2200 FAX: 828-323-4849 EMAIL: N/A	TRADE				\$1,426,259.00
50	COX COMMUNICATIONS 1400 LAKE HEARN DRIVE ATLANTA, GA 30319	ATTN: DIRECTOR OR OFFICER TELEPHONE: 866-961-0027 FAX: 404-843-5280 EMAIL: COXCORP.CUSTOMERRELATIONS@COX.COM; VICTOR.COOPER@COX.COM	TRADE				\$1,396,561.00

Fill in this information to identify the case and this filing:	
Debtor Name	Windstream Georgia Communications, LLC
United States Bankruptcy Court for the:	Southern District of New York
Case number (If known):	(State)

Official Form 202  
**Declaration Under Penalty of Perjury for Non-Individual Debtors** 12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

**WARNING --** Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**Declaration and signature**

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

02/25/2019  
MM/ DD/YYYY

☒ /s/ Kristi M. Moody

Signature of individual signing on behalf of debtor

Kristi M. Moody

Printed name

Authorized Officer

Position or relationship to debtor

## UNANIMOUS WRITTEN CONSENT IN LIEU OF A MEETING

February 24, 2019

The undersigned, being the members of the board of directors, members of the board of managers, members of the board of governors, individual managers, sole managers, sole governors, and sole members (each, a “Board” and collectively, the “Boards”), as applicable, of each entity set forth in Annex A attached hereto (each, a “Company” and collectively, the “Companies”), in lieu of holding a meeting of the board of directors, board of managers, board of governors, or members as applicable, hereby take the following actions and adopt the following resolutions by unanimous written consent pursuant to each such Company’s bylaws, limited liability company agreement, or operating agreement, as applicable, and the applicable laws of the jurisdiction in which such Company is organized:

**WHEREAS**, the respective Board of each Company considered presentations by management and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of the Companies, the strategic alternatives available, and the effect of the foregoing on such Companies’ businesses and the businesses of such Companies’ subsidiaries;

**WHEREAS**, the respective Board of each Company has had the opportunity to consult with management and the financial and legal advisors of such Company and to fully consider each of the strategic alternatives available to such Company; and

**WHEREAS**, the respective Board of each Company has determined, in the judgment of such Board, that the following resolutions are advisable and in the best interests of the Companies, their subsidiaries, their creditors, and other parties in interest.

**NOW, THEREFORE, BE IT:**

### **CHAPTER 11 FILING**

**RESOLVED**, that in the judgment of the respective Board of each Company, it is desirable and in the best interests of the Companies, its creditors, and other parties in interest, that such Company shall be, and hereby is, authorized to file or cause to be filed a voluntary petition for relief (such voluntary petition, and the voluntary petitions to be filed by each Company, collectively, the “Chapter 11 Cases”) under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) or other court of competent jurisdiction; and

**RESOLVED FURTHER**, that the duly appointed officers of each Company (collectively, the “Authorized Officers”), acting alone or with one or more other Authorized Officers be, and each of them hereby is, authorized, empowered, and directed to execute and file on behalf of such Company all petitions, schedules, lists, and other motions, objections, replies, applications, papers, or documents, and to take any and all action that they deem necessary, appropriate, or desirable to obtain such relief, including, without limitation, any action necessary, appropriate, or desirable to maintain the ordinary course operation of such Company’s businesses or to assist such Company in the Chapter 11 Cases and in carrying out its duties under the provisions of the Bankruptcy Code.

#### **RETENTION OF PROFESSIONALS**

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the law firm of Kirkland & Ellis LLP, as general bankruptcy counsel, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company’s rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain Kirkland & Ellis LLP in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of PJT Partners LP, as financial advisor and investment banker, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company’s rights and obligations; and in connection therewith, each of the Authorized Officers is, with power of delegation, hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain PJT Partners LP in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of Alvarez & Marsal North America, LLC, as restructuring advisor, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each of such Company's rights and obligations; and in connection therewith, each of the Authorized Officers is, with power of delegation, hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain Alvarez & Marsal North America, LLC in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ the firm of Kurtzman Carson Consultants, as notice, claims, and balloting agent, to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance such Company's rights and obligations; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kurtzman Carson Consultants LLC in accordance with applicable law; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Officers, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, objections, replies, applications, pleadings, lists, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, investment bankers, financial advisors, restructuring advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Officers deem necessary, proper, or desirable in connection with each Company's Chapter 11 case, with a view to the successful prosecution of the case.



### **CASH COLLATERAL**

**RESOLVED FURTHER**, that to the extent applicable to each Company, in the judgment of the Board, it is desirable and in the best interest of such Company, its interest holders, its creditors, and other parties in interest, to obtain the benefits from the use of cash collateral (the “Cash Collateral,” as such term is defined in section 363(a) of the Bankruptcy Code), which is security for certain of the Company’s prepetition secured lenders under certain credit facilities by and among the Company, the guarantors party thereto, and the lenders party thereto (the “Prepetition Secured Lenders”); and

**RESOLVED FURTHER**, that to the extent applicable to each Company, the Authorized Officers be, and hereby are, authorized, directed and empowered in the name of, and on behalf of, such Company to seek approval of the use of cash collateral pursuant to a cash collateral order in interim and final form (a “Cash Collateral Order”), and, to the extent applicable to each Company, any Authorized Officer be, and hereby is, authorized, empowered, and directed to negotiate, execute (under the common seal of the Company, if appropriate), and deliver any and all agreements, instruments, or documents, by or on behalf of the Company, necessary or advisable to implement the Cash Collateral Order, including providing for adequate protection to the Prepetition Secured Lenders in accordance with section 363 of the Bankruptcy Code, as well as any additional or further agreements for the use of cash collateral in connection with the Company’s chapter 11 cases, which agreement(s) may require each Company to grant adequate protection and security interests to the Prepetition Secured Lenders and each other agreement, instrument, or document to be executed and delivered in connection therewith, by or on behalf of each Company pursuant thereto or in connection therewith, all with such changes therein and additions thereto as any Authorized Officer in his absolute discretion approves, such approval to be conclusively evidenced by the taking of such action or by the execution and delivery thereof; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to execute (under the common seal of the Company, if appropriate) and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions, and extensions of the Cash Collateral Order or to do such other things which shall in his/her absolute discretion be necessary, desirable, proper, or advisable to give effect

to the foregoing resolutions, which determination shall be conclusively evidenced by his or their execution thereof.

### **DEBTOR-IN-POSSESSION FINANCING**

**WHEREAS**, reference is made to those certain debtor-in-possession financing proposals that set forth the terms and conditions of the debtor-in-possession financing to be provided to the Companies (the “Borrowers”) by the lenders listed therein (the “DIP Lenders”); and

**WHEREAS**, the Borrowers have requested that the DIP Lenders provide senior secured debtor-in-possession credit facilities (together, the “DIP Facilities”) to the Companies; and

**WHEREAS**, each Company will obtain benefits from the incurrence of the DIP Obligations (as defined below), and it is advisable and in the best interest of each Company to enter into the DIP Loan Documents (as defined below), and to perform its obligations thereunder, including granting security interests in all or substantially all of its assets; and

**WHEREAS**, the obligation of the DIP Lenders to make the extensions of credit to the Borrowers under the DIP Facilities is subject to, among other things, each Company entering into a binding credit agreement and/or commitment letters with the DIP Lenders and one or more agents acting on behalf of the DIP Lenders (the “DIP Agents”) (collectively with any other documents and agreements related thereto or contemplated thereunder, including and any documents, instruments or certificates as may be reasonably requested by the DIP Agents (as defined below), the “DIP Loan Documents”), and otherwise satisfying certain conditions in connection therewith (the obligations thereunder, the “DIP Obligations”); and

**WHEREAS**, the Borrowers and the DIP Lenders are continuing negotiations regarding the final form of the DIP Loan Documents.

**NOW, THEREFORE, BE IT RESOLVED**, that the form, terms and provisions of the DIP Loan Documents presently before the Boards, and the transactions contemplated thereunder (including, without limitation, the borrowings and the incurrence of the DIP Obligations thereunder), and the guaranties, liabilities, obligations, security interest granted and notes issued, if any, in connection therewith, be and hereby are authorized, adopted and approved, subject to such changes, additions, and modifications thereto as an

Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by an Authorized Officer's execution and delivery thereof; and

**RESOLVED FURTHER**, that each Company will obtain benefits from its entry into the DIP Loan Documents and incurrence and performance of the DIP Obligations thereunder and it is advisable and in the best interest of each Company to enter into the DIP Loan Documents, and to perform its obligations thereunder, including granting security interests in all or substantially all of its assets; and

**RESOLVED FURTHER**, that each Company shall be, and hereby is, authorized to enter into the DIP Loan Documents and incur the DIP Obligations, and the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized and empowered to execute and deliver the DIP Loan Documents, with such changes, additions, and modifications thereto as an Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by an Authorized Officer's execution and delivery thereof; and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, in the name and on behalf of each Company, to assign, transfer, pledge and grant to the DIP Agents, for the ratable benefit of the respective or applicable DIP Lenders, a security interest in all or substantially all the assets of such Company, as collateral security for the prompt and complete payment and performance when due of the DIP Obligations under the documents to which such Company is a party and to take or cause to be taken any such actions as may be necessary, appropriate or desirable to cause each Company to create, perfect and maintain a security interest in each Company's property or assets constituting "Collateral" as described or contemplated in the DIP Loan Documents (the "Collateral"); and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, in the name and on behalf of each Company, to enter into the guarantees as described or contemplated by the DIP Loan Documents or any other documents, certificates, instruments, agreements, intercreditor agreements, any extension amendment or any incremental agreement required to consummate the transactions contemplated by the DIP Loan Documents and perform its obligations thereunder and to guarantee the payment and

performance of the DIP Obligations of the Borrowers and any other guarantor thereunder; and

**RESOLVED FURTHER**, that the DIP Agents are authorized to file or record financing statements and other filing or recording documents or instruments with respect to the Collateral without the signature of each Company in such form and in such offices as such DIP Agent determines appropriate to perfect the security interests of the DIP Lenders granted under the DIP Loan Documents. The DIP Agents are authorized to use the collateral description “all assets” or “all or substantially all personal property assets” or any similar description in any such financing statements; and

**RESOLVED FURTHER**, that the Authorized Officers, acting alone or with one or more Authorized Officers, be, and hereby are, authorized, empowered and directed in the name of, and on behalf of, each Company to seek authorization to incur the DIP Obligations and to seek approval of the use of cash collateral pursuant to a postpetition financing order in interim and final form, and any Authorized Officer be, and hereby is, authorized, empowered, and directed to negotiate, execute, and deliver any and all agreements, instruments, or documents, by or on behalf of each Company, necessary to implement the postpetition financing, including providing for adequate protection to the Prepetition Secured Lenders in accordance with section 363 of the Bankruptcy Code, as well as any additional or further agreements for entry into the DIP Loan Documents and the use of cash collateral in connection with each Company’s Chapter 11 Cases, which agreements may require each Company to grant adequate protection and liens to each Company’s Prepetition Secured Lenders and each other agreement, instrument, or document to be executed and delivered in connection therewith, by or on behalf of each Company pursuant thereto or in connection therewith, all with such changes therein and additions thereto as any Authorized Officer approves, such approval to be conclusively evidenced by the taking of such action or by the execution and delivery thereof; and

**RESOLVED FURTHER**, that any Authorized Officer or other officer of each Company is hereby authorized, empowered, and directed, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, each of the transactions contemplated by the DIP Loan Documents and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party or any order entered into in connection with the

Chapter 11 Cases (collectively, and together with the DIP Credit Agreement and the other DIP Loan Documents, the “Financing Documents”), incur and pay or cause to be paid all related fees and expenses, with such changes, additions, and modifications thereto as an Authorized Officer executing the same shall approve; and

**RESOLVED FURTHER**, that each Company, as debtor and debtor-in-possession under the Bankruptcy Code be, and hereby is, authorized, empowered, and directed to incur any and all obligations and to undertake any and all related transactions on substantially the same terms as contemplated under the Financing Documents (collectively, the “Financing Transactions”), including granting liens on its assets to secure such obligations; and

**RESOLVED FURTHER**, that each of the Authorized Officers be, and hereby is, authorized, empowered and directed in the name of, and on behalf of, each Company, to execute and deliver any amendments, supplements, modifications, renewals, replacements, consolidations, substitutions, and extensions of the postpetition financing or any of the Financing Documents or to do such other things which shall in their sole judgment be necessary, desirable, proper, or advisable in order to perform each Company’s DIP Obligations and to give effect to the foregoing resolutions, which determination shall be conclusively evidenced by his/her or their execution thereof.

#### **NO TERMINATION OF EXISTENCE**

**RESOLVED**, that notwithstanding any provision in the governing documents of any Company, no Company shall be automatically dissolved upon the filing of the voluntary petitions or any action taken in accordance with these resolutions.

**GENERAL**

**RESOLVED FURTHER**, that in addition to the specific authorizations heretofore conferred upon the Authorized Officers, each of the Authorized Officers (and their designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further action, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents and to pay all expenses, including but not limited to filing fees, in the case as in such officer's or officers' judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein; and

**RESOLVED FURTHER**, that each Company and the respective Board of each Company has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of such Company, or hereby waives any right to have received such notice; and

**RESOLVED FURTHER**, that all acts, actions, and transactions relating to the matters contemplated by the foregoing resolutions done in the name of and on behalf of each Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of such Company with the same force and effect as if each such act, transaction, agreement, or certificate has been specifically authorized in advance by resolution of the respective Board of each Company; and

**RESOLVED FURTHER**, that each of the Authorized Officers (and their designees and delegates) be, and hereby is, authorized and empowered to take all actions or to not take any action in the name of each Company with respect to the transactions contemplated by these resolutions hereunder as the sole shareholder, partner, member, managing member, or manager of each direct subsidiary of such Company, in each case, as such Authorized Officer shall deem necessary or desirable in such Authorized Officers' reasonable business judgment as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein; and

**RESOLVED FURTHER**, that to the extent any Company serves as the the sole member, general partner, managing member, equivalent manager, or other governing body (each, a "Controlling

Company”) of any other Company, each Authorized Officer, as applicable, is authorized, empowered and directed to take each of the actions described in these resolutions or any of the actions authorized by these resolutions on behalf of each such applicable Controlling Company; and

**RESOLVED FURTHER**, that this Action may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute but one and the same consent; and

**RESOLVED FURTHER**, that electronic or photostatic copies of signatures to this Action shall be deemed to be originals and may be relied on to the same extent as the originals; and

**RESOLVED FURTHER**, that the actions taken by this Action shall have the same force and effect as if taken at a meeting of the Board of each of the Companies, as applicable, duly called and constituted pursuant to each such Company’s bylaws, operating agreement, or limited liability company agreement, as applicable, and the applicable laws of the jurisdiction in which such Company is organized.

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned has executed this Action via Written Consent as of the date above first written.

By: Tony Thomas

Name: Tony Thomas

Title: Manager, Governor and Director

By: Kristi Moody

Name: Kristi Moody

Title: Manager, Governor and Director

**BEING THE MANAGERS, GOVERNOR, OR  
DIRECTOR, AS APPLICABLE, OF EACH  
ENTITY LISTED ON EXHIBIT A**

By: Kristi Moody

Name: Kristi Moody

Title: Senior/Vice President – General Counsel &  
Corporate Secretary

**AS OFFICER OF THE SOLE MEMBER OR SOLE  
SHAREHOLDER, AS APPLICABLE, OF EACH  
ENTITY LISTED ON EXHIBIT A**



**Exhibit A**

<b>COMPANY</b>	<b>JURISDICTION</b>
Allworx Corp.	DE
American Telephone Company, LLC	NY
ARC Networks, Inc.	DE
A.R.C. Networks, Inc.	NY
ATX Communications, Inc.	DE
ATX Licensing, Inc.	DE
ATX Telecommunications Services of Virginia, LLC	DE
Birmingham Data Link, LLC	AL
BOB, LLC	IL
Boston Retail Partners LLC	MA
BridgeCom Holdings, Inc.	DE
BridgeCom International, Inc.	DE
BridgeCom Solutions Group, Inc.	DE
Broadview Networks, Inc.	NY
Broadview Networks of Massachusetts, Inc.	DE
Broadview Networks of Virginia, Inc.	VA
Broadview NP Acquisition Corp.	DE
Buffalo Valley Management Services, Inc.	DE
Business Telecom of Virginia, Inc.	VA
Business Telecom, LLC	NC
BV-BC Acquisition Corporation	DE
Cavalier IP TV, LLC	DE
Cavalier Services, LLC	DE
Cavalier Telephone Mid-Atlantic, L.L.C.	DE
Cavalier Telephone, L.L.C.	VA
CCL Historical, Inc.	DE
Choice One Communications of Connecticut Inc.	DE
Choice One Communications of Maine Inc.	DE
Choice One Communications of Massachusetts Inc.	DE
Choice One Communications of New York Inc.	DE
Choice One Communications of Ohio Inc.	DE
Choice One Communications of Pennsylvania Inc.	DE
Choice One Communications of Rhode Island Inc.	DE
Choice One Communications Resale L.L.C.	DE
Choice One Communications of Vermont Inc.	DE
Choice One of New Hampshire, Inc.	DE
Cinergy Communications Company of Virginia, LLC	VA
Conestoga Enterprises, Inc.	PA
Conestoga Management Services, Inc.	DE
Conestoga Wireless Company	PA
Connecticut Broadband, LLC	CT

COMPANY	JURISDICTION
Connecticut Telephone & Communication Systems, Inc.	CT
Conversent Communications Long Distance, LLC	NH
Conversent Communications of Connecticut, LLC	CT
Conversent Communications of Maine, LLC	ME
Conversent Communications of Massachusetts, Inc.	MA
Conversent Communications of New Hampshire, LLC	NH
Conversent Communications of New Jersey, LLC	NJ
Conversent Communications of New York, LLC	NY
Conversent Communications of Pennsylvania, LLC	PA
Conversent Communications of Rhode Island, LLC	RI
Conversent Communications of Vermont, LLC	VT
Conversent Communications Resale L.L.C.	DE
CoreComm-ATX, Inc.	DE
CoreComm Communications, LLC	DE
CTC Communications Corporation	MA
CTC Communications of Virginia, Inc.	VA
D&E Communications, LLC	DE
D&E Management Services, Inc.	NV
D&E Networks, Inc.	PA
D&E Wireless, Inc.	PA
Deltacom, LLC	AL
Earthlink Business, LLC	DE
Earthlink Carrier, LLC	DE
Equity Leasing, Inc.	NV
Eureka Broadband Corporation	DE
Eureka Holdings, LLC	DE
Eureka Networks, LLC	DE
Eureka Telecom, Inc.	NY
Eureka Telecom of VA, Inc.	VA
Georgia Windstream, LLC	DE
Heart of the Lakes Cable Systems, Inc.	MN
Infocore, Inc.	PA
Info-Highway International, Inc.	TX
InfoHighway Communications Corporation	DE
InfoHighway of Virginia, Inc.	VA
Intellifiber Networks, LLC	VA
Iowa Telecom Data Services, L.C.	IA
Iowa Telecom Technologies, LLC	IA
IWA Services, LLC	IA
KDL Holdings, LLC	DE
LDMI Telecommunications, LLC	MI
Lightship Telecom, LLC	DE
MassComm, LLC	NY



COMPANY	JURISDICTION
WaveTel NC License Corporation	DE
WIN Sales & Leasing, Inc.	MN
Windstream Accucomm Networks, LLC	GA
Windstream Accucomm Telecommunications, LLC	GA
Windstream Alabama, LLC	AL
Windstream Arkansas, LLC	DE
Windstream Buffalo Valley, Inc.	PA
Windstream Business Holdings, LLC	DE
Windstream BV Holdings, LLC	DE
Windstream Cavalier, LLC	DE
Windstream Communications Kerrville, LLC	TX
Windstream Communications Telecom, LLC	TX
Windstream Communications, LLC	DE
Windstream Concord Telephone, LLC	NC
Windstream Conestoga, Inc.	PA
Windstream CTC Internet Services, Inc.	NC
Windstream D&E Systems, LLC	DE
Windstream D&E, Inc.	PA
Windstream Direct, LLC	MN
Windstream Eagle Holdings LLC	DE
Windstream Eagle Services, LLC	DE
Windstream EN-TEL, LLC	MN
Windstream Finance Corp	DE
Windstream Florida, LLC	FL
Windstream Georgia Communications, LLC	GA
Windstream Georgia Telephone, LLC	GA
Windstream Georgia, LLC	GA
Windstream Holding of the Midwest, Inc.	NE
Windstream Iowa Communications, LLC	DE
Windstream Iowa-Comm, LLC	IA
Windstream IT-Comm, LLC	IA
Windstream KDL, LLC	KY
Windstream KDL-VA, LLC	VA
Windstream Kentucky East, LLC	DE
Windstream Kentucky West, LLC	KY
Windstream Kerrville Long Distance, LLC	TX
Windstream Lakedale Link, Inc.	MN
Windstream Lakedale, Inc.	MN
Windstream Leasing, LLC	DE
Windstream Lexcom Communications, LLC	NC
Windstream Lexcom Entertainment, LLC	NC
Windstream Lexcom Long Distance, LLC	NC
Windstream Lexcom Wireless, LLC	NC

COMPANY	JURISDICTION
Windstream Mississippi, LLC	DE
Windstream Missouri, LLC	DE
Windstream Montezuma, LLC	IA
Windstream Nebraska, Inc.	DE
Windstream Network Services of the Midwest, Inc.	NE
Windstream New York, Inc.	NY
Windstream Norlight, LLC	KY
Windstream North Carolina, LLC	NC
Windstream NorthStar, LLC	MN
Windstream NTI, LLC	WI
Windstream NuVox Arkansas, LLC	DE
Windstream NuVox Illinois, LLC	DE
Windstream NuVox Indiana, LLC	DE
Windstream NuVox Kansas, LLC	DE
Windstream NuVox Missouri, LLC	DE
Windstream NuVox Ohio, LLC	DE
Windstream NuVox Oklahoma, LLC	DE
Windstream NuVox, LLC	DE
Windstream of the Midwest, Inc.	NE
Windstream Ohio, LLC	OH
Windstream Oklahoma, LLC	DE
Windstream Pennsylvania, LLC	DE
Windstream SHAL Networks, Inc.	MN
Windstream SHAL, LLC	MN
Windstream Shared Services, LLC	DE
Windstream South Carolina, LLC	SC
Windstream Southwest Long Distance, LLC	DE
Windstream Standard, LLC	GA
Windstream Sugar Land, LLC	TX
Windstream Supply, LLC	OH
Windstream Systems of the Midwest, Inc.	NE
Windstream Western Reserve, LLC	OH
Xeta Technologies, Inc.	OK

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**From:** Przulj, Nino  
**Sent:** Monday, May 13, 2019 4:24 PM  
**To:** Sims, Tami Kameda; Ross, Terence P.; Rochester, Shaya  
**Cc:** Kingston, John S.; Hockett, Brian W.; Nepple, Michael L.  
**Subject:** Charter Document Production

Counsel,

Please find a box link for additional document production from Charter:

<https://thompsoncoburn.box.com/s/2zwgswy797y0zfirjhjy2ujtf3yc70xi>

The link expires in four weeks. Password arriving separately.

Thanks,

Nino

**Nino Przulj**

nprzulj@thompsoncoburn.com

P: 314.552.6559

F: 314.552.7000

M: 314.602.6559

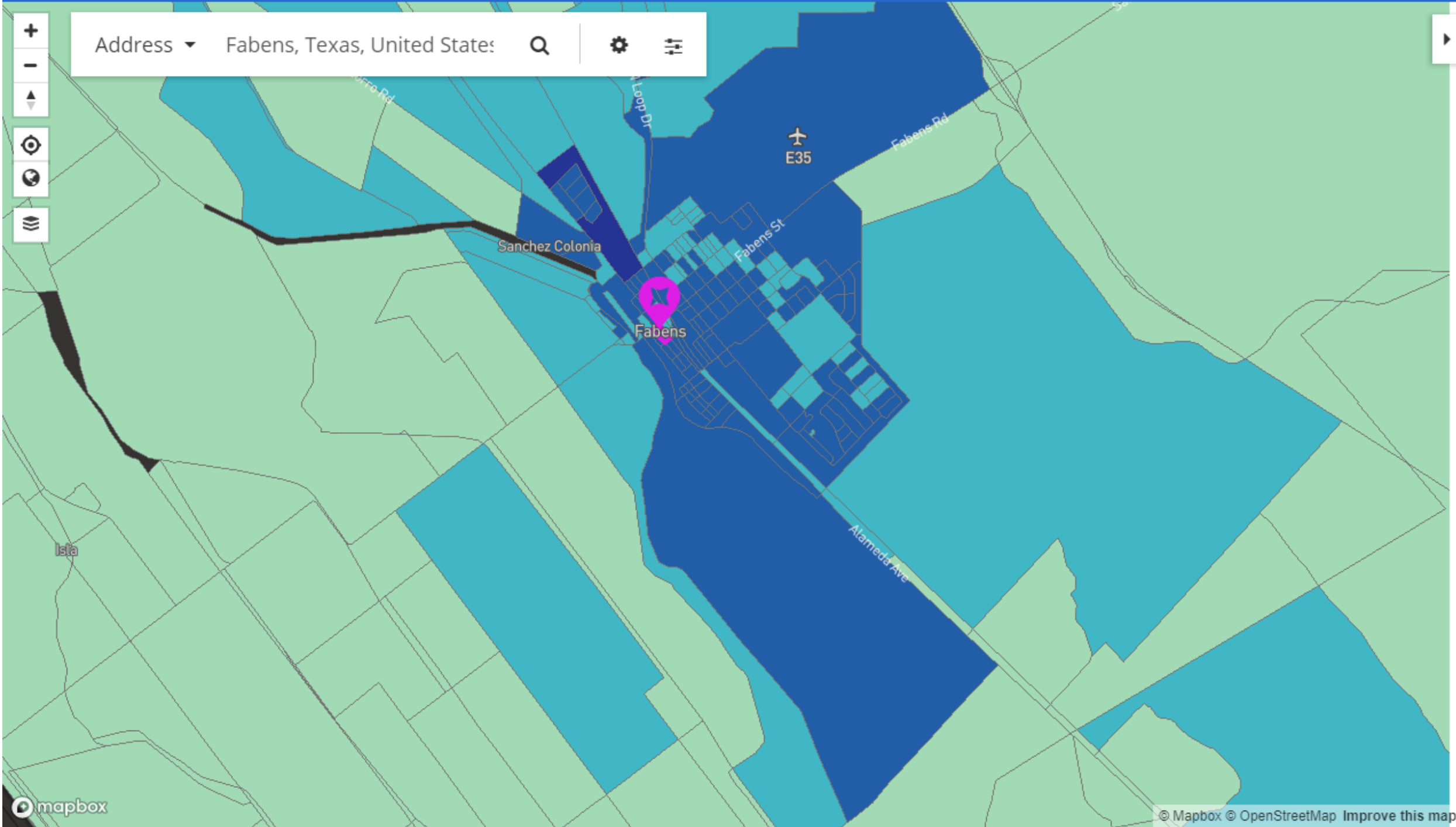
**Thompson Coburn LLP**

One US Bank Plaza

St. Louis, Missouri 63101

[www.thompsoncoburn.com](http://www.thompsoncoburn.com)





### All Providers Reporting Service

Census block ID: 481410105053000

**Number of Fixed Residential Broadband Providers**

Technology	Speed	Date
ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other	≥ 25/3 Mbps	Dec. 2017

**Broadband**

Provider	Tech	Down (Mbps)	Up (Mbps)
<a href="#">Charter Communications</a> Charter Communications, Inc.	Cable	120	10
<a href="#">Windstream Holdings, Inc.</a> Valor Telecommunications of Texas, LLC Valor Telecommunications of Texas, LP	ADSL	75	8
<a href="#">dishNET Holding, LLC</a>	Satellite	25	3
<a href="#">Huntleigh Technology Group, Inc.</a>	ADSL	6	0.768
ViaSat, Inc.	Satellite	5	1
<a href="#">VSAT Systems, LLC</a>	Satellite	2	1.3

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# View Service Provider Details



Get detailed information on as many as 3 service providers at a time. Type a provider name then select from the search suggestions.

Charter Communications

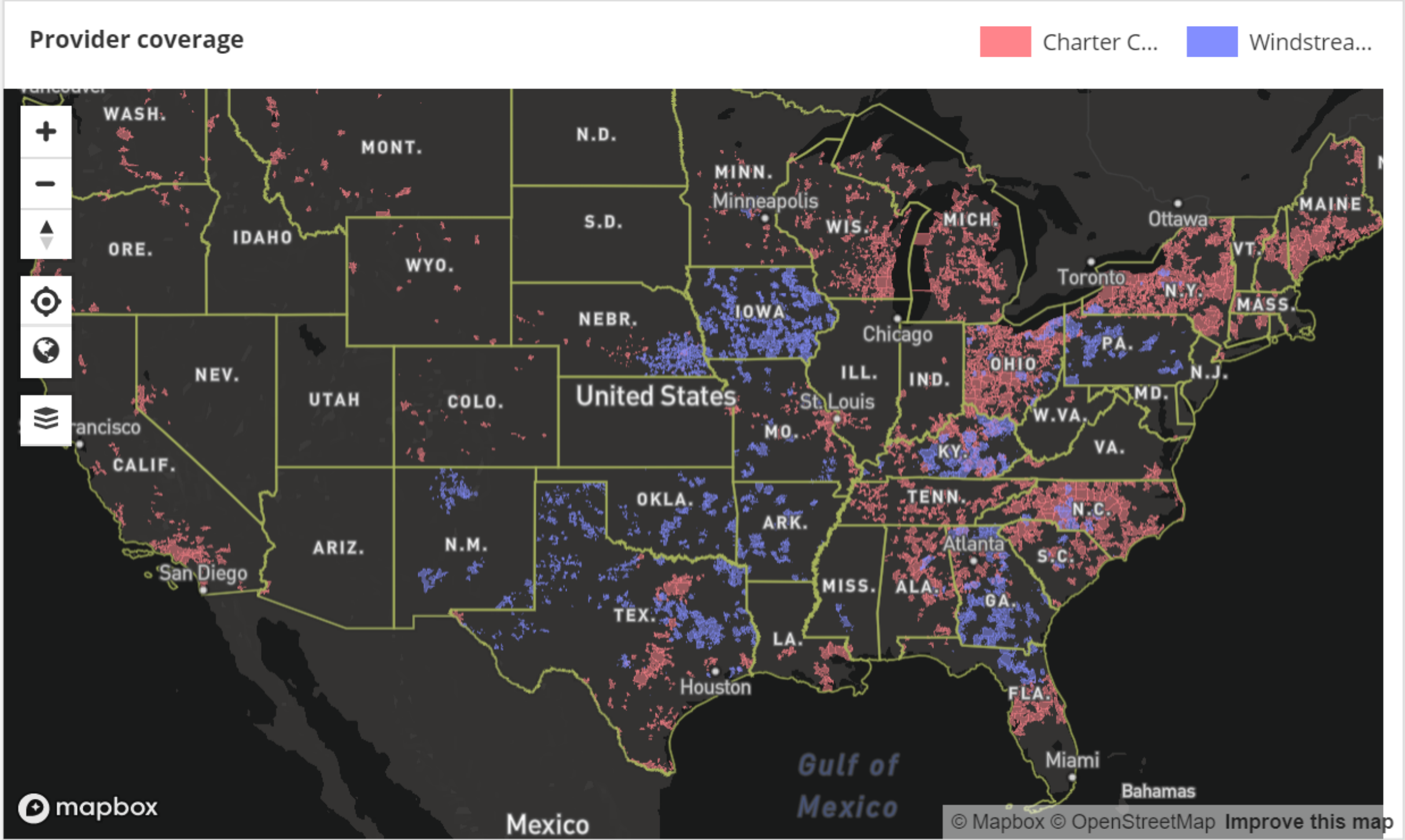
Windstream Holdings, Inc

+ Add Provider

View Details

## Provider coverage overlap and population coverage

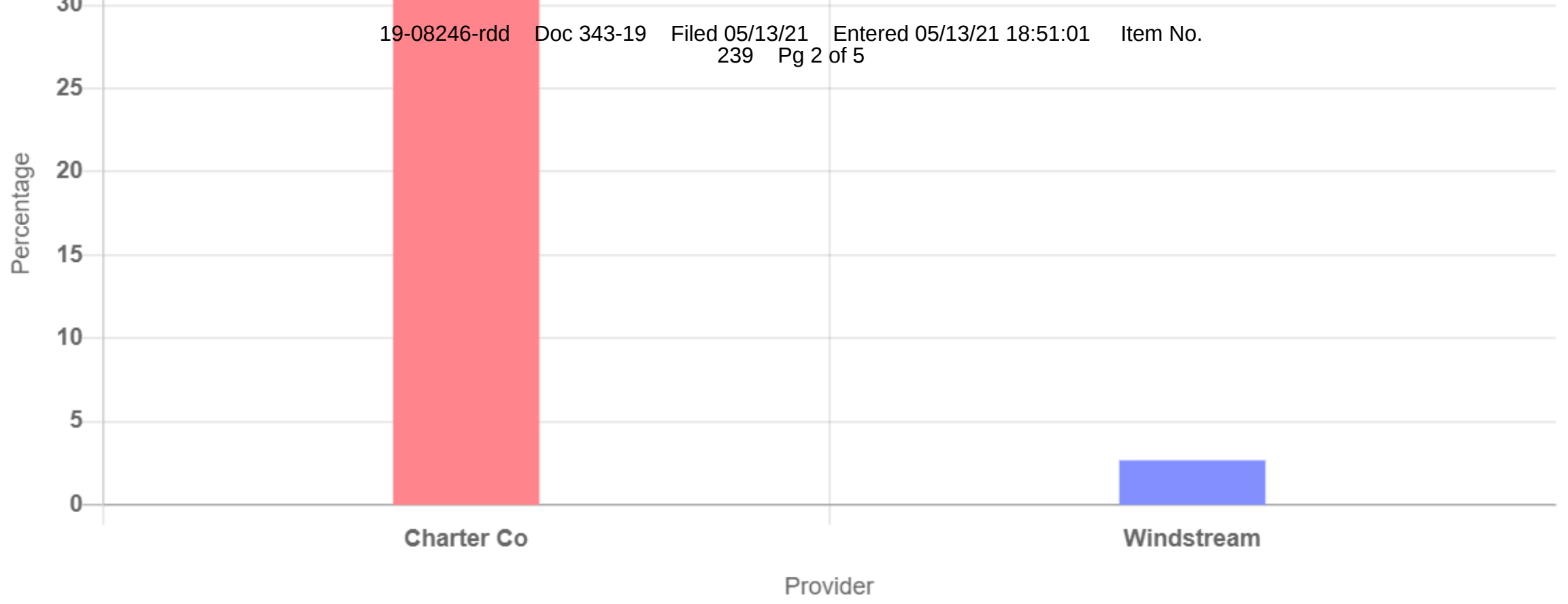
Date Dec. 2017



Percentage of the US population covered by selected provider(s)



Def Imp. 4.001



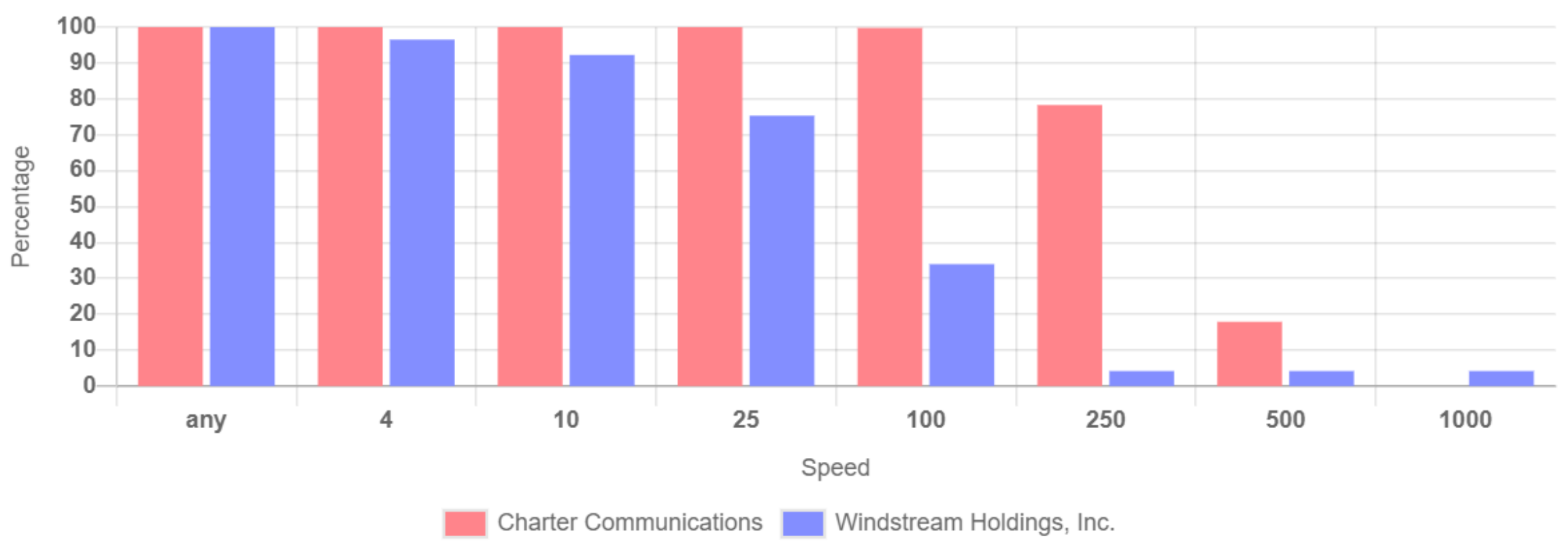
Percent of each provider's broadband footprint for different speeds and technologies

Speed: Download Upload

Date Dec. 2017

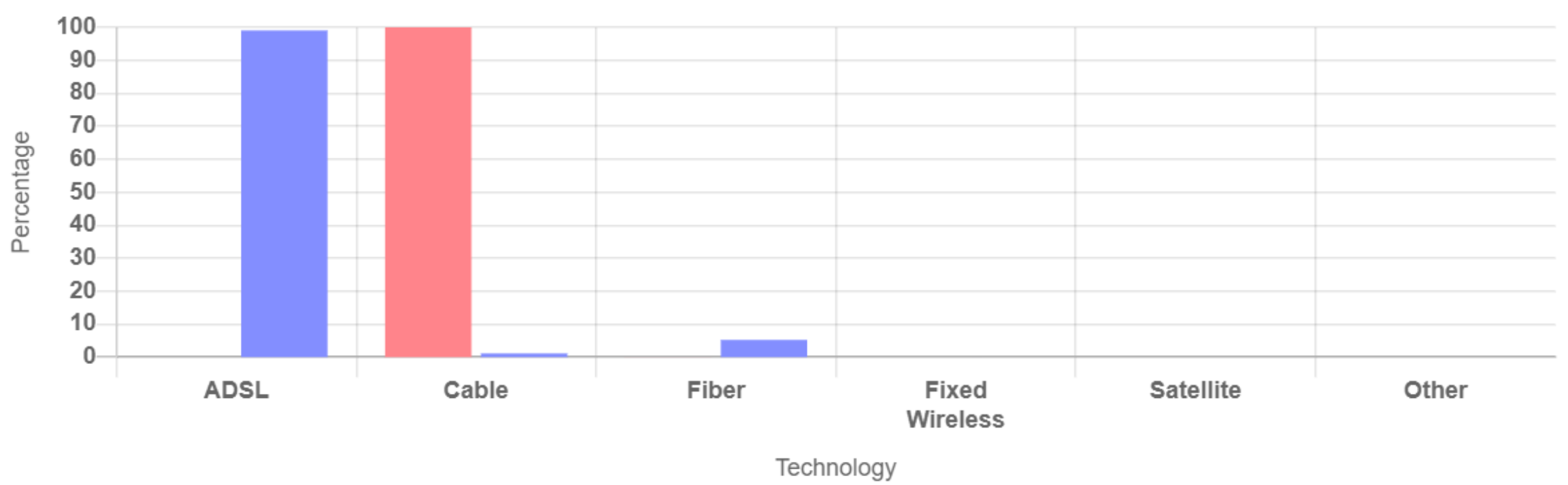
Speed (Any Technology)

Percentage of provider footprint for each speed



Technology (Any Speed)

Percentage of provider footprint for each technology



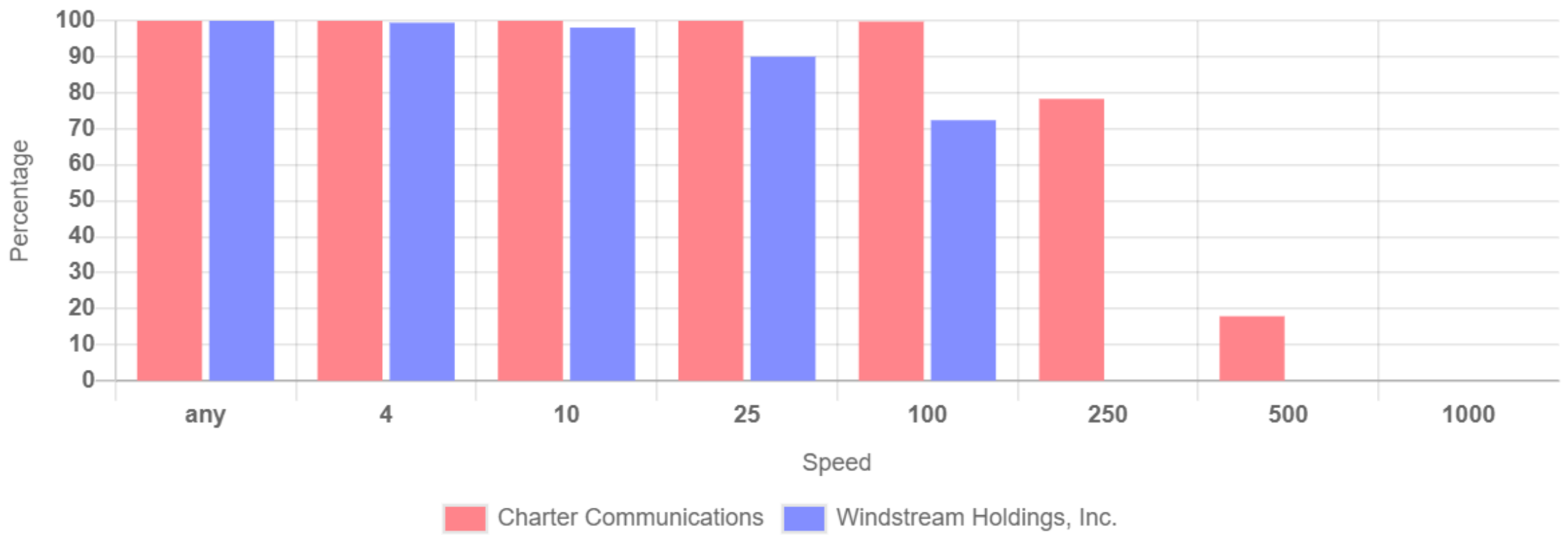
## ADSL

Percentage of provider footprint with ADSL and the indicated speed



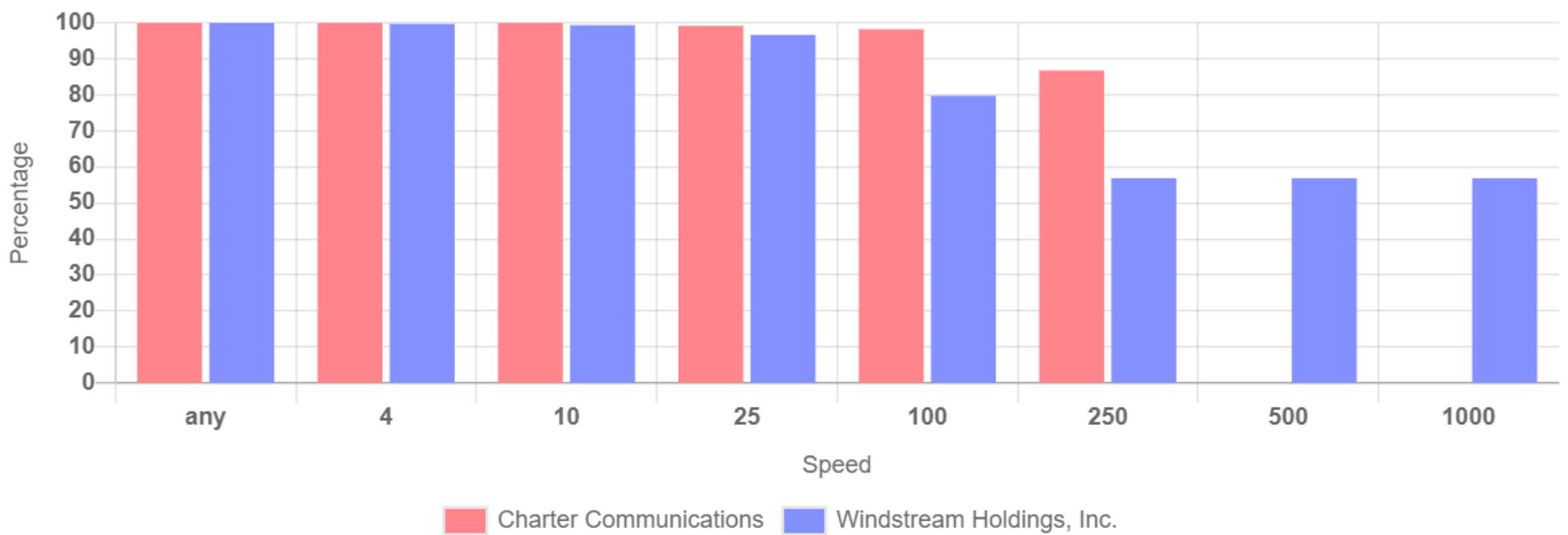
## Cable

Percentage of provider footprint with cable and the indicated speed



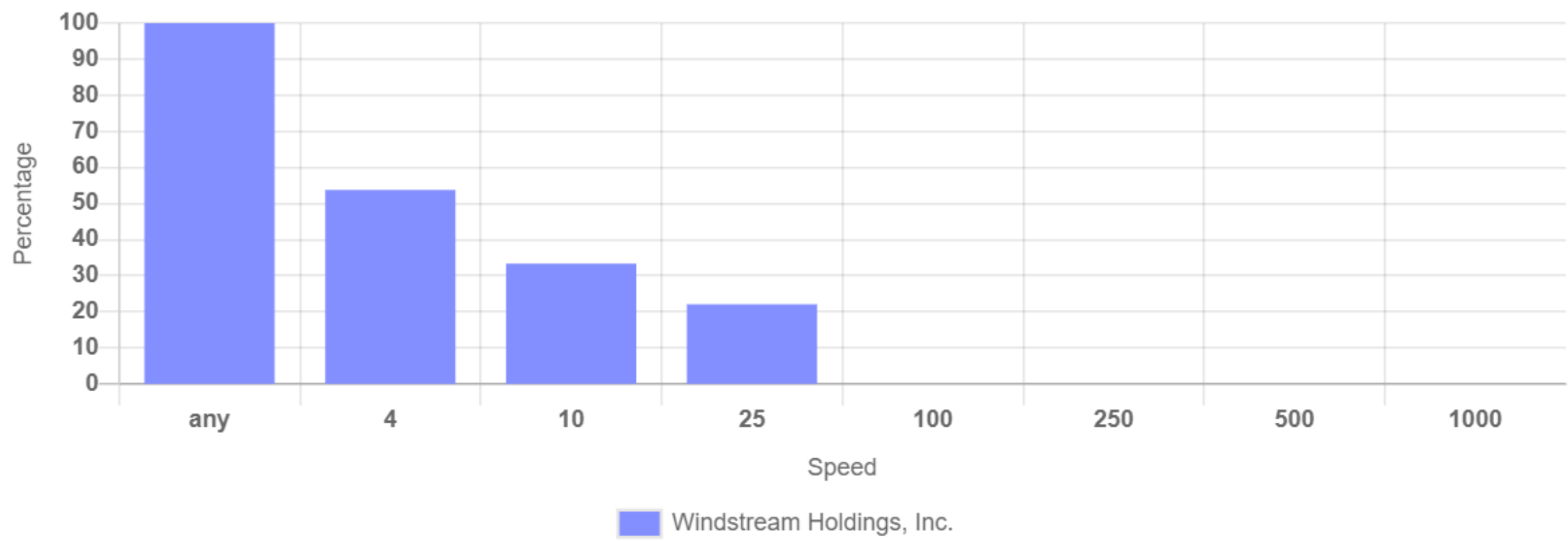
## Fiber

Percentage of provider footprint with fiber and the indicated speed



Fixed Wireless

Percentage of provider footprint with fixed wireless and the indicated speed



Satellite

Percentage of provider footprint with satellite and the indicated speed

Data not available.

Other

Percentage of provider footprint with other technology and the indicated speed

Data not available.



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20200409 - 13:34



# View Service Provider Details



Get detailed information on as many as 3 service providers at a time. Type a provider name then select from the search suggestions.

Charter Communications

×

Windstream Holdings, Inc

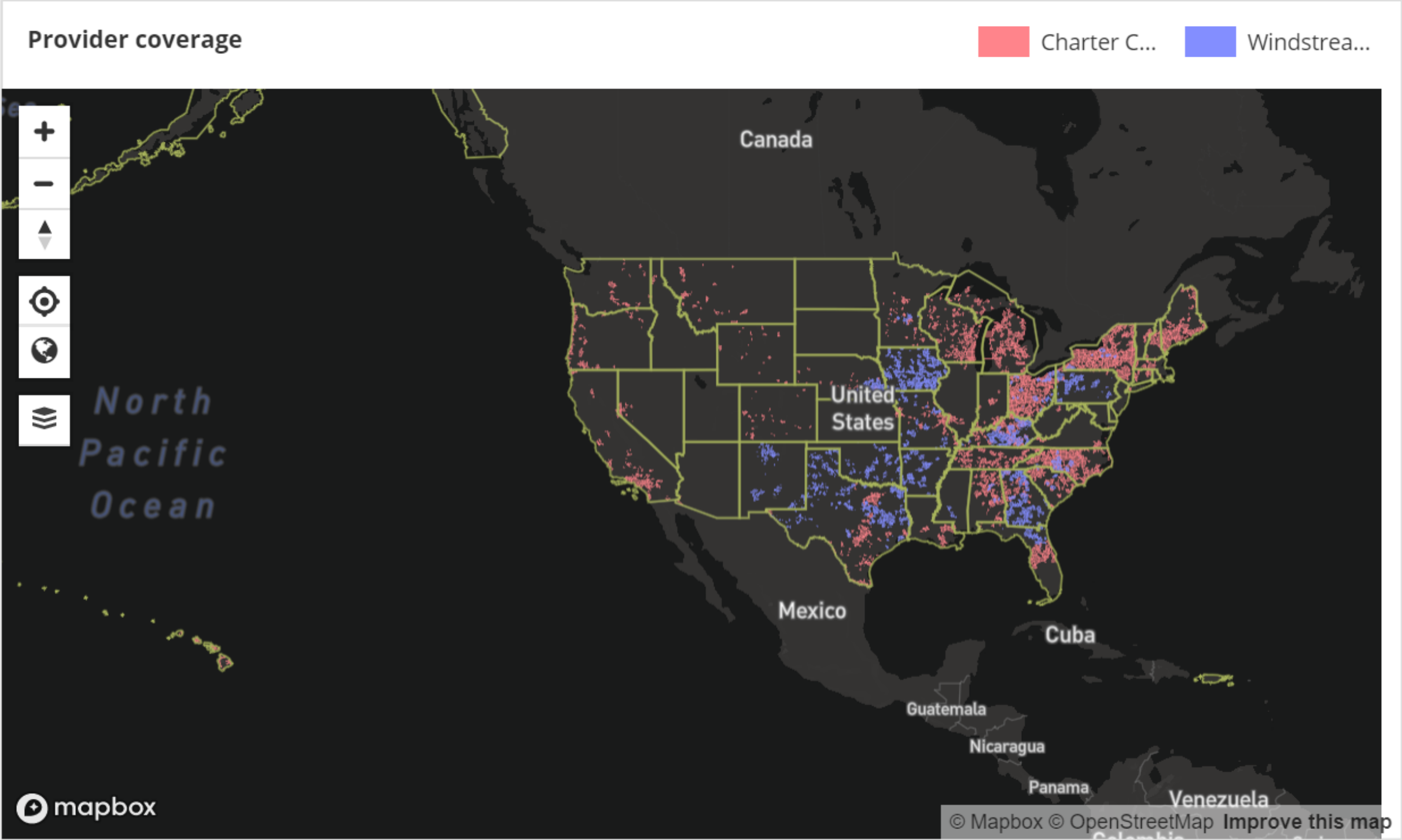
×

+ Add Provider

View Details

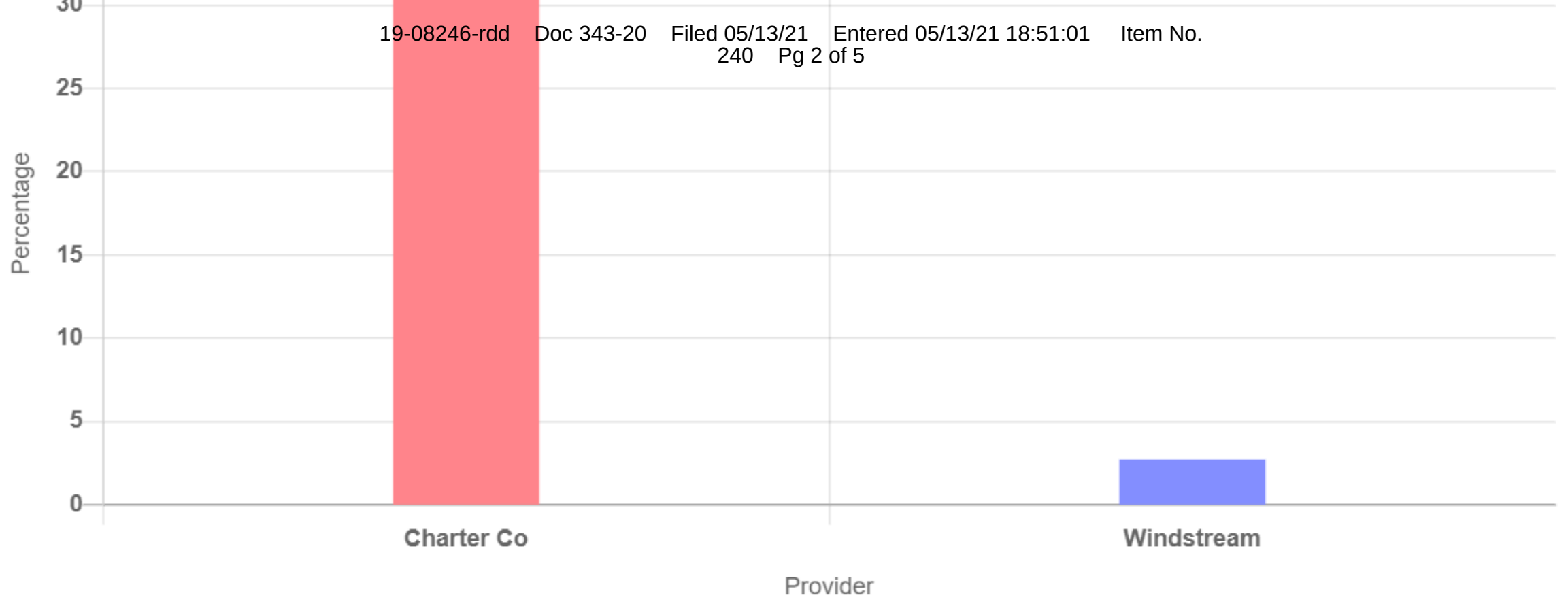
## Provider coverage overlap and population coverage

Date Dec. 2018



Percentage of the US population covered by selected provider(s)

35



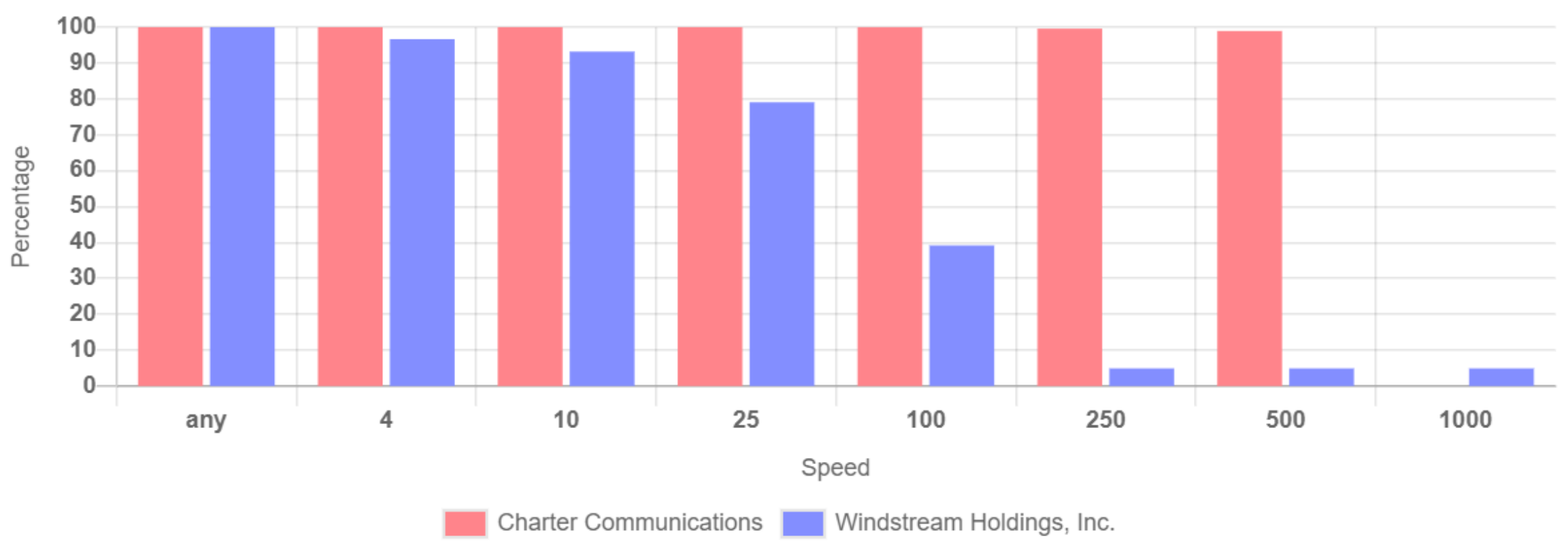
# Percent of each provider's broadband footprint for different speeds and technologies

Speed: Download Upload

Date Dec. 2018

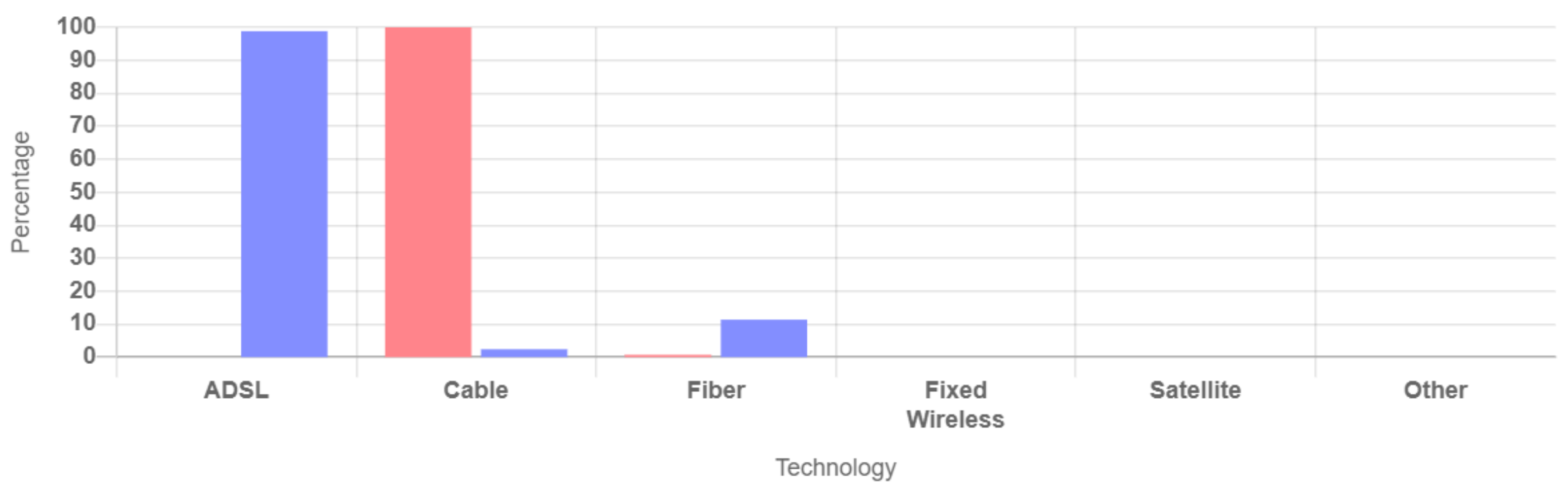
## Speed (Any Technology)

Percentage of provider footprint for each speed



## Technology (Any Speed)

Percentage of provider footprint for each technology



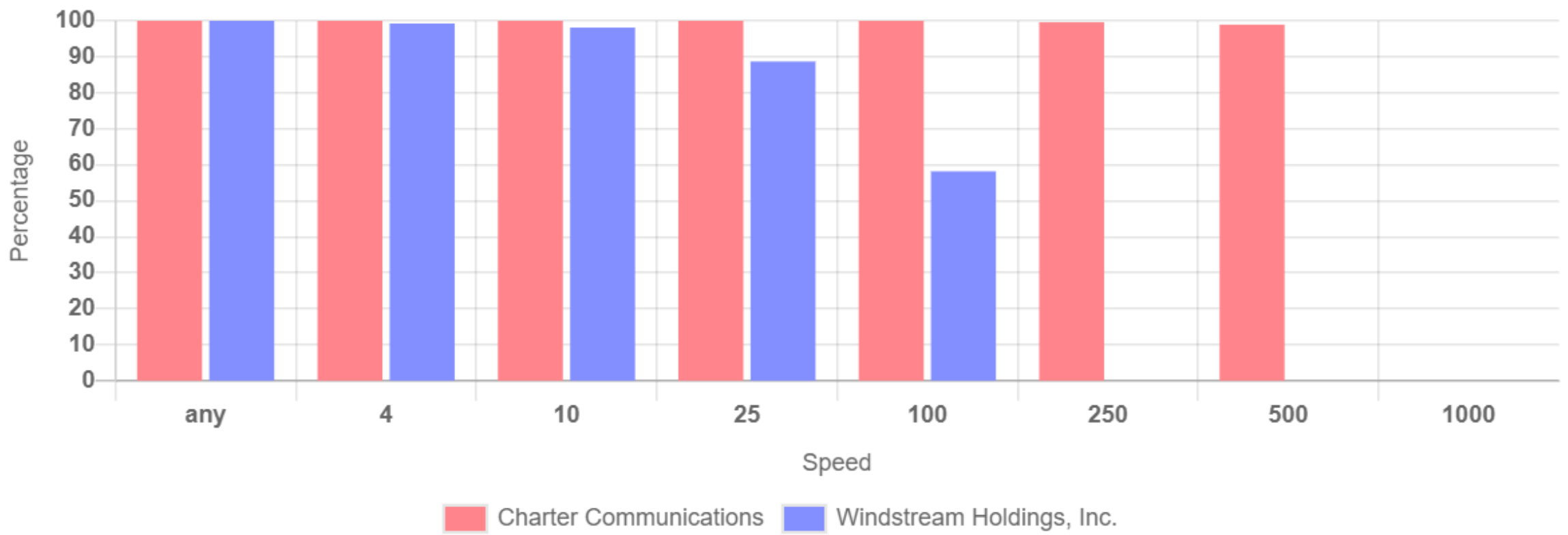
## ADSL

Percentage of provider footprint with ADSL and the indicated speed



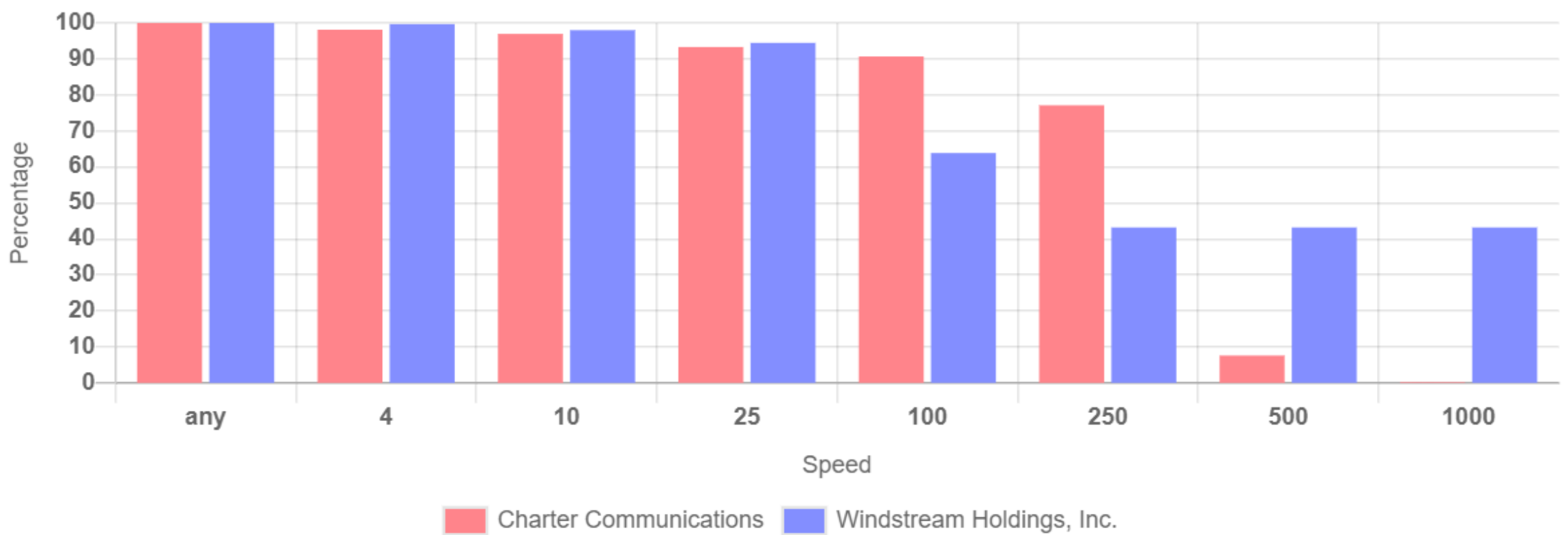
## Cable

Percentage of provider footprint with cable and the indicated speed



## Fiber

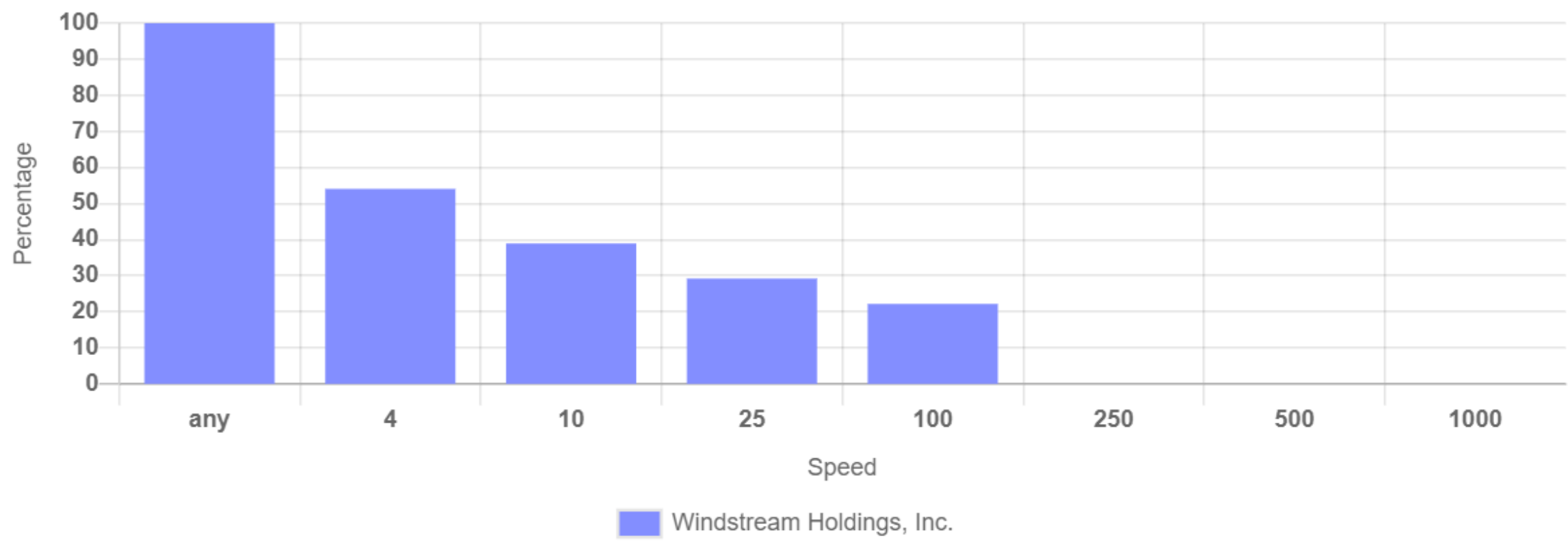
Percentage of provider footprint with fiber and the indicated speed





Fixed Wireless

Percentage of provider footprint with fixed wireless and the indicated speed



Satellite

Percentage of provider footprint with satellite and the indicated speed

Data not available.

Other

Percentage of provider footprint with other technology and the indicated speed

Data not available.



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## Wireless

## Wireline

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Coordinates ▾ 33.67654, -86.400497 🔍 ⚙️ 📏

All Providers Reporting Service 🔗 ⓘ

Census block ID: 011150405022014

Number of Fixed Residential Broadband Providers

0 1 2 3 4 6 12 or more

Broadband ⚙️

Technology

ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other

Speed

≥ 25/3 Mbps

Date

Dec. 2018

Provider	Tech	Down <i>(Mbps)</i>	Up <i>(Mbps)</i>
📶 USA Holdings LLC	Cable	100	100
📶 ViaSat, Inc.	Satellite	100	4
📶 Windstream Holdings, Inc. Windstream Alabama, LLC Windstream Alabama LLC	ADSL	50	8
📶 Windstream Holdings, Inc. Windstream Alabama, LLC Windstream Alabama LLC	Fiber	25	1.5
📶 Hughes Network Systems, LLC	Satellite	25	3
📶 Windstream Holdings, Inc.	ADSL	12	0.76
📶 VSAT Systems, LLC	Satellite	2	1.3

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Facebook

YouTube

Instagram

Def Imp. 25.001

Address ▾ Catlettsburg, Kentucky, Unit

**All Providers Reporting Service**

Census block ID: 210190313002025

**Number of Fixed Residential Broadband Providers**

0 1 2 3 4 6 12 or more

**Broadband**

**Technology** ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other

**Speed** ≥ 25/3 Mbps

**Date** Dec. 2018

Provider	Tech	Down (Mbps)	Up (Mbps)
<input checked="" type="checkbox"/> <a href="#">Armstrong Holdings, Inc.</a>	Cable	1000	25
<input checked="" type="checkbox"/> <a href="#">Windstream Holdings, Inc.</a> Windstream Kentucky East, LLC Windstream Kentucky East LLC	ADSL	100	8
<input checked="" type="checkbox"/> <a href="#">ViaSat, Inc.</a>	Satellite	35	4



Address ▾ Dover, Kentucky, United Sta 🔍 ⚙️ 📏

Lucretia St  
Market St  
Strawberry Alley  
Poplar St  
Mechanics Alley  
Duke St

**All Providers Reporting Service** 🔗 ⓘ

Census block ID: 211619604001033

**Number of Fixed Residential Broadband Providers**

0 1 2 3 4 6 12 or more

**Broadband** ⚙️

**Technology** ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other  
**Speed** ≥ 25/3 Mbps  
**Date** Dec. 2018

Provider	Tech	Down (Mbps)	Up (Mbps)
Windstream Holdings, Inc. Windstream Kentucky East, LLC Windstream Kentucky East LLC	ADSL	100	8
ViaSat, Inc.	Satellite	35	4
Hughes Network	Satellite	25	3

mapbox © Mapbox © OpenStreetMap Improve this map

Address: Madison, Missouri, United States

Census block ID: 291379603002110

Number of Fixed Residential Broadband Providers

0 1 2 3 4 6 12 or more

**Broadband**

**Technology** ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other

**Speed** ≥ 25/3 Mbps

**Date** Dec. 2018

Provider	Tech	Down (Mbps)	Up (Mbps)
Windstream Holdings, Inc. Windstream Missouri, LLC Windstream Missouri Inc.	ADSL	75	8
ViaSat, Inc.	Satellite	35	4
Hughes Network	Satellite	25	3



Address ▾ Murdock, Nebraska, United

2nd St

3rd St

Iowa St

mapbox

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### All Providers Reporting Service

Census block ID: 310259658001147

**Number of Fixed Residential Broadband Providers**

0 1 2 3 4 6 12 or more

**Broadband**

**Technology** ADSL, Cable, Fiber, Fixed Wireless, Satellite, Other

**Speed** ≥ 25/3 Mbps

**Date** Dec. 2018

Provider	Tech	Down (Mbps)	Up (Mbps)
Windstream Holdings, Inc. Windstream Nebraska, Inc. Windstream Nebraska Inc.	ADSL	100	8
ViaSat, Inc.	Satellite	35	4
Hughes Network	Satellite	25	3



Terence P. Ross  
Michael R. Justus (admitted *pro hac vice*)  
Shaya Rochester  
Katten Muchin Rosenman LLP  
575 Madison Avenue  
New York, NY 10022  
Telephone: (212) 940-8800  
Facsimile: (212) 940-8776

*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.	)	
	)	

**DECLARATION OF JEFFREY H. AUMAN  
IN LIEU OF DIRECT TESTIMONY AT TRIAL**

<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.

I, Jeffrey H. Auman declare as follows:

1. I am Executive Vice President of Sales and Marketing with Windstream Holdings, Inc. I submit this declaration in lieu of direct testimony at the trial of this adversary proceeding on behalf of Windstream Holdings, Inc. and its debtor affiliates and debtors in possession in the above-captioned Chapter 11 cases, and as plaintiffs in the above-captioned adversary proceeding (collectively, the “Debtors” or “Windstream”).

2. As Executive Vice President of Sales and Marketing, I am generally familiar with Windstream’s day-to-day operations, business and financial affairs, and books and records. I am also familiar with the false advertising campaign launched by Defendants Charter Communications, Inc. and Charter Communications Operating, LLC (collectively, “Charter”) that is a subject of this adversary proceeding. I make this declaration as the corporate representative of Windstream at trial. Except as otherwise indicated, all facts set forth in this declaration are based upon my personal knowledge, discussion with other members of Windstream’s management team, advisors and staff, and review of relevant documents, records and information regarding Windstream’s operations, financial affairs, and restructuring initiatives. If called as a witness, I could and would testify competently to the facts set forth in this declaration.

3. The Debtors are all affiliates within the same Windstream corporate family. The Debtors operate under and/or use the Windstream name in the marketplace.

4. Windstream provides telecommunication services to consumers in eighteen U.S. states. Windstream competes with Charter in twelve of those eighteen states. Those twelve states are the only states in which Charter competes directly with Windstream for consumer business.

5. Windstream and Charter entered into an executory agreement (the “VAR Agreement”) pursuant to which Charter provides “last mile” connectivity service to Windstream.

Joint Trial Exhibit 1 is a true and correct copy of the VAR Agreement. This connectivity service is largely provided outside of the twelve states in which Windstream and Charter compete directly for consumer business.

6. Pursuant to the VAR Agreement, Windstream has the right to utilize Charter's business Internet access, via coax cable, to distribute Windstream's services to customers in certain designated areas. This is commonly referred to as "last mile" connectivity.

7. Under the VAR Agreement, and in exchange for Charter's "last mile" connectivity services, Windstream agreed to pay Charter for its services, among other things. Windstream has adequately performed all of its obligations under the VAR Agreement.

8. After Debtors filed their Chapter 11 petitions in the Bankruptcy Court, they provided to Charter a comprehensive list of Windstream customers receiving "last mile" connectivity through Charter pursuant to the VAR Agreement. This list was provided at the request of Charter, despite the fact that Charter already knew the identities of all such customers.

9. On or around March 15, 2019, Charter disconnected service under the VAR Agreement to approximately 289 Windstream customers. Prior to these disconnects, Charter failed to provide thirty-days written notice of its discontinuation of services, as required under the VAR Agreement.

10. Some Windstream customers disconnected by Charter on or around March 15, 2019, contacted Charter to have their services reinstated and were told by Charter that service was not being restored because of Windstream's failure to pay certain prepetition amounts allegedly owed to Charter by Windstream.

11. Trouble tickets were created and kept by Windstream customer service representatives in the regular course of its business at or about the time they received calls from

Windstream customers who had been disconnected by Charter on or around March 15, 2019. Plaintiffs' Trial Exhibit 34 is a true and correct copy of an internal Windstream record of the trouble tickets relating to those disconnections.

12. Windstream took action to address Charter's disconnection of service to its customers, including tasking Windstream employees to investigate and attempt to rectify the disconnects. As a result of that investigation, Windstream learned that the disconnection of service by Charter to approximately 289 Windstream customers who receive "last mile" connectivity service under the VAR Agreement was an attempt by Charter to collect prepetition debt. Charter's representatives informed Windstream that the customer accounts that were disconnected were coded incorrectly by Charter and thus were improperly disconnected to collect prepetition debt.

13. Notwithstanding the fact that the Bankruptcy Court entered a Temporary Restraining Order prohibiting Charter from disconnecting any further Windstream customers under the VAR Agreement, Charter disconnected service to Windstream's customers on at least four separate occasions in April and May. Prior to these disconnections, Charter failed to provide thirty-days written notice of its discontinuation, as required under the VAR Agreement. Windstream took action to address Charter's unexpected disconnection of service to its customers, including tasking Windstream employees to investigate and attempt to rectify the disconnects. Again, Windstream learned that these disconnections were due to Charter's failure to take appropriate measures to identify Windstream accounts that were not to be disconnected. Charter's representatives informed Windstream that such accounts were coded incorrectly by Charter and thus were improperly disconnected to collect prepetition debt. One of the customers disconnected was GNC, which is one of Windstream's largest and most important corporate accounts.

Windstream management and employees spent numerous hours investigating and attempting to rectify these disconnects.

14. Windstream suffered harm from the service disconnections by Charter under the VAR Agreement. For example, Windstream provided at least \$5,278.85 in customer “out of service” credits in connection with certain customers who opened trouble tickets in connection with the disconnection of service by Charter. In addition, Windstream suffered a loss of customer goodwill, as well as damage to its brand.

15. Windstream also suffered harm from Charter’s false advertising. For example, in order to mitigate the effects of Charter’s false advertising, Windstream was forced to offer customer upgrades, discounts, and pricing promotions to convince customers to maintain their service with Windstream. The total approximate cost of this was \$4,033,425.

16. In addition, in April 2019, Windstream sent out multiple direct mail pieces and e-mails to its customers in an effort to correct the false impressions created by Charter’s false advertising. This corrective advertising cost Windstream approximately \$862,775. Joint Trial Exhibit 11 is a true and correct copy of an invoice reflecting certain costs relating to these direct mail pieces which was received and kept by Windstream in the regular course of its business. The first page of Plaintiffs’ Trial Exhibit 62 is a true and correct copy of a redacted internal Windstream record prepared and kept in the regular course of its business listing expenses incurred by Kurtzman Carson Consultants LLC in connection with services provided to Windstream. Plaintiffs’ Trial Exhibit 62 lists the postage and printing costs relating to the direct mail pieces used in Windstream’s corrective advertising. Plaintiffs’ Trial Exhibit 64 is a true and correct copy of an internal Windstream record prepared and kept in the regular course of its business setting out Windstream’s costs relating to the corrective advertising as expended over time. Notwithstanding

their efforts to mitigate the damage caused by Charter's false advertising, Windstream suffered a loss of customer goodwill, as well as damage to its brand.

17. After Charter launched its false advertising campaign in late-March 2019, Windstream began to experience a significant spike in customers discontinuing service in those exchanges in which Windstream competes with Charter for consumer and small to medium-sized business customers. This continued until at least the late-Summer of 2019.

18. Plaintiffs' Trial Exhibit 60 is a true and correct copy of an internal Windstream record prepared and kept in the regular course of its business listing "churn" for Windstream customers in all Windstream consumer broadband exchanges and in Windstream consumer broadband exchanges in which Windstream competes with Charter.

19. Windstream has the ability to track customers who switch telephone service from Windstream to Charter to the extent such customers request to "port" their telephone numbers to Charter, *i.e.*, keep the same telephone number that they had used with Windstream. At least 4,500 residential and business Windstream customers have ported their telephone numbers to Charter since Charter's false advertising campaign was launched. All of these residential Windstream customers who ported their telephone numbers from Windstream to Charter would have been sent Charter's direct-mail advertisement containing the false statements. Plaintiffs' Trial Exhibit 14 is a true and correct copy of an internal Windstream record prepared and kept in the regular course of its business listing customers who, during the period February 4, 2019 – July 9, 2019, requested that their telephone numbers be "ported" to Charter.

20. In order to stop Charter's false advertising campaign and to stop Charter from disconnecting Windstream customers under the VAR Agreement, as well as to recover the losses and costs that Charter's wrongful conduct caused, Windstream filed an adversary proceeding in

the Bankruptcy Court. Plaintiffs' Trial Exhibit 1 is a true and correct copy of the Complaint filed with the Bankruptcy Court initiating that adversary proceeding. Plaintiffs' Trial Exhibits 67-93, 100, 104-105 are true and correct copies of the monthly attorney fee statements and the interim attorney fee applications filed with the Bankruptcy Court which reflect the attorneys' fees and costs incurred by Windstream to date in this adversary proceeding. These are kept by Windstream in the regular course of its business. Plaintiffs' Trial Exhibits 94-95 are true and correct copies of invoices from experts retained by Windstream in connection with this adversary proceeding. These are kept by Windstream in the regular course of its business. Based on the foregoing, the total amount of fees and costs incurred by the Debtors' estates through March 31, 2020, solely in connection with this adversary proceeding is approximately \$7,740,328.20. Outside counsel and the experts continue to work on this adversary proceeding and, thus, Windstream continues to incur attorneys' fees and costs relating to this adversary proceeding. Accordingly, the total amount will be revised upward at the time of trial.

21. Windstream's management has spent numerous hours addressing the problems caused by Charter's false advertising. For example, Windstream's Legal Department alone has spent approximately 1,911 hours investigating and responding to Charter's false advertising and assisting with this adversary proceeding. This represents an internal cost to Windstream of approximately \$408,000.

22. Plaintiffs' Trial Exhibit 6 is a true and correct copy of Windstream Holdings, Inc.'s 2Q 2018 Earnings Presentation which was prepared and is kept in the regular course of its business.

23. Plaintiffs' Trial Exhibit 7 is a true and correct copy of Windstream Holdings, Inc.'s 2Q 2019 Earnings Presentation which was prepared and is kept in the regular course of its business.

24. Plaintiffs' Trial Exhibit 17 is a true and correct copy of an internal Windstream record of customer contacts relating to Charter's false advertising which was prepared and kept in the regular course of its business.

25. Plaintiffs' Trial Exhibit 18 is a true and correct copy of certified transcripts of calls by Windstream customers relating to Charter's false advertising recorded and kept by Windstream in the regular course of its business.

26. Plaintiffs' Trial Exhibit 19 is a true and correct copy of certified transcripts of calls by Windstream customers relating to Charter's false advertising recorded and kept by Windstream in the regular course of its business.

27. Plaintiffs' Trial Exhibit 61 is a true and correct copy of an internal Windstream record prepared and kept in the regular course of its business listing consumer revenue for the period January 2019 through August 2019.

28. Plaintiffs' Trial Exhibit 65 is a true and correct copy of a transcript of a voice mail message from a Windstream customer relating to Charter's false advertising recorded and kept by Windstream in the regular course of its business.

29. Plaintiffs' Trial Exhibit 66 is a true and correct copy of certified transcripts of calls by Windstream customers relating to Charter's false advertising recorded and kept by Windstream in the regular course of its business.

30. Plaintiffs' Trial Exhibit 35 is a true and correct copy of the Third Supplemental Initial Disclosures of Plaintiff Windstream Holdings, Inc. and Affiliated Debtors served in this adversary proceeding upon Charter.

31. Plaintiffs' Trial Exhibit 46 is a true and correct copy of certain advertising copy distributed door-to-door in Ohio by Mr. Emmitt Walker, an employee of Charter.



32. The Debtors have filed with the Bankruptcy Court a joint Chapter 11 plan of reorganization (the “Plan”) and corresponding disclosure statement (the “Disclosure Statement”). The Plan sets forth, among other things, the treatment of claims against the Debtors’ estates. Under the Plan, holders of Obligor General Unsecured Claims will not receive a 100% recovery. Certain claims filed by Charter are Obligor General Unsecured Claims. Plaintiffs’ Trial Exhibits 101 and 102 are true and correct copies of the Plan and Disclosure Agreement, filed with the Bankruptcy Court.

33. Plaintiffs’ Trial Exhibit 3 is a true and correct copy of the Complaint filed with the U.S. District Court for the Eastern District of Missouri by the plaintiffs in the lawsuit *Charter Communications Holding Co., et al. v. DirecTV, Inc.*, No. 4:09-cv-00730, Dkt. No. 1 (E.D. Mo. May 11, 2009).

34. Plaintiffs’ Trial Exhibit 5 is a true and correct copy of Windstream’s Consumer Broadband Exchanges Summary for the period January 2016 – August 2019, which was prepared and kept by Windstream in the regular course of its business.

35. Plaintiffs’ Trial Exhibit 8 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

36. Plaintiffs’ Trial Exhibit 9 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

37. Plaintiffs’ Trial Exhibit 10 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

38. Plaintiffs’ Trial Exhibit 11 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

39. Plaintiffs' Trial Exhibit 12 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

40. Plaintiffs' Trial Exhibit 15 is a true and correct copy of Windstream customer contracts bought out by Charter and was produced by Charter from its records during discovery in this adversary proceeding.

41. Plaintiffs' Trial Exhibit 20 is a true and correct copy of a brief filed by the plaintiffs in the lawsuit, *Charter Communications Holding Co., et al. v. DirecTV, Inc.*, No. 4:09-cv-00730, Dkt. No. 9-2 (E.D. Mo. May 11, 2009).

42. Plaintiffs' Trial Exhibit 25 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

43. Plaintiffs' Trial Exhibit 26 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

44. Plaintiffs' Trial Exhibit 27 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

45. Plaintiffs' Trial Exhibit 28 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

46. Plaintiffs' Trial Exhibit 29 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

47. Plaintiffs' Trial Exhibit 30 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

48. Plaintiffs' Trial Exhibit 33 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

49. Plaintiffs' Trial Exhibit 39 is a true and correct copy of an email(s) produced by Charter's advertising agency, RAPP, from its records, pursuant to a subpoena issued during discovery in this adversary proceeding.

50. Plaintiffs' Trial Exhibit 40 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

51. Plaintiffs' Trial Exhibit 41 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

52. Plaintiffs' Trial Exhibit 42 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

53. Plaintiffs' Trial Exhibit 43 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

54. Plaintiffs' Trial Exhibit 44 is a true and correct copy of an email(s) produced by Charter's advertising agency, RAPP, from its records, pursuant to a subpoena issued during discovery in this adversary proceeding.

55. Plaintiffs' Trial Exhibit 45 is a true and correct copy of an email(s) produced by Charter's advertising agency, RAPP, from its records, pursuant to a subpoena issued during discovery in this adversary proceeding.

56. Plaintiffs' Trial Exhibit 47 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

57. Plaintiffs' Trial Exhibit 48 is a true and correct copy of a certified transcript of a hearing held in this adversary proceeding on April 15, 2019.

58. Plaintiffs' Trial Exhibit 50 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

59. Plaintiffs' Trial Exhibit 51 is a true and correct copy of instant messages produced by Charter from its records during discovery in this adversary proceeding.

60. Plaintiffs' Trial Exhibit 52 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

61. Plaintiffs' Trial Exhibit 53 is a true and correct copy of instant messages produced by Charter from its records during discovery in this adversary proceeding.

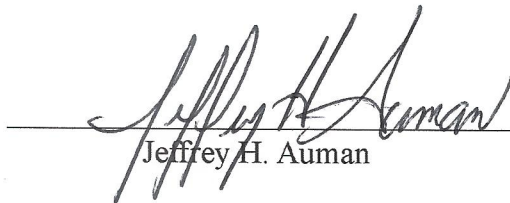
62. Plaintiffs' Trial Exhibit 55 is a true and correct copy of an email(s) produced by Charter from its records during discovery in this adversary proceeding.

63. Plaintiffs' Trial Exhibit 58 is a true and correct copy of a document produced by Charter from its records during discovery in this adversary proceeding.

64. Plaintiffs' Trial Exhibit 59 is a true and correct copy of the verified Defendants' Responses and Objections to Debtors' Interrogatories to Defendants, dated September 23, 2019, and served on Debtors in this adversary proceeding.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: April 20, 2020

  
\_\_\_\_\_  
Jeffrey H. Auman

Terence P. Ross  
Michael R. Justus (admitted *pro hac vice*)  
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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.	)	
	)	

**DECLARATION OF JOHN C. JAROSZ  
IN LIEU OF DIRECT TESTIMONY AT TRIAL**

<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.

I, John C. Jarosz, declare as follows:

1. I am a Managing Principal at Analysis Group, Inc. (“Analysis Group”) and Director of its Washington, DC office. Analysis Group is an economic, financial, health care, and strategy consulting firm with offices across the nation. It provides research and analysis in a variety of business, litigation, and regulatory settings, and has particular expertise in intellectual property (“IP”) matters. It has been engaged in numerous lawsuits involving IP issues, including patents, trademarks, copyrights, false advertising, trade secrets, and unfair competition.

2. I am an economist whose specialty is IP valuation and monetary relief (including damages) assessment. Among my responsibilities at Analysis Group, I provide clients with my analysis and assessment on IP valuation and monetary relief in a variety of contexts, including litigation. I have been involved in more than 500 such engagements over almost 35 years. I have provided expert testimony at trial or in arbitration hearings on approximately 100 occasions. A true and correct copy of my current CV is attached hereto at Tab 1 and is incorporated herein by reference. It is also Plaintiffs’ Trial Exhibit 103.

3. I was engaged by Windstream Holdings, Inc. and its debtor affiliates, and debtors-in-possession in the above-captioned Chapter 11 cases, and as plaintiffs in the above-captioned adversary proceeding. As I did in my expert report in this adversary proceeding, I will refer herein to Plaintiffs collectively as either “Windstream” or “Debtors.” I was specifically engaged to provide an economic analysis of the losses incurred by Windstream as a result of the unlawful acts by Charter Communications, Inc. and Charter Communications Operating, LLC (collectively, “Charter”) alleged in Windstream’s Complaint in the above-captioned adversary proceeding. Economic analyses that I undertake, such as this one, typically involve the application of statistical

methods/models to data in order to draw observations about those data and/or to determine whether empirical support exists for hypothesized economic relationships.

4. I am generally familiar with the factual allegations and the causes of action asserted by Windstream in this adversary proceeding. I have reviewed the Declaration Of Jeffrey H. Auman In Lieu Of Direct Testimony At Trial, as well as the exhibits identified therein.

5. Except as otherwise indicated, all facts and opinions set forth in this declaration are based upon my personal knowledge, my expertise in damages computation, the Expert Report of John C. Jarosz and the relied-upon documents cited therein, and my discussions with employees of Windstream. Moreover, my opinions herein are based on application of a commonly used empirical methodology that I have used in the past and which is widely accepted for use in this type of economic analysis. If called as a witness, I could and would testify competently to the facts and opinions set forth in this declaration.

6. As a result of my engagement by Windstream in this adversary proceeding, I have formed an opinion which I hold with a reasonable degree of certainty appropriate in the field of economics that, during the period April 2019 through August 2019, Windstream lost approximately 1,386 customers as a result of the unlawful conduct of Charter, and that this represents lost profits to Windstream in the range of approximately \$3.2 million to \$5.1 million.

7. I arrived at the foregoing opinion through a three-step process. First, I determined the number of customers lost by Windstream due to Charter's unlawful actions by examining whether there were any changes in Windstream's "churn rate." Second, I determined the lost revenue associated with those lost customers. Third, I applied Windstream's profit margins to the lost revenue associated with the lost customers.



8. With respect to the first step, I relied on internal Windstream data relating to its customer base in marketplaces (“exchanges”) in which it provides broadband services. As shown in Plaintiffs’ Trial Exhibit 5, this data reports on monthly customer adds, disconnects, and customer base for “All Exchanges” and “Charter Exchanges” (exchanges in which Charter and Windstream compete) from January 2016 through August 2019. I understand that Windstream kept that data in the regular course of its business. This is the type of data that experts in my field reasonably rely upon. This data can be used to calculate the “churn rate” over time. “Churn rate” refers to the percentage of customers that discontinue services in a given time period. It is calculated as the number of disconnected customers in a given period divided by the total number of customers at the beginning of that period. Churn rate is an important metric that telecommunications companies, including Windstream, use in the regular course of business to assess their performance.

9. I understand that Charter’s false advertising campaign was launched in late-March 2019, and was sent to Windstream customers in all exchanges in which Windstream and Charter compete (the “Charter Exchanges”). The false advertisement was not sent to Windstream customers in the exchanges in which Charter does not compete with Windstream (the “Non-Charter Exchanges”). This situation presents a natural experiment that allows for the estimation of the impact of Charter’s false advertising campaign on Windstream’s churn rate. Customers in Charter Exchanges were exposed to the false advertising in the second period (after the campaign), but not in the first period (before the campaign), and, therefore, serve as the “treatment group.” Customers in Non-Charter Exchanges were not exposed to the false advertising in the first or second period and, therefore, serve as the “control group.” Both groups, however, were exposed to systemic factors unrelated to Charter’s false advertising campaign that may affect Windstream’s

churn rate. For example, Windstream's corporate strategy or truthful and accurate news surrounding Windstream's bankruptcy could affect customer churn in both the Charter Exchanges and Non-Charter Exchanges.

10. Given the two distinct groups described above (the treatment group and the control group), I was able to analyze the impact of Charter's false advertising campaign upon Windstream through an analysis of the differences in "churn rate" in the period before versus the period after dissemination of Charter's false advertising in two distinct groups – the Charter Exchanges (the treatment group) and the Non-Charter Exchanges (the control group). The impact of Charter's false advertising campaign on Windstream's churn rate can be estimated by subtracting (i) the *change* in the churn rate in the Non-Charter Exchanges across the two periods from (ii) the *change* in the churn rate in the Charter Exchanges across the two periods. The "differencing" of the trends across time and groups controls for the effects of factors unrelated to Charter's false advertising to isolate the impact of Charter's false advertising campaign.

11. The above-described analysis is referred to as a "difference-in-differences" analysis. In my field, we typically refer to it as a "diff-in-diff" analysis. It is a common technique used in economics to measure the impact of a change in one variable upon another variable. I have used it many times in prior assignments and have substantial experience in doing so. I ensured that a diff-in-diff was an appropriate technique for my analysis here by first conducting a parallel trend review on the period before the start of Charter's false advertising campaign. As discussed below, my parallel trend analysis showed that the data sets were appropriate for application of a diff-in-diff analysis.

12. The "trends" I compared here were the monthly churn rates for the Charter Exchanges versus the monthly churn rates for the Non-Charter Exchanges. I compared the trends

by running a trend analysis on the monthly churn rates from January 2018 through March 2019 for each exchange group. I chose those dates partly because they were close in time to Charter's false advertising campaign launched in late-March 2019, in order to ensure that the marketplace dynamics were closest to those seen during the time of the campaign.

13. The results of the trend analysis were two lines: one line depicting the trend in monthly churn rate for the Charter Exchanges and one line depicting the trend in monthly churn rate for the Non-Charter Exchanges. This is shown in the demonstrative exhibit attached hereto at Tab 2. Prior to the start of Charter's false advertising campaign, the slopes of those two lines were sufficiently close – that is “parallel” – to one another for me to conclude that the data sets were proper for a diff-in-diff analysis. In other words, the separate exchange groups were trending quite closely to one another such that they exhibited “parallel trends,” and there were no indications of other variables causing those parallel trends to deviate during the time period I reviewed. Thus, I was able to move forward with the diff-in-diff analysis described in Paragraph 10 above with a high degree of confidence that it would yield a reasonably reliable conclusion.

14. Given the parallel trends discussed above, if a variable, such as Charter's false advertising, was introduced into one of the exchange groups and, if it had an impact on churn rate, I would expect the trend lines for the two groups to deviate from the relationship they had before the variable was introduced. And, in fact, that is what my analysis here revealed. In this regard, my analysis is confirmed by other evidence of record, such as Plaintiffs' Trial Exhibits 18 and 65-66, as well as Joint Trial Exhibits 2 and 8.

15. Using Windstream's customer data, I compared the churn rates before and after Charter's false advertising for the Windstream customers in the Charter Exchanges versus the Windstream customers in the Non-Charter Exchanges. For both groups, I examined churn rate

from April 2018 through August 2018 versus April 2019 through August 2019. Comparing the churn rates in the same months (year over year) controls for seasonality effects. I used April to August 2018 churn rates because it was closest in time (year over year) to the period of interest. Furthermore, I understand that Windstream implemented significant changes in its business and marketing strategies and that the results of those changes began to appear in Q2 2018, rendering the use of earlier periods inappropriate.

16. To calculate the churn rates period-over-period, I used the number of Windstream customers in March of the same year as the baseline because Charter's false advertising campaign was initiated in late-March 2019. Because the total number of customers is affected by the number of adds and disconnects in prior months, Charter's false advertising campaign would be expected to affect Windstream's customer base after the launch of the campaign. Thus, the effects of that false advertising campaign can be expected to start in April 2019. Evidence indicated that the effects of Charter's false advertising campaign lasted into at least August 2019. Thus, August 2019 was used as an end date for the analysis. This is a conservative choice given that researchers have found that advertising mailers can affect consumer behavior for approximately one year. Customer churn from April 2019 through August 2019 is calculated as the number of disconnects in these five months divided by the total number of customers in March 2019. That is, the churn rate for the period under consideration is measured based on the number of existing customers in March 2019 (*i.e.*, the customer base targeted by Charter's false advertising campaign).

17. In March 2018, there were 355,135 customers in the Charter Exchanges. From April 2018 through August 2018, 42,182 customers in the Charter Exchanges disconnected from Windstream. Thus, the churn rate in the Charter Exchanges was 11.88 percent for this period. In

March 2019, there were 360,865 customers in the Charter Exchanges. From April 2019 through August 2019, 45,396 customers in the Charter Exchanges disconnected from Windstream. Thus, the churn rate from April 2019 through August 2019 in the Charter Exchanges was 12.58 percent. Accordingly, Windstream's churn rate in the Charter Exchanges increased by 0.70 percentage points

18. In March 2018, there were 649,686 customers in the Non-Charter Exchanges. Between April 2018 and August 2018, 65,265 customers in the Non-Charter Exchanges disconnected from Windstream. Thus, the churn rate in the Non-Charter Exchanges was 10.05 percent in this period. In March 2019, there were 671,617 customers in the Non-Charter Exchanges. Between April 2019 and August 2019, 69,604 customers in the Non-Charter Exchanges disconnected from Windstream. Thus, the churn rate in the Non-Charter Exchanges for the period April 2019 through August 2019 was 10.36 percent. Accordingly, Windstream's churn rate in the Non-Charter Exchanges increased by 0.32 percentage points.

19. The calculations described above are summarized in the Table below and shown in the demonstrative exhibit attached hereto at Tab 3.

	<b>Before</b>	<b>After</b>	<b>Change</b>
	April – August	April – August	<b>Over</b>
	2018	2019	<b>Time</b>
<b>Charter Exchanges</b>	11.88 percent	12.58 percent	0.70 percent
<b>Non-Charter Exchanges</b>	10.05 percent	10.36 percent	0.32 percent
<b>Difference</b>	1.83 percent	2.22 percent	<b>0.38 percent</b>

20. As shown in the above Table, after Charter's false advertising campaign was launched in late-March 2019, Windstream's churn rate in the Charter Exchanges increased by 0.38 percentage points more than its churn rate in the Non-Charter Exchanges. Therefore, the impact of Charter's false advertising campaign on Windstream's churn rate was 0.38 percentage points. Applying this 0.38 percent to the number of Windstream customers in the Charter Exchanges in March 2019 results in the number of lost customers that are attributable to Charter's false advertising campaign. This analysis shows that Charter's false advertising campaign caused Windstream to lose approximately 1,386 customers from April 2019 through August 2019. This is shown in the demonstrative exhibit attached hereto at Tab 4. This calculation is conservative because I only considered customers in Charter Exchanges through August 2019. However, customers in the Charter Exchanges may have been influenced by Charter's false advertising beyond August 2019. Moreover, customers in the Non-Charter Exchanges may have been influenced by Charter's false advertising campaign as a result of communications with friends and family and/or on social media, *etc.* In fact, researchers studying the spillover effects of a marketing campaign reported that for every 100 customers targeted by such a campaign, 28 additional customers (friends and families of the targeted customers) would be influenced in the same way by such a campaign.

21. Charter produced its own internal calculation of Windstream's lost customers for the purposes of this litigation. This information is found in Joint Trial Exhibits 2 and 8. According to Charter, through June 24, 2019, there were 3,721 customers who called the unique telephone number in the false advertisement mailed by Charter, and 663 of them ultimately purchased one or more services from Charter. However, the 663 customers that Charter reported likely understates the actual number of lost customers. First, it likely understates the customer loss because there are

multiple ways in which Windstream customers can switch to Charter. The 663 customers, at best, reflect customers who switched services during the tracking period (which Charter stopped recording in late-June 2019, months earlier than it should have stopped) by calling the unique telephone number in Charter's false advertisement. Customers can also subscribe to Charter services in stores, by calling Charter's general sales number, or on Charter's website. None of these lost customers would be reflected in Charter's report of customers calling the unique telephone number in the false advertisement. In fact, customers who were influenced by Charter's false advertisement may have called the other unique telephone numbers used in Charter's May 2019 mailers instead. According to Charter's calculations, however, those customers would apparently be credited to the May 2019 mailers. In addition, Charter's analysis does not appear to include the door-to-door sales that it generated through its representatives. Furthermore, to the extent that Charter's false advertising campaign led certain Windstream customers to switch to another competitor or discontinue their subscriptions all together, those customers would not be captured in Charter's calculation. Second, this number appears to represent an undercounting of sales generated by the March 2019 mailer because the return rate (*i.e.*, sales divided by number of mailers) reported by Charter for the March 2019 mailer is substantially lower than the return rates reported by Charter in other direct mail campaigns launched by Charter in May 2019 into the same markets. Moreover, this disparity in return rates is at odds with research suggesting that advertisements distributed by the same channel (*e.g.*, direct mail) generally have a similar impact on customer behavior. So, this reported rate of return on the Charter false advertisement is inherently suspect as underreporting actual results.

22. In the second step of this process, I determined the lost revenue associated with the loss of these customers. To calculate Windstream's lost revenues, I first calculated the average

revenues per customer based on Windstream's 2019 Consumer Revenues and Profits Data, which is Plaintiffs' Trial Exhibit 61. This reports monthly revenues and gross margins from January 2019 through August 2019. I understand that Windstream kept that data in the regular course of its business. This is the type of data that experts in my field reasonably rely upon. The average monthly revenues per customer was \$77.63 in March 2019.

23. I then estimated the expected number of months that the lost customers would have remained with Windstream in the absence of Charter's false advertising based on Windstream's churn rate in March 2019 in the Charter Exchanges. The 2.0 percent churn rate in March 2019 corresponds to an expected tenure of 50 months. Windstream's lost revenues on those lost customers then amounts to approximately \$5.4 million. This is shown in the demonstrative exhibit attached hereto at Tab 4.

24. In the third step of this process, I determined the profits lost by Windstream as a result of the customers lost to Charter's false advertising. I calculated Windstream's lost profits using two different measures of profit. As a first measure of profit, I used the average gross profit per customer based on Windstream's 2019 Consumer Revenues and Profits Data, which is Plaintiffs' Trial Exhibit 61. This reports monthly revenues and gross margins from January 2019 through August 2019. I understand that Windstream kept that data in the regular course of its business. This is the type of data that experts in my field reasonably rely upon. The average monthly gross profit per customer in March 2019 was \$73.35, which corresponds to a gross margin of 94.5 percent. The gross margin accounts for direct expenses associated with Windstream's provision of services to customers. I applied this gross margin to the lost revenues that I calculated above. Based on this measure of profits, Windstream's lost profits on the lost revenues amount to approximately \$5.1 million. This is shown in the demonstrative exhibit attached hereto at Tab 4.



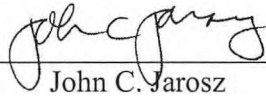
25. As a second measure of profit, I used the average contribution profit per customer based on Windstream's 2018 – Q2 2019 Kinetic Segment Financial Information. This is Plaintiffs' Trial Exhibit 7. I understand that Windstream kept that data in the regular course of its business. This is the type of data that experts in my field reasonably rely upon. Contribution margin represents gross margin minus allocated company-wide operating expenses, such as Selling, General and Administrative expenses.

26. The contribution margin of Windstream's Kinetic Segment in Q1 2019 was 59.2 percent, which corresponds to an average monthly contribution profit per customer of \$45.96. Based on this measure of profits, Windstream's lost profits on the lost revenues amount to approximately \$3.2 million. This is shown in the demonstrative exhibit attached hereto at Tab 4. This measure of profits is likely to be too low given the small incremental volume at issue here (an estimated 1,386 lost customers). Volumes in that range are unlikely to have a measurable effect on company-wide operating costs, such as network and facilities expenses.

27. Based on my analysis above, it is my opinion that Charter's false advertising campaign caused Windstream to lose approximately 1,386 customers from April 2019 through August 2019. These customer losses represent lost profits in the range of \$3.2 to \$5.1 million. This is shown in the demonstrative exhibit attached hereto at Tab 4. This range should be regarded as conservative and likely underestimates Windstream's actual losses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: April 17, 2020

  
\_\_\_\_\_  
John C. Jarosz

**TAB 1**

**JOHN C. JAROSZ**  
**Managing Principal**

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John Jarosz, a Managing Principal of Analysis Group, Inc., specializes in applied microeconomics and industrial organization. He has performed research, given economic testimony, and provided strategy consultation in intellectual property, licensing, and commercial damages matters, including:

- evaluation of damages in patent, copyright, trade secret, trademark, and unfair competition cases (including lost profits, reasonable royalties, price erosion, unjust enrichment, accelerated market entry, and prejudgment interest);
- evaluation of injunctive relief and commercial success in a variety of intellectual property cases;
- strategy consultation regarding the nature and value of technology, methods to share technology, and reasonable compensation terms;
- analysis of compliance with FRAND/RAND commitments; and
- general commercial damages testimony in a variety of cases and across numerous industries.

Prior to joining Analysis Group, Mr. Jarosz was a Director with Putnam, Hayes & Bartlett, Inc. Before that, he was a Senior Analyst with Richard J. Barber Associates, a Section Supervisor with Mutual of Omaha Insurance, and a Research Analyst with the Center for the Study of American Business.

**EDUCATION**

J.D.	University of Wisconsin
M.A. & Ph.D. candidate	Economics, Washington University, St. Louis
B.A., <i>Summa Cum Laude</i>	Economics and Organizational Communication, Creighton University

## PROFESSIONAL ASSOCIATIONS/MEMBERSHIPS

- American Economic Association
- American Law and Economics Association
- American Bar Association (Sections: Intellectual Property, Antitrust and Litigation)
- State Bar of Wisconsin (Section: Intellectual Property)
- American Intellectual Property Law Association (Sections: Federal Litigation, Licensing, Trade Secrets and Antitrust)
- Licensing Executives Society
  - Former Chair, Valuation and Taxation Committee
  - Former Member, Certified Licensing Professional Exam Writing Team
- Former Advisory Board - *The IP Litigator*
- Former Columnist (Damage Awards) - *The IP Litigator*
- Omicron Delta Epsilon (International Honor Society in Economics)
- Association of University Technology Managers
- Certified Licensing Professional
- Intellectual Property Owners Association (Committee: Damages and Injunctions)
- 2011 Presidential Rank Review Board
- Referee, Journal of Forensic Economics
- The Sedona Conference (Sections: Best Practices in Patent Litigation, Patent Damages and Remedies)
- IAM Patent 1000 (2014, 2015, 2016): The World's Leading Patent Practitioners - Economic Experts
- IP Law360: Voices of the Bar

## TESTIMONIAL EXPERIENCE

### Patent Cases – Damages

- **BASF Plant Science, LP v. Commonwealth Scientific and Industrial Research Organisation; and Commonwealth Scientific and Industrial Research Organisation, Grains Research and Development, Corp., and Nuseed Pty Ltd. v. BASF Plant Science, LP and Cargill, Inc.**  
*United States District Court, Eastern District of Virginia (Case No. 17-cv-503-HCM)*  
Trial and deposition testimony and expert report: reasonable royalty damages and injunctive relief covering patents directed to the production of plant-derived omega-3 oils.
- **Riddell, Inc. v. Kranos Corporation, d/b/a Schutt Sports**  
*United States District Court, Northern District of Illinois (Case No. 1:16-cv-04496)*  
Trial testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents covering football helmet technology.

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- **Cedars-Sinai Medical Center v. Quest Diagnostics Inc. and Quest Diagnostics Nichols Institute**  
*United States District Court, Central District of California, Western Division (Case No. 17-cv-5169-GW-FFM)*  
Deposition testimony and expert report: damages associated with alleged misappropriation of trade secrets, breach of contract, and patent infringement involving diagnostic testing for irritable bowel syndrome (IBS).
- **Roche Diagnostics Corporation v. Meso Scale Diagnostics, LLC and Meso Scale Diagnostics, LLC v. Roche Diagnostics Corporation and BioVeris Corporation**  
*United States District Court, District of Delaware (Case No. 17-189 (LPS)(CJB))*  
Trial and deposition testimony and expert report: reasonable royalty damages related to alleged patent infringement involving electrochemiluminescent detection technology used in immunoassay kits.
- **Kranos IP Corporation, Kranos IP II Corporation, and Kranos Corporation d/b/a Schutt Sports v. Riddell, Inc.**  
*United States District Court, Northern District of Illinois (Case No. 1:17-cv-06802)*  
Deposition testimony and expert report: reasonable royalty damages and prejudgment interest involving patents covering football helmet technology.
- **Nichia Corporation v. Vizio, Inc.**  
*United States District Court, Central District of California (Case No. 8:16-cv-00545)*  
Deposition testimony and expert report: reasonable royalty damages and commercial success involving patents directed to light emitting diodes (LEDs).
- **Syngenta Crop Protection, LLC v. Willowood, LLC, Willowood USA, LLC, Willowood Azoxystrobin, LLC, and Willowood Limited**  
*US District Court, Middle District of North Carolina (Case No. 1:15-cv-274)*  
Trial and deposition testimony and expert report: damages and prejudgment interest related to alleged patent and copyright infringement involving crop fungicide.
- **Integra Lifesciences Corporation, Integra Lifesciences Sales, LLC, Confluent Surgical, Inc., and Incept, LLC v. Hyperbranch Medical Technology, Inc.**  
*United States District Court, District of Delaware (Case No. 15-cv-00819)*  
Trial and deposition testimony and expert reports: lost profits, price erosion, reasonable royalty, prejudgment interest, preliminary relief, and commercial success involving patents directed to cranial and spinal dural repair sealants.
- **Blue Spike, LLC v. Toshiba America, Inc., and Toshiba Corporation**  
*US District Court, Eastern District of Texas (Tyler Division) (Case No. 6:16-CV-430-RWS-JDL)*  
Damages hearing and early expert report: damages related to alleged patent infringement involving address space layout randomization ("ASLR") technology.
- **Audio MPEG, Inc., U.S. Philips Corporation, TDF SAS, and Institut Für Rundfunktechnik GmbH v. Dell, Inc.**  
*United States District Court, Eastern District of Virginia, Norfolk Division (Case No. 1:15-CV-1674 AJT/TCB)*  
Deposition testimony and expert report: analysis of patent pool compliance with FRAND commitments and determination of FRAND-compliant royalties involving patents directed to the transmission and storage of digital audio files.
- **Koninklijke Philips Electronics N.V. and Philips Electronics North America Corporation v. ZOLL Medical Corporation**  
*United States District Court, District of Massachusetts (Case No. 1:10-cv-11041)*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty damages, and prejudgment interest related to alleged patent infringement involving external defibrillators.

- **Erfindergemeinschaft UroPep GbR v. Eli Lilly and Company and Brookshire Brothers, Inc.**  
*US District Court, Eastern District of Texas, Marshall Division (Case No. 2:15-cv-1202-WCB)*  
Trial and deposition testimony and expert report: reasonable royalty damages related to alleged patent infringement directed to phosphodiesterase (PDE) V inhibitor(s) indicated for the treatment of benign prostatic hyperplasia.
- **Koninklijke Philips Electronics N.V. and Philips Electronics North America Corporation v. ZOLL Lifecor Corporation**  
*United States District Court, Western District of Pennsylvania (Case No. 2:2012-cv-01369)*  
Deposition testimony and expert report: damages related to alleged patent infringement involving wearable defibrillators.
- **Luminara Worldwide, LLC v. Shenzhen Liown Electronics Co., Ltd, Central Garden and Pet Co., et al.; Shenzhen Liown Electronics Co., Ltd, Central Garden and Pet Co. v. Luminara Worldwide, LLC, et al. ; and Luminara Worldwide, LLC v. Shenzhen Liown Electronics Co., Ltd and Central Garden and Pet Co., et al.**  
*United States District Court, District of Minnesota (Case Nos. 14-cv-03103 (SRN/FLN) and 15-cv-03028 (SRN/FLN))*  
Deposition testimony and expert reports: damages associated with alleged patent infringement and breach of contract, and unjust enrichment associated with breach of non-disclosure agreement and use of trade secrets, related to flameless candle technology and distribution.
- **MobileMedia Ideas LLC v. Apple, Inc.**  
*United States District Court, District of Delaware (Case No. 10-258-SLR)*  
Trial and deposition testimony and expert report: reasonable royalty involving patents directed to incoming call, playlist, and location detection features used in smartphones, tablets, and portable media players.
- **MAZ Encryption Technologies LLC v. Blackberry Corporation**  
*United States District Court, District of Delaware (Case No. 1:13-cv-00304-LPS)*  
Deposition testimony and expert report: reasonable royalty involving a patent directed to encryption/decryption methods used in smartphone and tablet operating systems.
- **BroadSoft, Inc. v. Callwave Communications, LLC**  
*United States District Court, District of Delaware (Case No. 13-cv-0711-RGA)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to telecommunications call processing.
- **Advanced Video Technologies, LLC v. Blackberry, LTD. and Blackberry Corporation**  
*United States District Court, Southern District of New York (Case No. 1:11-cv-06604-CM-RLE)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to video compression and decompression.
- **Drone Technologies, Inc. v. Parrot S.A. and Parrot, Inc.**  
*United States District Court, Western District of Pennsylvania (Case No. 2:14-cv-0111)*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to drone technology.
- **Bayer CropScience AG and Bayer CropScience NV v. Dow AgroSciences LLC, Mycogen Plant Science Inc., Agrigenetics, Inc. d/b/a Mycogen Seeds LLC, and Phytogen Seed Company, LLC**  
*International Chamber of Commerce (Case No. 18892/VRO /AGF)*  
Arbitration hearing testimony and expert report: damages associated with alleged breach of contract and patent infringement involving genetically modified seed.

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- **CertusView Technologies, LLC v. S &N Locating Services LLC and S & N Communications, Inc.**  
*United States District Court, Eastern District of Virginia, Norfolk Division (Case No. 2:13-cv-346 (MSD/LRL))*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to creation of electronic sketches for utility location purposes.
- **Ecolab USA Inc. and Kleantech Systems, LLC v. Diversey, Inc.**  
*United States District Court for the District of Minnesota (Civil Action No. 12-cv-1984 (SRN/JJG))*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving products covering the monitoring of hospital cleaning.
- **Everlight Electronics Co. Ltd., and Emcore Corporation v. Nichia Corporation and Nichia America Corporation v. Everlight Americas, Inc.**  
*United States District Court, Eastern District of Michigan, Southern Division (Case No. 4:12-cv-11758 GAD-MKM)*  
Trial and deposition testimony, expert report and declaration: commercial success, lost profits, reasonable royalty, and prejudgment interest involving patents directed to LEDs.
- **Source Search Technologies, LLC v. Kayak.com, Inc.**  
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Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to online exchanges.
- **Universal Electronics, Inc. v. Universal Remote Control, Inc.**  
*United States District Court, Central District of California, Southern Division (Case No. SACV12-329AG (JPRx))*  
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- **Prowess, Inc. v. RaySearch Laboratories AB, et al.**  
*United States District Court, District of Maryland (Case No. 11 CV 1357 (WDQ))*  
Deposition testimony and expert report: lost profits, reasonable royalty and prejudgment interest involving patents directed to treatment planning software for radiation therapy.
- **JDS Therapeutics, LLC and Nutrition 21, LLC v. Pfizer Inc., Wyeth LLC, Wyeth Consumer Healthcare Ltd., and Wyeth Consumer Healthcare LLC**  
*United States District Court, Southern District of New York (Case No. 1:12-cv-09002-JSR)*  
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- **comScore, Inc. v. Moat, Inc.**  
*United States District Court, Eastern District of Virginia, Norfolk Division (Case No. 2:12CV695-HCM/DEM, Lead Case 2:12CV351-HCM/DEM)*  
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- **Impulse Technology Ltd. v. Microsoft Corporation, Electronic Arts, Inc., Ubisoft Holdings, Inc., and Konami Digital Entertainment Inc.**  
*United States District Court, District of Delaware (Case No. 11-586-RGA-CJB)*  
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- **LendingTree, LLC v. Zillow, Inc., NexTag, Inc., and Adchemy, Inc.**  
*United States District Court, Western District of North Carolina, Charlotte Division (Case No. 3:10-cv-439-FDW-DCK)*  
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- **Network Protection Sciences, LLC v. Fortinet, Inc.**  
*United States District Court, Northern District of California (Case No. 3:12-cv-01106-WHA)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to network security systems.
- **Shurtape Technologies, LLC and Shurtech Brands, LLC v. 3M Company**  
*United States District Court, Western District of North Carolina (Case No. 5:11-cv-00017)*  
Deposition testimony and expert report: lost profits, reasonable royalty and prejudgment interest involving patents directed to painter's tape.
- **Abbott Biotechnology Ltd. and AbbVie, Inc. v. Centocor Ortho Biotech, Inc.**  
*United States District Court, District of Massachusetts (Case No. 09-40089-FDS)*  
Deposition testimony and expert report: lost profits, reasonable royalty and prejudgment interest involving patents directed to the treatment of rheumatoid arthritis.
- **Wi-LAN Inc. v. Alcatel-Lucent USA Inc.; Telefonaktiebolaget LM Ericsson; Ericsson Inc.; Sony Mobile Communications AB; Sony Mobile Communications (USA) Inc.; HTC Corporation; HTC America, Inc.; Exede Inc.; LG Electronics, Inc.; LG Electronics Mobilecomm U.S.A., Inc.; and LG Electronics U.S.A., Inc.**  
*United States District Court, Eastern District of Texas (Case No. 6:10-CV-521-LED)*  
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- **Epos Technologies Ltd.; Dane-Elec S.A.; Dane-Elec Memory S.A.; and Dane-Elec Corporation USA v. Pegasus Technologies Ltd. and Luidia, Inc.**  
*United States District Court, District of Columbia (Case No. 07-cv-00416-WMN)*  
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- **Life Technologies Corporation; Applied Biosystems, LLC; Institute for Protein Research; Alexander Chetverin; Helena Chetverina; and William Hone v. Illumina, Inc. and Solexa, Inc.**  
*United States District Court, Southern District of California (Case No. 3:11-cv-00703)*  
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- **TomTom, Inc. v. Michael Adolph**  
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Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to automotive navigation systems.
- **Carl B. Collins and Farzin Davanloo v. Nissan North America, Inc. and Nissan Motor Co., Ltd.**  
*United States District Court, Eastern District of Texas, Marshall Division (Case No. 2:11-cv-00428-JRG)*  
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- **I.E.E. International Electronics & Engineering, S.A. and IEE Sensing, Inc. v. TK Holdings, Inc.**  
*United States District Court, Eastern District of Michigan (Case No. 2:10-cv-13487)*  
Deposition testimony and expert report: lost profits, reasonable royalty and prejudgment interest involving patents directed to capacitive sensing used in automotive seats.

- **St. Clair Intellectual Property Consultants, Inc. v. Acer, Inc., et al.; Microsoft Corporation v. St. Clair Intellectual Property Consultants, Inc.**  
*United States District Court, District of Delaware (Case No. 09-354-JJF, 09-704-JJF and 10-282-LPS)*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to power management, bus configuration and card slot technology in laptops and desktops.
- **CardioFocus, Inc. v. Xintec Corporation (d/b/a Convergent Laser Technologies); Trimedyn, Inc.; and Cardiogenesis Corporation**  
*United States District Court, District of Massachusetts (Case No. 1:08-cv-10285 NMG)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to laser devices used for the treatment of advanced coronary artery disease.
- **Avocent Redmond Corp. v. Raritan Americas, Inc.**  
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Deposition testimony and expert report: lost profits, lost royalties, reasonable royalty and prejudgment interest involving a patent and contract directed to software and hardware products and technologies that provide connectivity and centralized management of IT infrastructure through KVM switches.
- **Frontline Placement Technologies, Inc. v. CRS, Inc.**  
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- **Novozymes A/S and Novozymes North America, Inc. v. Danisco A/S; Genecor International Wisconsin, Inc.; Danisco US Inc.; and Danisco USA Inc.**  
*United States District Court, Western District of Wisconsin (Case No. 10-CV-251)*  
Trial and deposition testimony and expert report and expert declaration: lost profits, reasonable royalty, prejudgment interest and irreparable harm involving a patent directed to alpha-amylases used for fuel ethanol.
- **Triangle Software, LLC v. Garmin International, Inc.; Garmin USA, Inc.; TomTom, Inc.; and Volkswagen Group of America, Inc.**  
*United States District Court, Eastern District of Virginia, Alexandria Division (Case No. 1:10-CV-01457-CMH-TCB)*  
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- **Northeastern University and JARG Corporation v. Google, Inc.**  
*United States District Court, Eastern District of Texas, Marshall Division (Case No. 2:07-cv-486(CE))*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to internet index and search technology.
- **Bissell Homecare, Inc. v. Dyson, Inc.**  
*United States District Court, Western District of Michigan (Case No. 1:08-cv-724)*  
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- **Toshiba Corporation v. Imation Corp.; Moser Baer India Ltd; Glyphics Media, Inc.; Ritek Corp.; Advanced Media, Inc.; CMC Magnetics Corp.; Hotan Corp.; and Khypermedia Corp.**  
*United States District Court, Western District of Wisconsin (Case No. 3:09-cv-00305-slc)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to DVDs.
- **Affinity Labs of Texas, LLC. v. BMW North America, LLC, et al.**  
*United States District Court, Eastern District of Texas, Lufkin Division (Case No. 9:08-CV-00164-RC)*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to connecting a portable audio player to an automobile sound system.
- **Regents of the University of Minnesota v. AGA Medical Corp.**  
*United States District Court, District of Minnesota (Case No. 0:07-cv-04732 (PJS/RLE))*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to septal occlusion devices.
- **Ethicon Endo-Surgery, Inc. v. Hologic Inc. and Suros Surgical Systems, Inc.**  
*United States District Court, Southern District of Ohio, Western Division (Case No. 07-cv-00834)*  
Trial and deposition testimony and expert report: lost profits and reasonable royalty involving patents directed to biopsy equipment and methods, and the biopsy of soft tissue.
- **Humanscale Corp. v. CompX International, Inc. and CompX Waterloo**  
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- **Carl Zeiss Vision GMBH and Carl Zeiss Vision International GMBH v. Signet Armorlite, Inc.**  
*United States District Court, Southern District of California (Case No. 09-CV-0657-DMS (POR))*  
Trial testimony and deposition testimony and expert report: lost profits, reasonable royalty, and lost licensing fees involving a patent directed to progressive eyeglass lenses.
- **ShopNTown LLC v. Landmark Media Enterprises, LLC**  
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- **Cerner Corp. v. Visicu, Inc.**  
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Trial and deposition testimony and expert report: lost profits and reasonable royalty involving patents directed to electronic ICU monitoring systems.
- **Sanofi-Aventis Canada Inc.; Schering Corp.; and Sanofi-Aventis Deutschland GmbH v. Apotex/Novopharm Limited**  
*Federal Court of Canada (Case No. T-1161-07/T-161-07)*  
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- **C2 Communications Technologies, Inc. v. Qwest Communications Corp; Global Crossing Telecommunications, Inc.; and Level 3 Communications, LLC**  
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Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to carrying PSTN calls via Voice over Internet Protocol.

- **Siemens AG v. Seagate Technology**  
*United States District Court, Central District of California, Southern Division (Case No. SA CV 06-788 JVS (ANx))*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to hard disk drive technology.
- **Siemens Medical Solutions USA, Inc. v. Saint-Gobain Ceramics & Plastics, Inc.**  
*United States District Court, District of Delaware (Case No. 07-190-SLR)*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents directed to medical scanner technology.
- **Aventis Pharma, S.A. v. Baxter Healthcare Corp.**  
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Arbitration hearing and deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to hemophilia treatment.
- **Every Penny Counts, Inc. v. Bank of America Corp. and Bank of America, N.A.**  
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- **DEKALB Genetics Corp. v. Syngenta Seeds, Inc.; Golden Harvest Seeds, Inc.; Sommer Bros. Seed Co.; JR Robinson Seeds, Inc.; and Garst Seed Co.**  
*United States District Court, Eastern District of Missouri (Case No.4:06CV01191MLM)*  
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- **International Flora Technologies, Ltd. v. Clarins U.S.A.**  
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- **Howmedica Osteonics Corp. v. Zimmer, Inc.; Centerpulse Orthopedics, Inc. (formerly known as Sulzer Orthopedics, Inc.); and Smith & Nephew, Inc.**  
*United States District Court, District of New Jersey (Case No.05-0897 (WHW))*  
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- **Elan Pharma International, Ltd. v. Abraxis Bioscience, Inc.**  
*United States District Court, District of Delaware (Case No.06-438-GMS)*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to nanotechnology drug delivery.
- **Mobile Micromedia Solutions LLC v. Nissan North America, Inc.**  
*United States District Court, Eastern District of Texas, Texarkana Division (Case No.505-CV-230)*  
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- **Nichia Corp. v. Seoul Semiconductor, Ltd. and Seoul Semiconductor, Inc.**  
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Trial and deposition testimony and expert report: reasonable royalty, unjust enrichment, and prejudgment interest involving patents directed to light emitting diodes.

- **NetRatings, Inc. v. WebSideStory, Inc.**  
*United States District Court, Southern District of New York (Case No. 06-CV-878(LTS)(AJP))*  
Deposition testimony and expert report: reasonable royalty involving technology directed to internet audience measurement and analysis.
- **Ernest K. Manders, M.D. v. McGhan Medical Corp.**  
*United States District Court, Western District of Pennsylvania (Case No. 02-CV-1341)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to implantable tissue expanders.
- **Source Search Technologies, LLC v. LendingTree, Inc.; IAC/InterActiveCorp; and ServiceMagic, Inc.**  
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- **The Boeing Co. v. The United States**  
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- **Bridgestone Sports Co., Ltd. and Bridgestone Golf, Inc. v. Acushnet Co.**  
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Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to cores, intermediate layers and covers of golf balls.
- **Dyson Technology Ltd. and Dyson, Inc. v. Maytag Corp.**  
*United States District Court, District of Delaware (Case No. 05-434-GMS)*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to upright cyclonic vacuum cleaners.
- **Verizon Services Corp. and Verizon Laboratories, Inc. v. Vonage Holdings Corp. and Vonage America, Inc.**  
*United States District Court, Eastern District of Virginia (Case No. 1:06CV682)*  
Trial and deposition testimony and expert report: permanent injunction, lost profits, and reasonable royalty involving patents directed to a voice over internet protocol ("VoIP") platforms.
- **Hitachi, LTD v. BorgWarner, Inc.**  
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- **Innogenetics N.V. v. Abbott Laboratories**  
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- **O2 Micro International v. Monolithic Power Systems, Inc.**  
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- **Solvay Solexis, Inc. v. 3M Co.; 3M Innovative Properties Co.; and Dyneon LLC**  
*United States District Court, District of New Jersey (Case No. 04-06162 (FSH/PS))*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to low temperature fluoroelastomers.

- **Target Technology Co., LLC v. Williams Advanced Materials, Inc., et al.**  
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Deposition testimony and expert report: reasonable royalty and design-around alternatives involving a patent directed to silver alloy sputtering targets for DVDs.
- **Metrologic Instruments, Inc. v. Symbol Technologies, Inc.**  
*United States District Court, District of New Jersey (Case No. 03cv2912 (HAA))*  
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- **Eaton Corp. v. ZF Meritor, LLC**  
*United States District Court, Eastern District of Michigan (Case No. 03-74844)*  
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- **Meritor Transmission Corp. v. Eaton Corp.**  
*United States District Court, Western District of North Carolina (Case No. 1:04-CV-178)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to truck transmissions.
- **Monsanto Co. v. Syngenta Seeds, Inc.**  
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Deposition testimony and expert report: reasonable royalty involving patents directed to genetically modified corn seed.
- **Indiana Mills & Manufacturing, Inc. v. Dorel Industries, Inc.**  
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- **Paice LLC v. Toyota Motor Corp.**  
*United States District Court, Eastern District of Texas, Marshall Division (Case No. 2-04CV-211) (DF)*  
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- **GTECH Corp. v. Scientific Games International**  
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- **WEDECO UV Technologies, Inc. v. Calgon Carbon Corp.**  
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- **Khyber Technologies Corp. v. Casio, Inc; Everex Systems, Inc.; Hewlett-Packard Co.; and Hewlett-Packard Singapore PTE. LTD.**  
*United States District Court, District of Massachusetts (Case No. 99-CV-12468-GAO)*  
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- **Air Liquide America, L.P. v. P.H. Glatfelter Co.**  
*United States District Court, Middle District of Pennsylvania (Case No. 1:CV-04-0646)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to the use of ozone bleaching of pulp.

- **Gary J. Colassi v. Cybex International, Inc.**  
*United States District Court, District of Massachusetts (Case No. 02-668-JEL/JGL)*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to treadmill support decks.
- **Medinol Ltd. v. Guidant Corp. and Advanced Cardiovascular Systems, Inc.**  
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Deposition testimony and expert report: reasonable royalty analysis and prejudgment interest involving patents directed to connectors for coronary and peripheral stents.
- **Donner, Inc. v. American Honda Motor Co.; McDavid Plano-Acura, L.P.; and The Beaumont Co.**  
*United States District Court, Eastern District of Texas, Texarkana Division (Case No. F:03-CV-253)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to automobile entertainment systems.
- **Nonin Medical, Inc. v. BCI, Inc.**  
*United States District Court, Fourth Division of Minnesota (Case No. 02-668-JEL/JGL)*  
Deposition testimony and expert report: reasonable royalty, lost profits, and prejudgment interest involving patents directed to finger clip pulse oximeters.
- **Stryker Trauma S.A. and Howmedica Osteonics Corp. v. Synthes (USA)**  
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Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to snap-fit external fixation systems.
- **Michael Foods, Inc. and North Carolina State University v. Rose Acre Farms, Inc.**  
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- **Waters Technologies Corp.; Waters Investments, Ltd.; Micromass UK Ltd.; and Micromass, Inc. v. Applera Corp.**  
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- **Medtronic Sofamor Danek, Inc. v. Gary K. Michelson, M.D. and Karlin Technology, Inc.**  
*United States District Court, Western District of Tennessee (Case No. 01-2373 GV)*  
Trial and deposition testimony and expert report: damages and profits associated with alleged contractual breaches, tortious interference and intentional negligent representations involving spinal implants.
- **Matsushita Electric Industrial Co. Ltd. v. Cinram International, Inc.**  
*United States District Court, District of Delaware (Case No. 01-882-SLR)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest covering patents directed to aspects of bonding substrates together to form optical discs, such as DVDs.
- **Boehringer Ingelheim Vetmedica, Inc. v. Schering-Plough Corp. and Schering Corp.**  
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- **Arris International and Randall A. Holliday v. John Mezzalingua and Associates, Inc. d/b/a PPC**  
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- **Promega Corp. v. Applera Corp.; and Lifecodes Corp., and its Subsidiaries Cellmark Diagnostics, Inc.; and Genomics International Corp.**  
*United States District Court, Western District of Wisconsin (Case No. 01-C-0244-C)*  
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- **Alcon Laboratories, Inc. and Alcon Manufacturing, Ltd. v. Pharmacia Corp.; Pharmacia & Upjohn Co.; and The Trustees of Columbia University in the City of New York**  
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- **Pharmacia Corp.; Pharmacia AB; Pharmacia Enterprises S.A.; and Pharmacia & Upjohn Co. v. Alcon Laboratories, Inc.**  
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- **Takata Corp. v. AlliedSignal, Inc. and Breed Technologies, Inc.**  
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Deposition testimony and expert report: reasonable royalty and prejudgment interest covering patents and trade secrets directed to seatbelt retractors.
- **Chiron Corp. v. Genentech, Inc.**  
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- **Greene, Tweed of Delaware, Inc. v. DuPont Dow Elastomers, LLC**  
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Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent covering perfluorelastomeric seals used in semiconductor fabrication applications.
- **Streck Laboratories v. Beckman Coulter, Inc.**  
*United States District Court, District of Nebraska (Case No. 8:99CV473)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents covering hematology testing equipment.
- **Adobe Systems Inc. v. Macromedia, Inc.**  
*United States District Court, District of Delaware (Case No. 00-743-JJF)*  
Trial and deposition testimony and expert report: reasonable royalty involving patents covering computer video and audio software.
- **Dictaphone Corp. v. Nice Systems, Ltd.**  
*United States District Court, District of Connecticut (Case No. 3:00-CV-1143)*  
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- **Metrologic Instruments, Inc. v. PSC, Inc.**  
*United States District Court, District of New Jersey (Case No. 99-CV-04876)*  
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- **Genzyme Corp. v. Atrium Medical Corp.**  
*United States District Court, District of Delaware (Case No. 00-958-RRM)*  
Trial testimony and expert report: lost profits and price/margin erosion involving patents covering chest drainage systems.
- **Norian Corp. v. Stryker Corp.**  
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Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent covering bone cement.
- **John Mezzalingua Associates, Inc., d/b/a PPC v. Antec Corp.**  
*United States District Court, Middle District of Florida (Case No. 3:01-CV-482-J-25 HTS)*  
Deposition testimony and expert report: disgorgement of profits involving a design patent covering a coaxial cable connection.
- **Rockwell Automation Technologies, LLC v. Spectra-Physics Lasers, Inc. and Opto Power Corp.**  
*United States District Court, District of Delaware (Case No. 00-589-GMS)*  
Deposition testimony and expert report: reasonable royalty involving a patent covering a process for producing semiconductor epitaxial films.
- **Tanashin Denk Co., Ltd. v. Thomson Consumer Electronics, Inc.**  
*United States District Court, Southern Division of Indiana (Case No. IP 99-836-C Y/G)*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents covering cassette tape drives.
- **Medtronic Sofamor Danek, Inc. et al. v. Osteotech**  
*United States District Court, Western Division of Tennessee (Case No. 99-2656-GV)*  
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- **Heimann Systems GmbH v. American Science and Engineering, Inc.**  
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- **Omega Engineering, Inc. v. Cole-Parmer Instrument Co.; Davis Instrument Manufacturing Co., Inc.; Dwyer Instruments, Inc.; and Raytek Corp.**  
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Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents and alleged unfair competitive practices directed to portable infrared thermometers.
- **Particle Measuring Systems, Inc. v. Rion Co., Ltd.**  
*United States District Court, District of Colorado (Case No. 99-WM-1433)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to a device and method for optically detecting particles in fluid.
- **The University of Colorado Foundation Inc., et al. v. American Cyanamid Co.**  
*United States District Court, District of Colorado (Case No. 93-K-1657)*  
Trial and deposition testimony and expert report: measure and amount of prejudgment interest in a patent infringement, fraud and unjust enrichment case covering prenatal vitamin formulations.

- **Gleason Works v. Oerlikon Geartec AG and Liebherr-America, Inc.**  
*United States District Court, Western District of New York (Case No. 98-CV-6275 L)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to bevel gear-cutting machines.
- **Amersham Pharmacia v. PE Corp.**  
*United States District Court, Northern District of California (Case No. C 97-04203-TEH)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to a method of using energy transfer reagents in a DNA sequencing system.
- **Ziarno v. The American Red Cross, et al.**  
*United States District Court, Northern District of Illinois (Case No. 99 CIV 3430)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to online/internet fundraising.
- **Applied Medical Resources Corp. v. Core Dynamics, Inc.**  
*United States District Court, Central District of California (Case No. SACV 99-748-DOC (ANx))*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to surgical trocars.
- **Bell Communications Research, Inc. v. Fore Systems, Inc.**  
*United States District Court, District of Delaware (Case No. 98-586 JJF)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest covering patents directed to telecommunications technology (ATM over SONET networks).
- **Newell Operating Co. (EZ Painter Co.) v. Linzer Products Corp.**  
*United States District Court, Eastern District of Wisconsin (Case No. 98-C-0864)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest covering a patent directed to a method for manufacturing polypropylene paint roller covers.
- **Dow Chemical Co. v. Sumitomo Chemical Co., Ltd. and Sumitomo Chemical America, Inc.**  
*United States District Court, Eastern District of Michigan (Case No. 96-10330-BC)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest covering a patent directed to a method for manufacturing cresol epoxy novalac resins used in integrated circuit encapsulation.
- **Insight Development Corp. v. Hewlett-Packard Co.**  
*United States District Court, Northern District of California (Case No. C 98 3349 CW)*  
Deposition testimony and expert report: damages and profits associated with alleged contract breaches, patent, copyright and trade secret misappropriation/infringement and unfair competition involving digital image processing and transmission, including that over the internet.
- **Bristol-Myers Squibb Co. v. Rhone-Poulenc Rorer Inc. and Centre National De La Recherche Scientifique**  
*United States District Court, Southern District of New York (Case No. 95 Civ. 8833)*  
Deposition testimony and expert report: reasonable royalty covering a patent directed to semi-synthetic processes for manufacturing an anti-cancer drug.
- **Pactiv Corp. v. S.C. Johnson & Son, Inc.**  
*United States District Court, Northern District of Illinois (Case No. 98 C 2679)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to zipper closure mechanisms for home storage bags.

- **Dr. Harry Gaus v. Conair Corp.**  
*United States District Court, Southern District of New York (Case No. 94-5693 (KTD) (FM))*  
Trial and deposition testimony and expert report: reasonable royalty and prejudgment interest covering a patent directed to hazard prevention devices used with electrical hair dryers.
- **Neogen Corp. v. Vicam, L.P., et al.**  
*United States District Court, Middle District of Florida (Case No. 97-405-CIV-T-23B)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest covering a patent and a variety of tort claims directed to aflatoxin testing equipment.
- **Surety v. Entrust**  
*United States District Court, Eastern District of Virginia (Case No. 99-203-A)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest covering a patent directed to digital time stamping.
- **Sofamor Danek Holdings, Inc., et al. v. United States Surgical Corp., et al.**  
*United States District Court, Western District of Tennessee (Case No. 98-2369 GA)*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent covering the method of inserting a spinal inter-body fusion device.
- **Molten Metal Equipment Innovation, Inc. v. Metaullics**  
*United States District Court, Northern District of Ohio (1:97-CV2244)*  
Trial testimony and expert report: lost profits, reasonable royalty, and prejudgment interest covering a patent directed to submersible molten metal pumps.
- **AcroMed Corp. v. Sofamor Danek Group, Inc.**  
*United States District Court, Northern District of Ohio (Case No. 1:93-CV01184)*  
Trial and deposition testimony and expert report: lost profits and prejudgment interest involving patents directed to spinal implant devices.
- **BIC Corp. v. Thai Merry Co., Ltd.**  
*United States District Court, Central District of California (Case No. 98 CIV. 2113 (DLC))*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to disposable cigarette lighters.
- **Syncsort Inc. v. Michael Wagner; Cambridge Algorithm; ICF Kaiser Intl. Inc., et al.**  
*United States District Court, Northern District of Georgia (Case No. 1:93-CV-2247-JEC)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to data sorting software.
- **Shell Oil Co. v. ICI Americas, Inc. and P.E.T Processors, LLC**  
*United States District Court, Eastern District of Louisiana (Case No. 97-3526 Section "K")*  
Deposition testimony and expert report: lost profits and reasonable royalty involving a patent directed to a process to manufacture solid stated polyethylene naphthalene.
- **Pall Corp. v. Hemasure Inc. and Lydall, Inc.**  
*United States District Court, Eastern District of New York (Case No. CV-96-436 (TCP/ETB), Case No. 96-5620 (LDW/VVP))*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents directed to prestorage leukodepletion devices.
- **Mentor H/S, Inc. v. Medical Device Alliance, Inc.; Lysonix, Inc.; and Misonix, Inc.**  
*United States District Court, Central District of California (Case No. CV97-2431 WDK (BQRx))*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to ultrasonic liposuction.

- **Hyundai Electronics Industries Co., Ltd. v. NEC Corp. and NEC Electronics, Inc.**  
*United States District Court, Eastern District of Virginia (Case No. 97-2030A, Case No. 97-2031A, Case No. 98-118-A)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to semiconductor technology.
- **Hitachi, LTD. v. Samsung Display Devices Co., LTD.; Samsung Display Devices, Inc.; Samsung Electronics Co., LTD.; Samsung Electronics America, Inc.; and Office Depot, Inc.**  
*United States District Court, Eastern District of Virginia (Case No. 97-1988-A)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving patents directed to various aspects of cathode ray tubes.
- **Stairmaster Sports/Medical Products, a Limited Partnership v. Groupe Procycle, Inc. and Procycle USA, Inc.**  
*United States District Court, District of Delaware (Case No. 97-396 MMS)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to stair climbing fitness equipment.
- **Angelo Mongiello's Children, LLC v. Pizza Hut, Inc.**  
*United States District Court, Eastern District of New York (Case No. 95 CV 4601)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest involving a patent directed to a method for forming pizza shells.
- **BTG v. Magellan Corp.; BTG v. Trimble Navigation**  
*United States District Court, Eastern District of Pennsylvania (Case No. 96-CV-7551/Case No. 96-CV-5084 (HB))*  
Deposition testimony and expert reports: reasonable royalty, prejudgment interest, value of inventory on hand, preparation and investments made and business commenced (as of patent reissuance) involving a patent directed to secret or secure communications technology employed in global positioning system products.
- **Micro Chemical, Inc. v. Lextron, Inc.**  
*United States District Court, District of Colorado (Case No. 88-Z-499)*  
Trial and deposition testimony and expert report: lost profits, price erosion, reasonable royalty, and prejudgment interest involving a patent directed to feed additive weigh/mix dispensing machines.
- **Thai Merry Co., Ltd.; Honson Marketing Group, Inc.; and Calico Brands, Inc. v. BIC Corp.**  
*United States District Court, Central District of California (Case No. 96-5256 WJR (BQRx))*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents directed to child-resistant disposable cigarette lighters.
- **Radco, Inc. v. Shell Oil Co.; Foster Wheeler USA Corp.; Lyondell-Citgo Refining Co., LLC; Petro-Chem Development Co. Inc.; and Marathon Oil Co.**  
*United States District Court, Northern District of Oklahoma (Case No. 93-C 1102)*  
Deposition testimony and expert report: reasonable royalty involving a patent directed to coker heater refinery equipment.
- **Beloit Corp. v. Valmet Corp., et al.**  
*United States District Court, Western District of Wisconsin (Case No. 96-C-0087-C)*  
Trial testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents directed to the dryer section of paper making machines.
- **Burke, Inc. v. Everest & Jennings, Inc. et al./Burke, Inc. v. Invacare Corp.**  
*United States District Court, California Central District (Case No. 89-2613 (KMW)/Case No. 90-787 (KMW))*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest over a patent directed to three wheel motorized scooter technology.

- **Bauer Inc. v. Rollerblade, Inc.**  
*United States District Court, Eastern District of Virginia (Case No. 96-952-A)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to a hybrid stitched and molded skate boot design.
- **Mettler - Toledo A.G. v. Denver Instrument Co., et al.**  
*United States District Court, Eastern District of Virginia (Case No. 95-1055-A)*  
Deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving patents directed to analytical and precision balances.
- **Bristol-Myers Squibb Co. v. Abbott Laboratories**  
*United States District Court, Southern District of Indiana (Case No. EV 94-56-C)*  
Trial and deposition testimony and expert report: reasonable royalty involving a patent directed to a guiding device used in enteral delivery set assemblies.
- **Crown Equipment Corp. v. The Raymond Corp.**  
*United States District Court, Northern District of Ohio (Case No. 3:93CV7356)*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty, and prejudgment interest involving a patent directed to lift truck technology.
- **Mitsubishi Kasei Corp.; and Mitsubishi Kasei America, Inc. v. Virgle Hedgcoth; and Mertec Licensing Technology**  
*United States District Court, Northern District of California (Case No. 94-1971 SAW (JSB))*  
Deposition testimony and expert report: reasonable royalty involving a patent directed to sputtered rigid disks used in personal computers.
- **Travelers Express Co. Inc. v. The Standard Register Co.**  
*United States District Court, District of Minnesota (Case No. 4-93-436)*  
Deposition testimony and expert report: lost profits, reasonable royalty, patent misuse, and prejudgment interest involving patents directed to money order dispensers.
- **Dow Chemical Co. v. The United States**  
*Court of Federal Claims (Case No. 19-83C)*  
Trial and deposition testimony: measure and amount of delay compensation in an eminent domain case over the taking of a patent directed to the back - filling of abandoned coal mines.

#### **Patent Cases – Injunctive Relief**

- **Biogen International GmbH and Biogen MA, Inc. v. Amneal Pharmaceuticals LLC**  
*United States District Court, District of Delaware (Cases 17-cv-823-LPS (Consolidated); 17-cv-00875-UNA (Sawai USA, Inc. and Sawai Pharmaceutical Co., Ltd.); 17-cv-00847 (Shilpa Medicare Limited); 17-cv-00954-UNA and 19-cv-00333-UNA (Zydus Pharmaceuticals USA, Inc.); 17-cv-00824-UNA (Aurobindo Pharma USA, Inc. and Aurobindo Pharma USA LLC); 17-cv-00825-UNA and 19-cv-00211-UNA (Hetero USA, Inc., Hetero Labs Limited Unit-III, and Hetero Labs Limited); 17-cv-00845-UNA (MSN Laboratories Private Ltd. and MSN Pharmaceuticals, Inc.); and 17-cv-00827-UNA and 17-cv-00874-UNA (Prinston Pharmaceutical, Inc. and Sandoz, Inc.))*  
Trial and deposition testimony and expert report: commercial success and injunctive relief covering patents directed to oral medication for the treatment of multiple sclerosis.
- **Biogen International GmbH and Biogen MA, Inc. v. Mylan Pharmaceuticals, Inc.**  
*United States District Court, Northern District of West Virginia (Case No. 17-cv-00116-IMK)*  
Deposition testimony and expert report: commercial success and injunctive relief covering patents directed to oral medication for the treatment of multiple sclerosis.

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- **BASF Plant Science, LP v. Commonwealth Scientific and Industrial Research Organisation; and Commonwealth Scientific and Industrial Research Organisation, Grains Research and Development, Corp., and Nuseed Pty Ltd. v. BASF Plant Science, LP and Cargill, Inc.**  
*United States District Court, Eastern District of Virginia (Case No. 17-cv-503-HCM)*  
Trial and deposition testimony and expert report: reasonable royalty damages and injunctive relief covering patents directed to the production of plant-derived omega-3 oils.
- **Fresenius Kabi USA, LLC v. Fera Pharmaceuticals, LLC and Oakwood Laboratories, LLC**  
*United States District Court, District of New Jersey (Case No. 15-03654-KM-MAH)*  
Deposition testimony and expert declarations: antitrust liability and damages; commercial success and preliminary injunctive relief involving patents directed to injectable drug treatment of myxedema coma.
- **Dominion Resources, Inc., and Virginia Electric and Power Company v. Alstom Grid, Inc.**  
*United States District Court, Eastern District of Pennsylvania*  
Trial and deposition testimony and expert report: permanent injunction involving patents directed to a system and process that dynamically samples smart meters in order to achieve voltage optimization.
- **Integra Lifesciences Corporation, Integra Lifesciences Sales, LLC, Confluent Surgical, Inc., and Incept, LLC v. Hyperbranch Medical Technology, Inc.**  
*United States District Court, District of Delaware (Case No. 15-cv-00819)*  
Trial and deposition testimony and expert reports: lost profits, price erosion, reasonable royalty, prejudgment interest, preliminary relief, and commercial success involving patents directed to cranial and spinal dural repair sealants.
- **Antares Pharma, Inc. v. Medac Pharma, Inc., Medac GmbH, Becton Dickinson France S.A.S., and Becton, Dickinson and Company**  
*United States District Court, District of Delaware (C.A. No. 14-270-SLR)*  
Deposition testimony and expert report: irreparable harm, balance of hardships, and public interest involving patents directed to methotrexate autoinjector products.
- **Delavau, LLC v. J.M. Huber Corporation and J.M. Huber Micropowders Inc.**  
*United States District Court, District of New Jersey (Case No. 12-05378 (ES)(SCM))*  
Deposition testimony and expert declaration: preliminary injunctive relief involving patents directed to dietary calcium supplements.
- **Dyson Technology Limited and Dyson, Inc. v. Cornucopia Products, LLC**  
*United States District Court, District of Arizona (Case No. 2:12-cv-00924-ROS)*  
Hearing testimony and expert declaration: irreparable harm involving patents directed to bladeless fans.
- **Novozymes A/S and Novozymes North America, Inc. v. Danisco A/S; Genecor International Wisconsin, Inc.; Danisco US Inc.; and Danisco USA Inc.**  
*United States District Court, Western District of Wisconsin (Case No. 10-CV-251)*  
Trial and deposition testimony and expert report and expert declaration: lost profits, reasonable royalty, prejudgment interest and irreparable harm involving a patent directed to alpha-amylases used for fuel ethanol.
- **LifeWatch Services, Inc. and Card Guard Scientific Survival, LTD. v. Medicomp, Inc. and United Therapeutics Corp.**  
*United States District Court, Middle District of Florida, Orlando Division (Case No. 6:09-cv-1909-Orl-31DAB)*  
Hearing and deposition testimony and expert declaration: preliminary injunctive relief involving patents directed to ambulatory arrhythmia monitoring solutions.

- **Verizon Services Corp. and Verizon Laboratories, Inc. v. Vonage Holdings Corp. and Vonage America, Inc.**  
*United States District Court, Eastern District of Virginia (Case No. 1:06CV682)*  
Trial and deposition testimony and expert report: permanent injunction, lost profits and reasonable royalty involving patents directed to a voice over internet protocol (“VoIP”) platforms.
- **Riverwood International Corp. v. MeadWestvaco Corp.**  
*United States District Court, Northern District of Georgia (Case No. 1:03-CV-1672 (TWT))*  
Deposition testimony and expert report: irreparable harm involving a patent directed to 2x6 beverage cartons.

#### **Patent Cases – Commercial Success**

- **Biogen International GmbH and Biogen MA, Inc. v. Amneal Pharmaceuticals LLC**  
*United States District Court, District of Delaware (Cases 17-cv-823-LPS (Consolidated); 17-cv-00875-UNA (Sawai USA, Inc. and Sawai Pharmaceutical Co., Ltd.); 17-cv-00847 (Shilpa Medicare Limited); 17-cv-00954-UNA and 19-cv-00333-UNA (Zydus Pharmaceuticals USA, Inc.); 17-cv-00824-UNA (Aurobindo Pharma USA, Inc. and Aurobindo Pharma USA LLC); 17-cv-00825-UNA and 19-cv-00211-UNA (Hetero USA, Inc., Hetero Labs Limited Unit-III, and Hetero Labs Limited); 17-cv-00845-UNA (MSN Laboratories Private Ltd. and MSN Pharmaceuticals, Inc.); and 17-cv-00827-UNA and 17-cv-00874-UNA (Prinston Pharmaceutical, Inc. and Sandoz, Inc.))*  
Trial and deposition testimony and expert report: commercial success and injunctive relief covering patents directed to oral medication for the treatment of multiple sclerosis.
- **Biogen International GmbH and Biogen MA, Inc. v. Mylan Pharmaceuticals, Inc.**  
*United States District Court, Northern District of West Virginia (Case No. 17-cv-00116-IMK)*  
Deposition testimony and expert report: commercial success and injunctive relief covering patents directed to oral medication for the treatment of multiple sclerosis.
- **Mylan Pharmaceuticals, Inc. v. Biogen MA, Inc.**  
*The United States Patent and Trademark Office (Case No. IPR2018-01403)*  
Deposition testimony and expert report: commercial success covering patents directed to oral medication for the treatment of multiple sclerosis.
- **Teva Pharmaceuticals International GmbH, Cephalon, Inc., and Eagle Pharmaceuticals, Inc. v. Apotex, Inc., Apotex Corp., Fresenius Kabi USA, LLC, Mylan Laboratories Ltd., and Slayback Pharma Limited Liability Company**  
*United States District Court, District of Delaware (Case No. 17-cv-1154-CFC)*  
Trial and deposition testimony and expert report: commercial success covering patents directed to an injectable chemotherapy drug for the treatment of blood cancer.
- **Astellas Pharma, Inc., Astellas US LLC, Astellas Pharma US, Inc., Medivation LLC, Medivation Prostate Therapeutics LLC, Pfizer, Inc., and The Regents of the University of California v. Actavis Laboratories FL, Inc., Actavis LLC, Apotex, Inc., Apotex Corp., Zydus Pharmaceuticals (USA), Inc., Cadila Healthcare Limited, Roxane Laboratories, Inc., West-Ward Pharmaceuticals Corp., and West-Ward Pharmaceuticals International Limited**  
*United States District Court, District of Delaware (Case No. 16-cv-1120)*  
Deposition testimony and expert report: commercial success involving patents directed to the treatment of prostate cancer.
- **Valeant Pharmaceuticals International, Inc., Salix Pharmaceuticals, Inc., Progenics Pharmaceuticals, Inc., and Wyeth LLC v. Actavis Laboratories FL, Inc.**  
*United States District Court, District of New Jersey (Case No. 2:16-cv-09038 (SRC)(CLW))*  
Deposition testimony and expert report: commercial success covering patents directed to an oral treatment of opioid induced constipation (“OIC”) indications.

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- **Nichia Corporation v. Vizio, Inc.**  
*United States District Court, Central District of California (Case No. 8:16-cv-00545)*  
Deposition testimony and expert report: reasonable royalty damages and commercial success involving patents directed to light emitting diodes (LEDs).
- **Valeant Pharmaceuticals International, Inc., Salix Pharmaceuticals, Inc., Progenics Pharmaceuticals, Inc., and Wyeth LLC v. Mylan Pharmaceuticals, Inc., Mylan Laboratories Ltd., Mylan, Inc., and Actavis LLC**  
*United States District Court, District of New Jersey (Case No. 2:15-08180 (SRC)(CLW))*  
Deposition testimony and expert report: commercial success covering patents directed to an intravenous treatment of opioid induced constipation ("OIC") indications.
- **Eli Lilly and Company v. Teva Pharmaceuticals USA, Inc.**  
*United States District Court, Southern District of Indiana, Indianapolis Division (Case No. 16-cv-596)*  
Deposition testimony and expert report: commercial success covering a patent directed to treatment of postmenopausal osteoporosis.
- **Integra Lifesciences Corporation, Integra Lifesciences Sales, LLC, Confluent Surgical, Inc., and Incept, LLC v. Hyperbranch Medical Technology, Inc.**  
*United States District Court, District of Delaware (Case No. 15-cv-00819)*  
Trial and deposition testimony and expert reports: lost profits, price erosion, reasonable royalty, prejudgment interest, preliminary relief, and commercial success involving patents directed to cranial and spinal dural repair sealants.
- **VIVUS, Inc. v. Actavis Laboratories FL, Inc.**  
*United States District Court, District of New Jersey (Case No. 14-cv-3786-SRC-CLW; 15-cv-1636-SRC-CLW; and 15-CV-02693-SRC-CLW)*  
Deposition testimony and expert reports: commercial success involving patents directed to an immediate release/extended release combination drug used for chronic weight management.
- **Fresenius Kabi USA, LLC v. Fera Pharmaceuticals, LLC and Oakwood Laboratories, LLC**  
*United States District Court, District of New Jersey (Case No. 15-03654-KM-MAH)*  
Deposition testimony and expert declarations: antitrust liability and damages; commercial success and preliminary injunctive relief involving patents directed to injectable drug treatment of myxedema coma.
- **In the Matter of Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (Sony Corporation, Sony Corporation of America, and Sony Electronics, Inc. (Respondents))**  
*United States International Trade Commission (Inv. No. 337-TA-1012)*  
Trial and deposition testimony and expert report: economic evaluation of FRAND, commercial success, bond, remedy, domestic industry, and public interest issues involving patents directed to certain magnetic data storage tapes and cartridges.
- **Noven Pharmaceuticals, Inc. v. Actavis Laboratories UT, Inc.**  
*United States District Court, District of Delaware (Case No. 15-249 (LPS))*  
Trial and deposition testimony and expert report: commercial success involving patents directed to an estrogen therapy patch.
- **Sebela International, Ltd. v. Actavis Laboratories FL, Inc., Actavis Pharma, Inc., Andrx Corp., and Actavis, Inc.; Sebela International Ltd. v. Princeton Pharmaceutical, Inc., Solco Healthcare U.S., LLC, and Huahai US, Inc.**  
*United States District Court, District of New Jersey (Case No. 14-cv-06414 (CCC-JBC) and 14-cv-07400 (CCC-JBC); consolidated with Case No. 15-cv-05308)*  
Trial and deposition testimony and expert report: commercial success involving patents directed to a non-hormonal product indicated for the treatment of moderate to severe vasomotor symptoms ("VMS") associated with menopause.



- **Meda Pharmaceuticals, Inc. and Cipla, Ltd. v. Apotex, Inc. and Apotex Corp.**  
*United States District Court, District of Delaware (Case No. 14-1453-LPS)*  
Trial and deposition testimony and expert declaration: commercial success involving patents directed to a combination formulation drug used to treat seasonal allergic rhinitis.
- **Arctic Cat, Inc., v. Polaris Industries, Inc.**  
*The United States Patent and Trademark Office (Cases IPR2015-01781; IPR2015-01783)*  
Deposition testimony and expert declaration: commercial success involving patents directed to side-by-side all-terrain vehicles.
- **Innopharma Inc., Mylan Pharmaceuticals, Inc., et al. v. Senju Pharmaceutical Co., Ltd., Bausch & Lomb, Inc., and Bausch & Lomb Pharma Holdings Corp.**  
*The United States Patent and Trademark Office (Case Nos. IPR2015-00902 and IPR2015-00903)*  
Deposition testimony and expert declaration: commercial success involving patents directed to nonsteroidal anti-inflammatory drugs (“NSAIDs”) used to treat post-cataract surgery inflammation and pain.
- **Lupin Ltd. and Lupin Pharmaceuticals, Inc. v. Senju Pharmaceutical Co., Ltd.**  
*The United States Patent and Trademark Office (Case Nos. IPR2015-01097; IPR2015-01105; IPR2015-01099; and IPR2015-01100)*  
Deposition testimony and expert declaration: commercial success involving patents directed to nonsteroidal anti-inflammatory drugs (“NSAIDs”) used to treat post-cataract surgery inflammation and pain.
- **Senju Pharmaceutical Co., Ltd., Bausch & Lomb, Inc., and Bausch & Lomb Pharma Holdings Corp. v. Innopharma Inc., Lupin Pharmaceuticals, Inc., et al.**  
*United States District Court, District of New Jersey (Case Nos. 14-cv-00667-JBS-KMW; 14-cv-04149-JBS-KMW; 14-cv-05144-JBS-KMW; 15-cv-00335-JBS-KMW; 14-cv-06893-JBS-KMW; and 15-cv-03240-JBS-KMW)*  
Deposition testimony and expert declaration: commercial success involving patents directed to nonsteroidal anti-inflammatory drugs (“NSAIDs”) used to treat post-cataract surgery inflammation and pain.
- **Arctic Cat, Inc., v. Polaris Industries, Inc.**  
*The United States Patent and Trademark Office (Case IPR2014-01427)*  
Deposition testimony and expert declaration: commercial success involving patents directed to side-by-side all-terrain vehicles.
- **Intendis GmbH, Intraser GmbH & Co. KG and Bayer Healthcare Pharmaceuticals Inc., v. Glenmark Generics Ltd. and Glenmark Generics Inc., USA.**  
*United States District Court, District of Delaware (Case No. 13-cv-421-SLR)*  
Trial and deposition testimony and expert report: commercial success involving a patent directed to the treatment of certain skin diseases.
- **Everlight Electronics Co. Ltd., and Emcore Corporation v. Nichia Corporation and Nichia America Corporation v. Everlight Americas, Inc.**  
*United States District Court, Eastern District of Michigan, Southern Division (Case No. 4:12-cv-11758 GAD-MKM)*  
Trial and deposition testimony, expert report and declaration: commercial success, lost profits, reasonable royalty, and prejudgment interest involving patents directed to LEDs.

- **Bayer Healthcare Pharmaceuticals, Inc. and Dow Pharmaceutical Sciences, Inc. v. River's Edge Pharmaceuticals, LLC, Teresina Holdings, LLC, Medical Products Laboratories, Inc. and Stayma Consulting Services, LLC**  
*United States District Court, Northern District of Georgia, Atlanta Division (Case No.11-cv-01634-RLV)*  
Deposition testimony and expert report: commercial success involving a patent directed to the treatment of certain skin diseases.
- **JDS Therapeutics, LLC and Nutrition 21, LLC v. Pfizer Inc., Wyeth LLC, Wyeth Consumer Healthcare Ltd., and Wyeth Consumer Healthcare LLC**  
*United States District Court, Southern District of New York (Case No.1:12-cv-09002-JSR)*  
Deposition testimony and expert report: commercial success, reasonable royalty, and unjust enrichment involving patents and trade secrets directed to the use of chromium picolinate in multi-vitamins.
- **Ferring, B.V. v. Watson Laboratories, Inc. – Florida, Apotex Inc., and Apotex Corp.**  
*United States District Court, District of Nevada (Case Nos.3:11-cv-00481-RCJ-VPC, 3:11-cv-00485-RCJ-VPC, 3:11-cv-00853-RCJ-VPC, 3:11-cv-00854-RCJ-VPC, 2:12-cv-01935-RCJ-VPC, and 2:12-cv-01941-RCJ-VPC)*  
Deposition testimony and expert report: commercial success involving patents directed to the treatment of menorrhagia.
- **Medicis Pharmaceutical Corporation; Dow Pharmaceutical Sciences, Inc.; and Alyzan, Inc. v. Actavis Mid Atlantic LLC**  
*United States District Court, District of Delaware (Case No. 11-CV-409)*  
Deposition testimony and expert report: commercial success involving a patent directed to delivery vehicles for treatment of dermatological disorders.
- **Galderma Laboratories, L.P.; Galderma S.A.; and Galderma Research & Development, S.N.C. v. Tolmar Inc.; and Actavia Mid Atlantic LLC**  
*United States District Court, District of Delaware (Case No. 10-cv-45 (LPS))*  
Trial and deposition testimony and expert report: commercial success involving a patent directed to treatment of dermatological disorders.
- **Pronova Biopharma Norge AS v. Teva Pharmaceuticals USA, Inc.; Apotex Corp. and Apotex Inc.; Par Pharmaceutical, Inc.; and Par Pharmaceutical Companies, Inc.**  
*United States District Court, District of Delaware (Case Nos. 09-286-SLR/09-304-SLR/09-305-SLR-MPT)*  
Trial and deposition testimony and expert report: commercial success covering patents directed to treatment of HDL cholesterol and hypertriglyceridemia.
- **Eli Lilly and Company v. Wockhardt Limited and Wockhardt USA, Inc.**  
*United States District Court, District of Indiana, Indianapolis Division (Case No. 1:08-cv-1547-WTL-TAB)*  
Deposition testimony and expert report: commercial success covering a patent directed to treatment of depression, anxiety and pain.
- **Acorda Therapeutics, Inc. v. Apotex Inc. and Apotex Corp.**  
*United States District Court, District of New Jersey (Case No. 2:07-cv-04937-JAG-MCA)*  
Trial and deposition testimony and expert report: commercial success covering a patent directed to treatment of spasticity.

- **Medeva Pharma Suisse A.G. and Proctor & Gamble Pharmaceuticals, Inc. v. Roxane Laboratories, Inc.**  
*United States District Court, District of New Jersey (Case No. 3:07-CV-05165-FLW-TJB)*  
Deposition testimony and expert report: commercial success involving a patent directed to treatment of ulcerative colitis.
- **Otsuka Pharmaceutical Co., Ltd., Inc., et al. v. Sandoz, Inc., et al.**  
*United States District Court, District of New Jersey (Case No. 07-cv-01000)*  
Trial and deposition testimony and expert report: commercial success covering a patent directed to the active ingredient of an atypical antipsychotic drug.
- **Janssen-Ortho Inc. and Daiichi Pharmaceutical Co., Ltd v. Novopharm Ltd.**  
*Canadian Federal Court (Case No. T-2175-04)*  
Trial testimony (written) and affidavit: commercial success covering a patent directed to the active ingredient of an anti-infective drug.
- **Janssen-Ortho Inc. and Daiichi Pharmaceutical Co., Ltd v. The Minister of Health; and Apotex Inc.**  
*Federal Court of Canada (Case No. T-1508-05)*  
Deposition testimony and expert report: commercial success interest involving a patent directed to an anti-infective drug.
- **Ortho-McNeil Pharmaceutical, Inc., et al. v. Mylan Laboratories**  
*United States District Court, Northern District of West Virginia (Case No. 1:02CV32)*  
Trial and deposition testimony and expert report: commercial success covering a patent directed to the active ingredient of an anti-infective drug.
- **Elan Corp., PLC v. Andrx Pharmaceuticals, Inc.**  
*United States District Court, Southern District of Florida (Case No. 98-7164)*  
Trial and deposition testimony and expert report: commercial success covering a patent directed to controlled release dosing of a nonsteroid anti-inflammatory drug.

**Patent Cases – Other**

- **MPEG LA, LLC v. Toshiba American Information Systems, Inc.**  
*Supreme Court of the State of New York, County of New York (Index No. 162716/2015)*  
Deposition testimony and expert report: contract transfer and patent misuse involving patents directed to digital television standards.
- **Fresenius Kabi USA, LLC v. Fera Pharmaceuticals, LLC and Oakwood Laboratories, LLC**  
*United States District Court, District of New Jersey (Case No. 15-03654-KM-MAH)*  
Deposition testimony and expert declarations: antitrust liability and damages; commercial success and preliminary injunctive relief involving patents directed to injectable drug treatment of myxedema coma.
- **Travelers Express Co. Inc. v. The Standard Register Co.**  
*United States District Court, District of Minnesota (Case No. 4-93-436)*  
Deposition testimony and expert report: lost profits, reasonable royalty, patent misuse and prejudgment interest involving patents directed to money order dispensers.

**Trade Secret Cases**

- **JELD-WEN, Inc. v. John Ambruz and Global Strategic Partners LLC**  
*American Arbitration Association (Case No. 01-17-0007-0838)*  
Hearing and deposition testimony and expert report: damages and reasonable royalty associated with alleged misappropriation of trade secrets and breach of contract involving the production of molded door skins.
- **NCR Corporation v. Pendum LLC and Burroughs, Inc.**  
*United States District Court, Northern District of Georgia (Case No. 16-cv-04114-SCJ)*  
Deposition testimony and expert report: damages associated with lost profits, price erosion, unjust enrichment, and economic effects and harm associated with alleged misappropriation of trade secrets, copyright infringement, trademark infringement, breach of contract, and tortious interference with current and prospective business relations in case involving the servicing of automatic teller machines (ATMs).
- **Cedars-Sinai Medical Center v. Quest Diagnostics Inc. and Quest Diagnostics Nichols Institute**  
*United States District Court, Central District of California, Western Division (Case No. 17-cv-5169-GW-FFM)*  
Deposition testimony and expert report: damages associated with alleged misappropriation of trade secrets, breach of contract, and patent infringement involving diagnostic testing for irritable bowel syndrome (IBS).
- **Steves and Sons, Inc. v. JELD-WEN, Inc.**  
*United States District Court, Eastern District of Virginia, Richmond Division (Case No. 16-cv-00545-REP)*  
Trial and deposition testimony and expert report: damages, profits, and reasonable royalty associated with alleged misappropriation of trade secrets and tortious interference with employment contracts and severance agreements involving the production of molded door skins.
- **Luminara Worldwide, LLC v. Shenzhen Liown Electronics Co., Ltd, Central Garden and Pet Co., et al.; Shenzhen Liown Electronics Co., Ltd, Central Garden and Pet Co. v. Luminara Worldwide, LLC, et al. ; and Luminara Worldwide, LLC v. Shenzhen Liown Electronics Co., Ltd and Central Garden and Pet Co., et al.**  
*United States District Court, District of Minnesota (Case Nos. 14-cv-03103 (SRN/FLN) and 15-cv-03028 (SRN/FLN))*  
Deposition testimony and expert reports: damages associated with alleged patent infringement and breach of contract, and unjust enrichment associated with breach of non-disclosure agreement and use of trade secrets, related to flameless candle technology and distribution.
- **Red Online Marketing Group LP, d/b/a 50onRED v. Revizer Ltd., d/b/a Ad Force Technologies, Ltd., and Revizer Technologies, Ltd.**  
*United States District Court, Eastern District of Pennsylvania (Case No. 14-1353)*  
Deposition testimony and expert report: damages associated with alleged misappropriation of trade secrets, breach of contract, and unfair competition (Lanham Act violations) involving internet monetization products.
- **Thomas C. Sisoian v. International Business Machines Corporation (IBM)**  
*United States District Court, Western District of Texas, Austin Division (Case No. A-14-CA-565-SS)*  
Deposition testimony and expert report: unjust revenues and profits involving misappropriation of trade secrets over developing, implementing, and integrating complex telecommunication information systems.

- **In the Matter of Certain Sulfentrazone, Sulfentrazone Compositions, and Processes for Making Sulfentrazone (FMC (Complainant))**  
*United States International Trade Commission (Investigation No. 337-TA-914)*  
Trial and deposition testimony and expert report: irreparable harm, balance of hardships, and public interest involving a patent directed to a crop herbicide.
- **In the Matter of Certain Opaque Polymers (Organik Kimya (Respondent))**  
*United States International Trade Commission (Investigation No.337-TA-883)*  
Deposition testimony and expert report: injury, independent economic valuation, and bond involving trade secrets used in the production of opaque polymers.
- **MacDermid, Inc. v. Cookson Group, plc, Cookson Electronics, Enthone, Inc., and David North**  
*United States Superior Court, Judicial District of Waterbury (Case No.x10-cv-09-5014518-d)*  
Deposition testimony and expert report: royalty and prejudgment interest involving the misappropriation of trade secrets directed to chemicals, materials, and technical services used in a possible corporate acquisition.
- **JDS Therapeutics, LLC and Nutrition 21, LLC v. Pfizer Inc., Wyeth LLC, Wyeth Consumer Healthcare Ltd., and Wyeth Consumer Healthcare LLC**  
*United States District Court, Southern District of New York (Case No.1:12-cv-09002-JSR)*  
Deposition testimony and expert report: commercial success, reasonable royalty, and unjust enrichment involving patents and trade secrets directed to the use of chromium picolinate in multi-vitamins.
- **E. I. du Pont de Nemours and Company v. Kolon Industries, Inc. and Kolon USA, Inc.**  
*United States District Court, Eastern District of Virginia, Richmond Division (Case No. 3:09CV58)*  
Trial and deposition testimony and expert report: unjust enrichment involving misappropriation of trade secrets directed to aramid fiber production.
- **CA, Inc.; Computer Associates Think, Inc.; Platinum Technology International, Inc.; and Platinum Technology IP, Inc., v. Rocket Software, Inc.**  
*United States District Court, Eastern District of New York (Case No. 07-CV-1476 (ADS)(MLO)*  
Deposition testimony and expert report: lost profits, unjust enrichment, price erosion and prejudgment interest involving copyrights and trade secrets related to DB2 software tools.
- **Sensormatic Electronics Corp. v. The TAG Co. US LLC; Phenix Label Co.; Dennis Gadonniex**  
*United States District Court, Southern District of Florida (Case No.06-81105-Civ-Hurley/Hopkins)*  
Trial and deposition testimony and expert report: unjust enrichment involving misappropriation of trade secrets directed to loss prevention systems.
- **Cogent Systems, Inc. v. Northrop Grumman Corp.**  
*California Superior Court, County of Los Angeles, Central District (Case No.BC332199)*  
Deposition testimony and expert report: reasonable royalty involving misappropriation of trade secrets directed to fingerprint identification technology.
- **Geomatrix, LLC and David A. Potts v. Infiltration Systems, Inc.**  
*Connecticut Superior Court, District of Middlesex at Middleton (Case No.MMX-CV-05-4004477 S)*  
Deposition testimony and expert disclosure: reasonable royalty involving misappropriation of trade secrets directed to leach field and septic tank technology.
- **McMahon Marketing v. Toyota Motor Sales**  
*California Superior Court, County of Los Angeles (Case No. BC317277)*  
Deposition testimony: damages and profits associated with trade secrets directed to a luxury hotel and automotive partnership.

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- **Christopher Karol and Karol Designs, LLC v. Burton Corp.**  
*United States District Court, District of Vermont (Case No. 1:01-CV-178)*  
Deposition testimony and expert report: reasonable royalty and disgorgement of profits involving trade secrets and an NDA directed to snowboard boot and binding technology.
- **Takata Corp. v. AlliedSignal, Inc. and Breed Technologies, Inc.**  
*United States District Court, District of Delaware (Case No. 98-94-MMS)*  
Deposition testimony and expert report: reasonable royalty and prejudgment interest covering patents and trade secrets directed to seatbelt retractors.
- **Trimless-Flashless Design, Inc. v. Augat, Inc.; Thomas & Betts Corp.; and Tyco International, Ltd.**  
*United States District Court, Eastern District of Virginia (Case No. CA00-245-A)*  
Trial and deposition testimony and expert report: damages and profits associated with alleged breach of contract and misappropriation of trade secrets involving metallized particle interconnects used to connect microprocessors with mother boards.
- **Insight Development Corp. v. Hewlett-Packard Co.**  
*United States District Court, Northern District of California (Case No. C 98 3349 CW)*  
Deposition testimony and expert report: damages and profits associated with alleged contract breaches, patent, copyright and trade secret misappropriation/infringement and unfair competition involving digital image processing and transmission, including that over the internet.
- **DSC Communications Corp. v. DGI Technologies, Inc.**  
*United States District Court, Northern District of Texas (Case No. 3:94-CV-1047)*  
Trial testimony and expert report: reasonable royalty involving copyrights, trade secrets and unfair competition over telecommunications switching equipment.
- **Wayne State University; Lumigen Inc.; and A. Paul Schapp v. Irena Bronstein and Tropix Inc.**  
*State of Michigan Circuit Court, County of Wayne and Court of Claims (Case No. 88-804-627 CK/Case No. 88-11871CM)*  
Deposition testimony and expert report: unjust enrichment and lost profits involving trade secrets directed to chemiluminescence (medical detection) technology.

#### **Trademark Cases**

- **NCR Corporation v. Pendum LLC and Burroughs, Inc.**  
*United States District Court, Northern District of Georgia (Case No. 16-cv-04114-SCJ)*  
Deposition testimony and expert report: damages associated with lost profits, price erosion, unjust enrichment, and economic effects and harm associated with alleged misappropriation of trade secrets, copyright infringement, trademark infringement, breach of contract, and tortious interference with current and prospective business relations in case involving the servicing of automatic teller machines (ATMs).
- **Katherine Dines v. Toys “R” Us-Delaware, Inc.**  
*United States District Court, District of Colorado (Case No. 12-cv-2279-PAB-KMT)*  
Deposition testimony and expert report: profits and prejudgment interest associated with trademark infringement involving a line of stuffed animal toys.
- **The Coryn Group II, LLC v. O.C. Seacrets, Inc.**  
*United States District Court, District of Maryland, Northern Division (Case No. 08-cv-02764-WDQ)*  
Trial testimony and expert report: profits and damages involving the use of “Secrets” trademark in the leisure resort business.

- **YSL Beauté v. Oscar de la Renta, Ltd.**  
*American Arbitration Association (Case No. 13 133 01389 08)*  
Arbitration hearing testimony and expert report: damages associated with alleged breach of contract and trademark infringement involving cosmetics, fragrances and beauty products.
- **Fishman Transducers, Inc. v. Stephen Paul d/b/a “Esteban” Daystar Productions and HSN Interactive LLC**  
*United States District Court, District of Massachusetts (Case No. 07-CA-10071 RCL)*  
Trial and deposition testimony and expert report: damages and profits associated with a trademark directed to guitar transducers.
- **ISP.NET, LLC d/b/a IQuest Internet v. Qwest Communications International, Inc.**  
*United States District Court, Southern District of Indiana, Indianapolis Division (Case No. IP01-0480 C B/S)*  
Deposition testimony and expert report: reasonable royalty, disgorgement of profits and prejudgment interest involving a trademark directed to internet service provision.
- **Fuel Clothing Co., Inc. v. Safari Shirt Co. d/b/a Fuel Clothing Co., Inc.**  
*United States District Court, Western District of Washington at Tacoma (Case No. CO5 5366 KJB))*  
Deposition testimony and expert report: economic harm involving a trademark directed to sports apparel logos.
- **Alpha International, Inc. v. General Foam Plastics Corp.**  
*United States District Court, Eastern District of North Carolina (Case No. 4:01-CV-142-H(3))*  
Deposition testimony and expert report: copyright infringement, trademark infringement, conversion and unjust enrichment involving bowling pin sets and ride-on toys.
- **Fuel TV, Inc. v. Fuel Clothing Co., Inc.**  
*United States District Court, Central District of California, Western Division (Case No. CV03-8248-ABC-VBKx)*  
Deposition testimony and expert report: economic harm involving infringement of trademark used in extreme sports applications.
- **AutoNation, Inc. v. Acme Commercial Corp., et al. (CarMax)**  
*United States District Court, Southern District of Florida (Case No. 96-6141)*  
Trial and deposition testimony and expert report: reasonable royalty associated with trademark infringement and unfair competition in the auto superstore business.

#### Copyright Cases

- **NCR Corporation v. Pendum LLC and Burroughs, Inc.**  
*United States District Court, Northern District of Georgia (Case No. 16-cv-04114-SCJ)*  
Deposition testimony and expert report: damages associated with lost profits, price erosion, unjust enrichment, and economic effects and harm associated with alleged misappropriation of trade secrets, copyright infringement, trademark infringement, breach of contract, and tortious interference with current and prospective business relations in case involving the servicing of automatic teller machines (ATMs).
- **Syngenta Crop Protection, LLC v. Willowood, LLC, Willowood USA, LLC, Willowood Azoxystrobin, LLC, and Willowood Limited**  
*US District Court, Middle District of North Carolina (Case No. 1:15-cv-274)*  
Trial and deposition testimony and expert report: damages and prejudgment interest related to alleged patent and copyright infringement involving crop fungicide.

- **American Society for Testing and Materials d/b/a ASTM International; National Fire Protection Association, Inc.; and American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc. v. Public.Resource.org, Inc.**  
*United States District Court for the District of Columbia (Case No. 13-cv-01215-TSC)*  
Deposition testimony and expert report: harm and public interest involving copyrights and trademarks covering standards incorporated by reference into law.
- **Complex Systems, Inc. v. ABN AMRO Bank N.V.**  
*United States District Court, Southern District of New York (Case No. 08-cv-7497)*  
Deposition testimony and expert report: revenues and profits involving copyrighted trade finance software.
- **Shepard Fairey and Obey Giant Art, Inc. v. The Associated Press v. Shepard Fairey; Obey Giant Art, Inc.; Obey Giant LLC; Studio Number One, Inc.; and One 3 Two, Inc.**  
*United States District Court, Southern District of New York (Case No. 09-01123(AKH))*  
Deposition testimony and expert report: fair use, damages and profits involving copyrighted photograph of President Obama.
- **CA, Inc.; Computer Associates Think, Inc.; Platinum Technology International, Inc.; and Platinum Technology IP, Inc., v. Rocket Software, Inc.**  
*United States District Court, Eastern District of New York (Case No. 07-CV-1476 (ADS)(MLO))*  
Deposition testimony and expert report: lost profits, unjust enrichment, price erosion and prejudgment interest involving copyrights and trade secrets related to DB2 software tools.
- **Alpha International, Inc. v. General Foam Plastics Corp.**  
*United States District Court, Eastern District of North Carolina (Case No. 4:01-CV-142-H(3))*  
Deposition testimony and expert report: copyright infringement, trademark infringement, conversion and unjust enrichment involving bowling pin sets and ride-on toys.
- **Insight Development Corp. v. Hewlett-Packard Co.**  
*United States District Court, Northern District of California (Case No. C 98 3349 CW)*  
Deposition testimony and expert report: damages and profits associated with alleged contract breaches, patent, copyright and trade secret misappropriation/infringement and unfair competition involving digital image processing and transmission, including that over the internet.
- **First National Bank of Omaha v. Three Dimensions Systems Products, Inc.**  
*United States District Court, District of Nebraska (Case No. 8:98CV569)*  
Trial and deposition testimony and expert report: damages and profits associated with an alleged contract breach and copyright infringement involving financial services software.
- **Leslie Atkins v. Benson J. Fischer, et al.**  
*United States District Court, District of Columbia (Case No. 1:98CV00800)*  
Deposition testimony and expert report: damages and profits associated with copyright infringement covering beer label and packaging designs.
- **Wrench LLC v. Taco Bell Corp.**  
*United States District Court, Southern District of Michigan (Case No. 1:98-CV-45)*  
Trial and deposition testimony and expert report: unjust enrichment and actual damages involving chihuahua promotional campaign.
- **DSC Communications Corp. v. DGI Technologies, Inc.**  
*United States District Court, Northern District of Texas (Case No. 3:94-CV-1047)*  
Trial testimony and expert report: reasonable royalty involving copyrights, trade secrets and unfair competition over telecommunications switching equipment.



**Breach of Contract Cases**

- **In re: Windstream Holdings, Inc., et al. (Debtors); Windstream Holdings, Inc., et al. v. Charter Communications, Inc. and Charter Communications Operating, LLC**  
*United States Bankruptcy Court, Southern District of New York (Chapter 11, Case No. 19-22312 (RDD); Adv. Pro. No. 19-08246 (RDD))*  
Deposition testimony and expert report: lost profits and increased costs associated with alleged violations of the Lanham Act and other similar state statutes, breach of contract, violation of the Bankruptcy Code's automatic stay, and equitable subordination involving alleged false advertising campaign.
- **JELD-WEN, Inc. v. John Ambruz and Global Strategic Partners LLC**  
*American Arbitration Association (Case No. 01-17-0007-0838)*  
Hearing and deposition testimony and expert report: damages and reasonable royalty associated with alleged misappropriation of trade secrets and breach of contract involving the production of molded door skins.
- **NCR Corporation v. Pendum LLC and Burroughs, Inc.**  
*United States District Court, Northern District of Georgia (Case No. 16-cv-04114-SCJ)*  
Deposition testimony and expert report: damages associated with lost profits, price erosion, unjust enrichment, and economic effects and harm associated with alleged misappropriation of trade secrets, copyright infringement, trademark infringement, breach of contract, and tortious interference with current and prospective business relations in case involving the servicing of automatic teller machines (ATMs).
- **MPEG LA, LLC v. Toshiba American Information Systems, Inc.**  
*Supreme Court of the State of New York, County of New York (Index No. 162716/2015)*  
Deposition testimony and expert report: contract transfer and patent misuse involving patents directed to digital television standards.
- **Cedars-Sinai Medical Center v. Quest Diagnostics Inc. and Quest Diagnostics Nichols Institute**  
*United States District Court, Central District of California, Western Division (Case No. 17-cv-5169-GW-FFM)*  
Deposition testimony and expert report: damages associated with alleged misappropriation of trade secrets, breach of contract, and patent infringement involving diagnostic testing for irritable bowel syndrome (IBS).
- **Western Enterprises, Inc. v. Buckeye Rubber & Packaging Co.; Freudenberg-NOK General Partnership, a/k/a Freudenberg-NOK Sealing Technologies, Inc.; and International Seal Company, Inc.** *Court of Common Pleas, Cuyahoga County, Ohio (Case No. 16-869179)*  
Deposition testimony and expert report: damages associated with alleged breaches of contract, duty to indemnify, and negligence related to portable oxygen systems.
- **Luminara Worldwide, LLC v. Shenzhen Liown Electronics Co., Ltd, Central Garden and Pet Co., et al.; Shenzhen Liown Electronics Co., Ltd, Central Garden and Pet Co. v. Luminara Worldwide, LLC, et al. ; and Luminara Worldwide, LLC v. Shenzhen Liown Electronics Co., Ltd and Central Garden and Pet Co., et al.**  
*United States District Court, District of Minnesota (Case Nos. 14-cv-03103 (SRN/FLN) and 15-cv-03028 (SRN/FLN))*  
Deposition testimony and expert reports: damages associated with alleged patent infringement and breach of contract, and unjust enrichment associated with breach of non-disclosure agreement and use of trade secrets, related to flameless candle technology and distribution.

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- **Red Online Marketing Group LP, d/b/a 50onRED v. Revizer Ltd., d/b/a Ad Force Technologies, Ltd., and Revizer Technologies, Ltd.**  
*United States District Court, Eastern District of Pennsylvania (Case No. 14-1353)*  
Deposition testimony and expert report: damages associated with alleged misappropriation of trade secrets, breach of contract, and unfair competition (Lanham Act violations) involving internet monetization products.
- **Luminara Worldwide, LLC v. Shenzhen Liown Electronics Co., Ltd.**  
*State of Minnesota District Court, County of Hennepin Fourth Judicial District (Case No. 27-CV-14-16085)*  
Deposition testimony and expert report: damages associated with alleged breaches of contract and duty of good faith and fair dealing related to agreements to manufacture flameless candles.
- **ABS Holdings, Ltd. and ABS Global, Ltd. v. KT Corporation and KTSAT Corporation**  
*International Court of Arbitration of the International Chamber of Commerce*  
Arbitration hearing testimony and expert declaration: damages associated with alleged breaches of contract involving the sale and on-going operations of a satellite.
- **Bayer CropScience AG and Bayer CropScience NV v. Dow AgroSciences LLC, Mycogen Plant Science Inc., Agrigenetics, Inc. d/b/a Mycogen Seeds LLC, and Phytogen Seed Company, LLC**  
*International Chamber of Commerce (Case No. 18892/VRO /AGF)*  
Arbitration hearing testimony and expert report: damages associated with alleged breach of contract and patent infringement involving genetically modified seed.
- **Immunomedics Inc. v. Nycomed GmnH (n/k/a Takeda GmbH), Takeda Pharmaceutical Company Limited, and Takeda Pharmaceuticals International, Inc.**  
*International Center for Dispute Resolution*  
Arbitration hearing testimony and expert report: diminution of value associated with the delayed/failed development of a monoclonal antibody drug to treat various autoimmune diseases.
- **Avocent Redmond Corp. v. Raritan Americas, Inc.**  
*United States District Court, Southern District of New York (Case No. 10-cv-6100 (PKC)(JLC))*  
Deposition testimony and expert report: lost profits, lost royalties, reasonable royalty and prejudgment interest involving a patent and contract directed to software and hardware products and technologies that provide connectivity and centralized management of IT infrastructure through KVM switches.
- **General Assurance of America, Inc. v. Overby-Seawell Company**  
*United States District Court, Eastern District of Virginia, Alexandria Division (Case No. 1:11CV483)*  
Deposition testimony and expert report: damages and profits associated with obligations arising from a contract involving specialized insurance products.
- **Frontline Placement Technologies, Inc. v. CRS, Inc.**  
*United States District Court, Eastern District of Pennsylvania (Case No. 2:07-CV-2457)*  
Deposition testimony and expert report: lost profits, lost royalties, reasonable royalty and prejudgment interest involving a patent and contract directed to automated substitute fulfillment software.
- **Amkor Technology, Inc. v. Tessera, Inc.**  
*International Chamber of Commerce, International Court of Arbitration (Case No. 166531/VRO)*  
Arbitration hearing and deposition testimony and expert report: royalty payments due under a contract directed to semiconductor packaging technology.

- **Max-Planck-Gesellschaft zur Förderung der Wissenschaften E. V.; Max-Planck-Innovation GmbH; and Alnylam Pharmaceuticals, Inc. v. Whitehead Institute for Biomedical Research; Massachusetts Institute of Technology; and the Board of Trustees of the University of Massachusetts**  
*United States District Court, District of Massachusetts (Case No. 2009-11116-PBS)*  
Deposition testimony and expert report: damages and profits associated with contracts covering the transfer and sharing of RNAi technology.
- **YSL Beauté v. Oscar de la Renta, Ltd.**  
*American Arbitration Association (Case No. 13 133 01389 08)*  
Arbitration hearing testimony and expert report: damages associated with alleged breach of contract and trademark infringement involving cosmetics, fragrances and beauty products.
- **IMTEC Imaging LLC v. CyberMed, Inc.**  
*JAMS Arbitration (Reference No.1410005418)*  
Arbitration hearing and deposition testimony and expert report: lost profits and development costs associated with the alleged breach of a contract involving a software license agreement directed to cone beam computed tomography machines used in dental applications.
- **Biosynexus, Inc. v. Glaxo Group Limited and MedImmune, Inc.**  
*New York Supreme Court, County of New York (Case No. 604485/05)*  
Deposition testimony and expert report: diminution of value associated with the delayed/failed development of a pediatric anti-infective drug.
- **Indiana Mills & Manufacturing, Inc. v. Dorel Industries, Inc.**  
*United States District Court, Southern District of Indiana (Case No. 1:04-CV-1102)*  
Deposition testimony and expert report: damages and profits associated with alleged contract breach and patent infringement involving technology directed to automobile child restraint systems.
- **ETEX Corp. v. Medtronic, Inc.; Medtronic International Limited; and Medtronic Sofamor Danek, Inc.**  
*CPR Institute for Dispute Resolution*  
Arbitration hearing and deposition testimony and expert report: lost revenues and profits associated with alleged contractual breaches and antitrust violations involving spinal implant materials.
- **Audiotext International, Ltd. and New Media Group, Inc. v. Sprint Communications Co., L.P.**  
*United States District Court, Eastern District of Pennsylvania (Case No.03-CV-2110)*  
Deposition testimony and expert report: non-delivery damages involving contracts covering resale of telecommunications services.
- **Medtronic Sofamor Danek, Inc. v. Gary K. Michelson, M.D. and Karlin Technology, Inc.**  
*United States District Court, Western District of Tennessee (Case No. 01-2373 GV)*  
Trial and deposition testimony and expert report: damages and profits associated with alleged contractual breaches, tortious interference and intentional negligent representations involving spinal implants.
- **Honeywell International, Inc. and GEM Microelectronic Materials LLC v. Air Products and Chemicals, Inc. and Ashland, Inc.**  
*Delaware Chancery Court, County of New Castle (Case No.20434-NC)*  
Trial and deposition testimony and expert report: lost profits associated with alleged contractual breach and tortious interference as well as irreparable harm inquiry involving a strategic alliance to provide electronic chemicals, gases and services to the semiconductor industry.
- **Christopher Karol; and Karol Designs, LLC v. Burton Corp.**  
*United States District Court, District of Vermont (Case No. 1:01-CV-178)*  
Deposition testimony and expert report: reasonable royalty and disgorgement of profits involving trade secrets and an NDA directed to snowboard boot and binding technology.

- **Interactive Return Service, Inc. v. Virginia Polytechnic Institute and State University, et al.**  
*Circuit Court for the City of Richmond (Case No. LM-870-3)*  
Deposition testimony: lost profits and lost licensing fees involving contracts to develop interactive/return path communications.
- **City of Hope National Medical Center v. Genentech, Inc.**  
*Superior Court, State of California, County of Los Angeles (Case No. BC215152)*  
Deposition testimony and expert report: damages associated with alleged breach of contract involving license fees for use of recombinant DNA technology.
- **Igen International, Inc. v. Roche Diagnostics GmbH**  
*United States District Court, Southern Division of Maryland (Case No. PJM 97-3461)*  
Trial and deposition testimony and expert report: damages and profits associated with an alleged breach of contract involving electrochemiluminescent detection technology used in DNA probe and immunoassay kits.
- **Trimless-Flashless Design, Inc. v. Augat, Inc.; Thomas & Betts Corp.; Tyco International, Ltd.**  
*United States District Court, Eastern District of Virginia (Case No. CA00-245-A)*  
Trial and deposition testimony and expert report: damages and profits associated with alleged breach of contract and misappropriation of trade secrets involving metallized particle interconnects used to connect microprocessors with mother boards.
- **New Industries Co. (Sudan) Ltd. v. PepsiCo, Inc.**  
*American Arbitration Association (Case No. 50 T 114 00001 95)*  
Arbitration hearing testimony and expert report: damages and profits associated with breaches of PepsiCo franchise agreement.
- **Insight Development Corp. v. Hewlett-Packard Co.**  
*United States District Court, Northern District of California (Case No. C 98 3349 CW)*  
Deposition testimony and expert report: damages and profits associated with alleged contract breaches, patent, copyright and trade secret misappropriation/infringement and unfair competition involving digital image processing and transmission, including that over the internet.
- **First National Bank of Omaha v. Three Dimensions Systems Products, Inc.**  
*United States District Court, District of Nebraska (Case No. 8:98CV569)*  
Trial and deposition testimony and expert report: damages and profits associated with an alleged contract breach and copyright infringement involving financial services software.
- **Computer Aid v. Hewlett-Packard**  
*United States District Court, Eastern District of Pennsylvania (Case No. (C-96-3085 (MHP))*  
Deposition testimony and expert report: appropriate discount rate and prejudgment interest rate involving a failed software development contract.
- **Wrench LLC v. Taco Bell Corp.**  
*United States District Court, Southern District of Michigan (Case No. 1:98-CV-45)*  
Trial and deposition testimony and expert report: unjust enrichment and actual damages involving chihuahua promotional campaign.
- **Kabushiki Kaisha Izumi Seiko Seiskusho v. Windmere Corp. et al.**  
*United States District Court, Southern District of Florida (Case No. 94-0803-CIV-MOORE)*  
Deposition testimony and expert declaration: lost revenues and lost profits in a breach of contract, fraud and antitrust case involving rotary shavers.

**Antitrust Cases**

- **Rambus Inc., v. Micron Technology, Inc.**  
*California Superior Court, County of San Francisco (Case No. 04-431105)*  
Deposition testimony and expert report: lost revenues and profits associated with alleged antitrust violations related to DRAM technology.
- **ETEX Corp. v. Medtronic, Inc.; Medtronic International Limited; and Medtronic Sofamor Danek, Inc.**  
*CPR Institute for Dispute Resolution*  
Arbitration hearing and deposition testimony and expert report: lost revenues and profits associated with alleged contractual breaches and antitrust violations involving spinal implant materials.
- **Kabushiki Kaisha Izumi Seiko Seiskusho v. Windmere Corp. et al.**  
*United States District Court, Southern District of Florida (Case No. 94-0803-CIV-MOORE)*  
Deposition testimony and expert declaration: lost revenues and lost profits in a breach of contract, fraud and antitrust case involving rotary shavers.
- **DSC Communications Corp. v. DGI Technologies, Inc.**  
*United States District Court, Northern District of Texas (Case No. 3:94-CV-1047)*  
Trial testimony and expert report: reasonable royalty involving copyrights, trade secrets and unfair competition over telecommunications switching equipment.
- **Travelers Express Co. Inc. v. The Standard Register Co.**  
*United States District Court, District of Minnesota (Case No. 4-93-436)*  
Deposition testimony and expert report: lost profits, reasonable royalty, patent misuse and prejudgment interest involving patents directed to money order dispensers.

**General Tort Cases**

- **In re: Windstream Holdings, Inc., et al. (Debtors); Windstream Holdings, Inc., et al. v. Charter Communications, Inc. and Charter Communications Operating, LLC**  
*United States Bankruptcy Court, Southern District of New York (Chapter 11, Case No. 19-22312 (RDD); Adv. Pro. No. 19-08246 (RDD))*  
Deposition testimony and expert report: lost profits and increased costs associated with alleged violations of the Lanham Act and other similar state statutes, breach of contract, violation of the Bankruptcy Code's automatic stay, and equitable subordination involving alleged false advertising campaign.
- **NCR Corporation v. Pendum LLC and Burroughs, Inc.**  
*United States District Court, Northern District of Georgia (Case No. 16-cv-04114-SCJ)*  
Deposition testimony and expert report: damages associated with lost profits, price erosion, unjust enrichment, and economic effects and harm associated with alleged misappropriation of trade secrets, copyright infringement, trademark infringement, breach of contract, and tortious interference with current and prospective business relations in case involving the servicing of automatic teller machines (ATMs).
- **Western Enterprises, Inc. v. Buckeye Rubber & Packaging Co.; Freudenberg-NOK General Partnership, a/k/a Freudenberg-NOK Sealing Technologies, Inc.; and International Seal Company, Inc.**  
*Court of Common Pleas, Cuyahoga County, Ohio (Case No. 16-869179)*  
Deposition testimony and expert report: damages associated with alleged breaches of contract, duty to indemnify, and negligence related to portable oxygen systems.

- **General Assurance of America, Inc. v. Overby-Seawell Company**  
*United States District Court, Eastern District of Virginia, Alexandria Division (Case No.1:11CV483)*  
Deposition testimony and expert report: damages and profits associated with obligations arising from a contract involving specialized insurance products.
- **The Osage Tribe of Indians of Oklahoma v. The United States of America**  
*United States Court of Federal Claims (Case No. 99-550 L (into which is consolidated No. 00-169L))*  
Deposition testimony and expert declaration: present value interest from unpaid oil royalties.
- **Biosynexus, Inc. v. Glaxo Group Limited; and MedImmune, Inc.**  
*New York Supreme Court, County of New York (Case No. 604485/05)*  
Deposition testimony and expert report: diminution of value associated with the delayed/failed development of a pediatric anti-infective drug.
- **Bavarian Nordic A/S and Anton Mavr v. Acambis, Inc.**  
*United States District Court, District of Delaware (Case No. 05-614-SLR)*  
Deposition testimony and expert report: unjust enrichment and value of property associated with tortious conversion, unfair trade practices and unfair competition involving proprietary technology directed to vaccines.
- **Alpha International, Inc. v. General Foam Plastics Corp.**  
*United States District Court, Eastern District of North Carolina (Case No. 4:01-CV-142-H(3))*  
Deposition testimony and expert report: copyright infringement, trademark infringement, conversion and unjust enrichment involving bowling pin sets and ride-on toys.
- **Medtronic Sofamor Danek, Inc. v. Gary K. Michelson, M.D. and Karlin Technology, Inc.**  
*United States District Court, Western District of Tennessee (Case No. 01-2373 GV)*  
Trial and deposition testimony and expert report: damages and profits associated with alleged contractual breaches, tortious interference and intentional negligent representations involving spinal implants.
- **Honeywell International, Inc. and GEM Microelectronic Materials LLC v. Air Products and Chemicals, Inc. and Ashland, Inc.**  
*Delaware Chancery Court, County of New Castle (Case No.20434-NC)*  
Trial and deposition testimony and expert report: lost profits associated with alleged contractual breach and tortious interference as well as irreparable harm inquiry involving a strategic alliance to provide electronic chemicals, gases and services to the semiconductor industry.
- **Interactive Return Service, Inc. v. Virginia Polytechnic Institute and State University, et al.**  
*Circuit Court for the City of Richmond (Case No.LM-870-3)*  
Deposition testimony: lost profits and lost licensing fees involving contracts to develop interactive/return path communications.
- **Omega Engineering, Inc. v. Cole-Parmer Instrument Co.; Davis Instrument Manufacturing Co., Inc.; Dwyer Instruments, Inc.; and Raytek Corp.**  
*United States District Court, District of Connecticut (Case Nos.3:98 CV 00733 (JCH), 3:98 CV 02052 (JCH) and 3:98 CV 02276 (JCH))*  
Trial and deposition testimony and expert report: lost profits, reasonable royalty and prejudgment interest involving patents and alleged unfair competitive practices directed to portable infrared thermometers.
- **The University of Colorado Foundation Inc., et al. v. American Cyanamid Co.**  
*United States District Court, District of Colorado (Case No.93-K-1657)*  
Trial and deposition testimony and expert report: measure and amount of prejudgment interest in a patent infringement, fraud and unjust enrichment case covering prenatal vitamin formulations.

- **Hunter Group, Incorporated v. Susan Smith, et al.**  
*United States District Court, District of Maryland (Case No. 97-2218)*  
Trial and deposition testimony and expert report: lost enterprise value and lost profits associated with improper solicitation of enterprise resource planning software trainers.
- **William Aramony v. United Way of America et al.**  
*United States District Court, Southern District of New York (Case No. 96 Civ. 3962 (SAS))*  
Trial testimony and expert report: lost contributions and out-of-pocket losses surrounding the departure of United Way of America president.
- **Fox v. Fox**  
*State of Virginia, Circuit Court, Arlington County (Chancery No. 96-80)*  
Trial testimony (proffered) and expert report: prospective valuation of a patent portfolio involving lasers used for lithotripsy and angioplasty.
- **AutoNation, Inc. v. Acme Commercial Corp., et al. (CarMax)**  
*United States District Court, Southern District of Florida (Case No. 96-6141)*  
Trial and deposition testimony and expert report: reasonable royalty associated with trademark infringement and unfair competition in the auto superstore business.

#### **International Trade Cases**

- **In the Matter of Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (Sony Corporation, Sony Corporation of America, and Sony Electronics, Inc. (Respondents))**  
*(International Trade Commission Inv. No. 337-TA-1012E)*  
Deposition testimony and expert report: civil penalty associated with compliance with CDOs involving patents directed to certain magnetic data storage tapes and cartridges.
- **In the Matter of Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (II) (Sony Corporation, Sony Storage Media Solutions Corporation, Sony Storage Media Manufacturing Corporation, Sony DADC US, Inc., and Sony Latin America (Respondents))**  
*United States International Trade Commission (Inv. No. 337-TA-1076)*  
Trial and deposition testimony and expert report: domestic industry, bond, and public interest issues involving patents directed to certain magnetic data storage tapes and cartridges.
- **In the Matter of Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (Sony Corporation, Sony Corporation of America, and Sony Electronics, Inc. (Respondents))**  
*United States International Trade Commission (Inv. No. 337-TA-1012)*  
Trial and deposition testimony and expert report: economic evaluation of FRAND, commercial success, bond, remedy, domestic industry, and public interest issues involving patents directed to certain magnetic data storage tapes and cartridges.
- **In the Matter of Certain 3G Mobile Handsets and Components Thereof (Nokia (Respondent))**  
*United States International Trade Commission (Inv. No. 337-TA-613)*  
Trial and deposition testimony and expert report: economic evaluation of whether proposed license terms for certain wireless devices are discriminatory under a FRAND obligation and economic evaluation of hold-up and reverse hold-up.
- **In the Matter of Certain Sulfentrazone, Sulfentrazone Compositions, and Processes for Making Sulfentrazone (FMC (Complainant))**  
*United States International Trade Commission (Investigation No. 337-TA-914)*  
Trial and deposition testimony and expert report: irreparable harm, balance of hardships, and public interest involving a patent directed to a crop herbicide.

- **In the Matter of Certain Opaque Polymers (Organik Kimya (Respondent))**  
*United States International Trade Commission (Investigation No.337-TA-883)*  
Deposition testimony and expert report: injury, independent economic valuation, and bond involving trade secrets used in the production of opaque polymers.
- **In the Matter of Certain Wireless Devices with 3G and/or 4G Capabilities and Components Thereof (Nokia (Respondent))**  
*United States International Trade Commission (Investigation No.337-TA-868)*  
Trial and deposition testimony and expert report: economic evaluation of whether proposed license terms for certain wireless devices are discriminatory under a FRAND obligation, and economic evaluation of hold-up and reverse hold-up.
- **In the Matter of Certain Wireless Devices with 3G Capabilities and Components Thereof (Nokia (Respondent))**  
*United States International Trade Commission (Investigation No.337-TA-800)*  
Trial and deposition testimony and expert report: economic evaluation of whether proposed license terms for certain wireless devices are discriminatory under a FRAND obligation.
- **In the Matter of Certain Computing Devices with Associated Instruction Sets and Software (VIA Technologies, Inc., Centaur Technology, IP-First LLC (Complainants))**  
*United States International Trade Commission (Investigation No.337-TA-812)*  
Trial and deposition testimony and expert report: economic evaluation of domestic industry issues associated with importation of certain computing devices.
- **In the Matter of Certain Modified Vaccinia Ankara (“MVA”) Viruses and Vaccines and Pharmaceutical Compositions Based Thereon (Bavarian Nordic A/S (Complainant))**  
*United States International Trade Commission (Investigation No. 337-TA-550)*  
Deposition testimony and expert report: domestic industry and injury involving patents and proprietary technology directed to vaccines.

#### **Malpractice Cases**

- **TattleTale Portable Alarm Systems, Inc. v. Calfee, Halter & Griswold LLP, et al.**  
*United States District Court, Southern District of Ohio, Eastern Division (Case No. 2:10-CV-226)*  
Deposition testimony and expert report: lost royalties associated with a law firm’s negligence in handling a patent directed to portable alarm systems.
- **Timothy Robinson and Whorl, LLC v. Cohen Mohr, LLP; Dan Duval; Perkins Coie, LLP; Perkins Coie, L.P.C.; Perkins Coie, D.C.P.C.; and Perkins Coie, California, P.C.**  
*State of Virginia, Circuit Court of Fairfax County (Case No. CL-2009-080)*  
Deposition testimony and expert report: lost value and prejudgment interest involving allegations of law firm’s negligence in securing an interest in intellectual property directed to biometric payment technology.
- **Frank Robertson and Cayvon, Inc. v. Nexsen Pruet Jacobs & Pollard, LLP**  
*South Carolina Common Pleas Court, Fifth Judicial Circuit, Richland (Case No. 2004-CP-40-5531)*  
Deposition testimony: lost profits associated with a law firm’s negligence in handling a patent directed to commercial nut-cracking machines.
- **Anodyne Corp. v. Klaas, Law, O’Meara & Malkin**  
*State of Colorado District Court, City and County of Denver (Case No. 97-CV-7129)*  
Trial testimony and expert report: lost licensing income and prejudgment interest associated with a law firm’s negligence in filing a patent application directed to wrappable flashlights.



### FRAND Cases

- **Audio MPEG, Inc., U.S. Philips Corporation, TDF SAS, and Institut Für Rundfunktechnik GmbH v. Dell, Inc.**  
*United States District Court, Eastern District of Virginia, Norfolk Division (Case No. 1:15-CV-1674 AJT/TCB)*  
Deposition testimony and expert report: analysis of patent pool compliance with FRAND commitments and determination of FRAND-compliant royalties involving patents directed to the transmission and storage of digital audio files.
- **In the Matter of Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (Sony Corporation, Sony Corporation of America, and Sony Electronics, Inc. (Respondents))**  
*United States International Trade Commission (Inv. No. 337-TA-1012)*  
Trial and deposition testimony and expert report: economic evaluation of FRAND, commercial success, bond, remedy, domestic industry, and public interest issues involving patents directed to certain magnetic data storage tapes and cartridges.
- **In the Matter of Certain 3G Mobile Handsets and Components Thereof (Nokia (Respondent))**  
*United States International Trade Commission (Inv. No. 337-TA-613)*  
Trial and deposition testimony and expert report: economic evaluation of whether proposed license terms for certain wireless devices are discriminatory under a FRAND obligation and economic evaluation of hold-up and reverse hold-up.
- **In the Matter of Certain Wireless Devices with 3G and/or 4G Capabilities and Components Thereof (Nokia (Respondent))**  
*United States International Trade Commission (Investigation No. 337-TA-868)*  
Trial and deposition testimony and expert report: economic evaluation of whether proposed license terms for certain wireless devices are discriminatory under a FRAND obligation, and economic evaluation of hold-up and reverse hold-up.
- **In the Matter of Certain Wireless Devices with 3G Capabilities and Components Thereof (Nokia (Respondent))**  
*United States International Trade Commission (Investigation No. 337-TA-800)*  
Trial and deposition testimony and expert report: economic evaluation of whether proposed license terms for certain wireless devices are discriminatory under a FRAND obligation.

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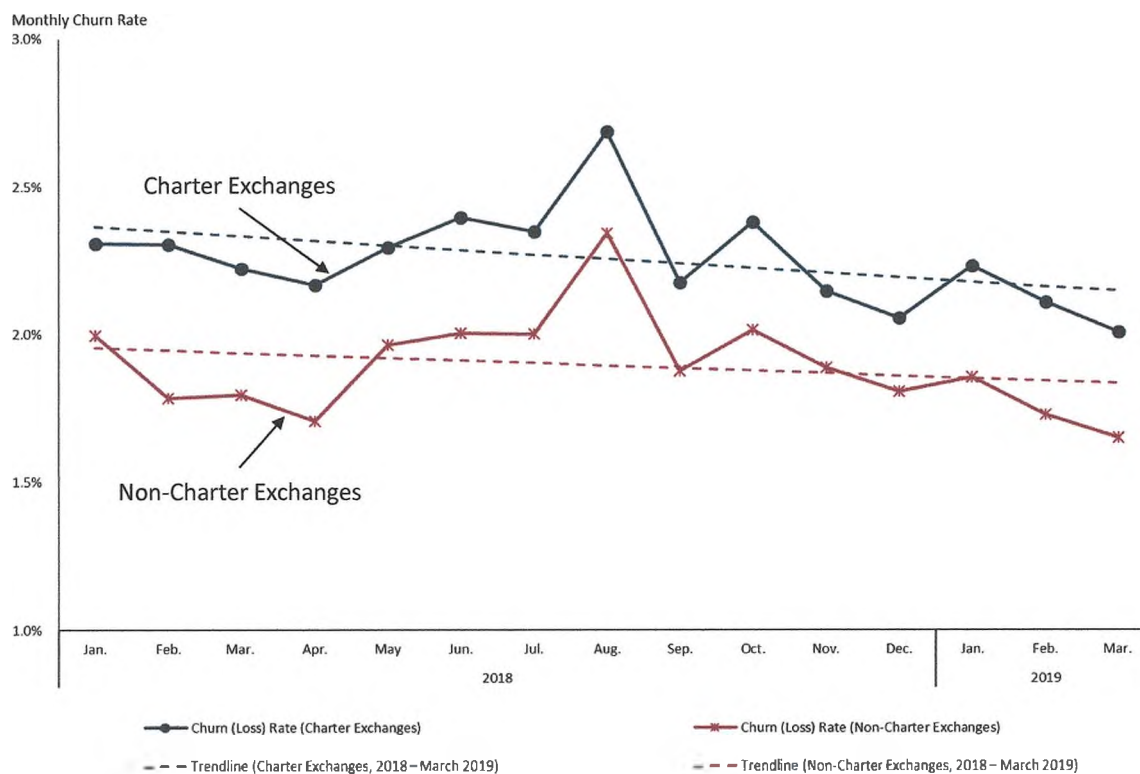
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**TAB 2**



Tab 2

## Parallel Trend Analysis



**TAB 3**

Tab 3

## Windstream's Churn Rates

	Before Charter Campaign	After Charter Campaign	Difference
Charter Exchanges	11.88%	12.58%	0.70%
Non-Charter Exchanges	10.05%	10.36%	0.32%
Difference	1.83%	2.22%	0.38%

**TAB 4**

Tab 4

## Windstream Lost Profits

Increased Churn (Turnover)		0.38 %
Windstream Customers	×	360,865
Lost Customers		1,386
Monthly Revenues / Customer	×	\$77.63
Months of Loss	×	50
Lost Revenues		\$5.4 Million
Profit Margin	×	59.2% – 94.5%

**Lost Profits**

**\$3.2 – \$5.1 Million**





**Debtor**



**Defendants' Designations and Counter Designations**



**Debtor Counter Designations**

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

IN RE: CHAPTER 11  
WINDSTREAM HOLDINGS, INC., CASE NO. 19-22312(RDD)  
ET AL,  
Debtors.  
  
WINDSTREAM HOLDINGS, INC., ET AL,  
Plaintiffs,  
  
vs. ADV. PROC. NO. 19-08246(RDD)  
  
CHARTER COMMUNICATIONS, INC. AND  
CHARTER COMMUNICATIONS OPERATING, LLC,  
Defendants.

ORAL DEPOSITION OF LEWIS LANGSTON

TAKEN BEFORE Garold W. Pritsch, Certified Court  
Reporter, LS Certificate No. 329, Bushman Court  
Reporting, 620 West Third Street, Suite 302, Little Rock,  
Arkansas 72201 on May 1st, 2019 at Windstream Holdings,  
Inc., 4001 North Rodney Parham Road, Building 3, Little  
Rock, Arkansas commencing at 9:25 a.m.

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<p>1 ANSWERS AND DEPOSITION OF LEWIS LANGSTON, a witness</p> <p>2 produced at the request of Defendants, taken in the above</p> <p>3 styled and numbered cause on the 1st of May, 2019, before</p> <p>4 Garold W. Pritsch, Certified Court Reporter, LS</p> <p>5 Certificate No. 329, a Notary Public in and for Garland</p> <p>6 County, Arkansas, taken at the offices of Windstream</p> <p>7 Holdings, Inc., 4001 North Rodney Parham Road, Building</p> <p>8 3, Little Rock, Arkansas at 9:25 a.m.</p> <p>9 LEWIS LANGSTON</p> <p>10 The witness hereinbefore named, having been duly</p> <p>11 cautioned and sworn or affirmed to tell the truth, the</p> <p>12 whole truth, and nothing but the truth, testified as</p> <p>13 follows:</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 EXAMINATION</p> <p>2 MR. SIMS: We are on the audio and video</p> <p>3 record. Today's date is May the 1st, 2019.</p> <p>4 The time is approximately 9:25 a.m.</p> <p>5 This is the videotaped deposition of</p> <p>6 Lewis Langston.</p> <p>7 This is the case of Windstream Holdings,</p> <p>8 Incorporated, et al, versus Charter</p> <p>9 Communications, Incorporated.</p> <p>10 My name is John Sims. I'm a videographer</p> <p>11 out of Little Rock, Arkansas.</p> <p>12 Will counsel please make a record of your</p> <p>13 appearance?</p> <p>14 MR. KINGSTON: This is John Kingston on</p> <p>15 behalf of defendants Charter Communications,</p> <p>16 Inc. and Charter Communications Operating, LLC.</p> <p>17 MS. SIMS: Tami Sims, Katten Muchin</p> <p>18 Rosenman, on behalf of all plaintiffs of</p> <p>19 Windstream, et al.</p> <p>20 MR. SMITH: Kent Smith, in-house counsel</p> <p>21 for Windstream.</p> <p>22 MS. GREER: Jocelyn Greer, Morrison &amp;</p> <p>23 Foerster on behalf of proposed intervenors,</p> <p>24 unsecured creditors pending.</p> <p>25 (The witness was sworn.)</p>
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<p>1 BY MR. KINGSTON:</p> <p>2 Q. Mr. Langston, can you state and spell your name for</p> <p>3 the record, sir?</p> <p>4 A. Lewis, L-E-W-I-S, last name is Langston,</p> <p>5 L-A-N-G-S-T-O-N.</p> <p>6 Q. Mr. Langston, have you ever been deposed before?</p> <p>7 A. Yes, I have.</p> <p>8 Q. How many times?</p> <p>9 A. Approximately twice.</p> <p>10 Q. When was the last time that you were deposed, sir?</p> <p>11 A. Nine years ago.</p> <p>12 Q. What was the context of that deposition?</p> <p>13 A. It was a class action lawsuit against Verizon</p> <p>14 Wireless related to slamming of services.</p> <p>15 Q. At that time were you employed by Verizon?</p> <p>16 A. No, it was shortly after my departure from Verizon</p> <p>17 Wireless.</p> <p>18 Q. And when were you deposed prior to being deposed in</p> <p>19 relation to that class action lawsuit involving Verizon?</p> <p>20 A. December of 2009.</p> <p>21 Q. What was the context of that deposition?</p> <p>22 A. That was a proposed TRO against me by Verizon</p> <p>23 Wireless.</p> <p>24 Q. Is that like a noncompetition thing?</p> <p>25 A. It was a proposed noncompetition.</p>	<p>1 Q. Sure. Mr. Langston, can you think of any reason</p> <p>2 why either that first or second deposition that you've</p> <p>3 described to me has any bearing on the stuff that we're</p> <p>4 fussing about in this lawsuit?</p> <p>5 A. It does not.</p> <p>6 Q. Sir, since it's been a while since your last</p> <p>7 deposition, I think it might be a good idea for us to</p> <p>8 review the ground rules. Is that okay if we do that?</p> <p>9 A. Sure.</p> <p>10 Q. We're recording your testimony just as if you were</p> <p>11 testifying in a court of law in the adversary proceeding</p> <p>12 that's currently pending in the Bankruptcy Court in the</p> <p>13 United States District Court for the Southern District of</p> <p>14 New York. I'm going to ask you a series of questions,</p> <p>15 and Mr. Pritsch is going to record both my questions and</p> <p>16 your answers.</p> <p>17 Do you understand that, sir?</p> <p>18 A. Yes.</p> <p>19 Q. And you're under oath, just like you were in a --</p> <p>20 in a court of law?</p> <p>21 A. Yes.</p> <p>22 Q. And you're doing a great job of this, and I will</p> <p>23 probably screw it up, but because Mr. Pritsch is writing</p> <p>24 down everything that we say, it would be helpful if we</p> <p>25 don't talk over each other.</p>

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<p>1 A. I will try my best.</p> <p>2 Q. And I'll do the same, and I'll bet you at the end</p> <p>3 of the day that I'm worse at it.</p> <p>4 One of the most important instructions is from time</p> <p>5 to time I'm going to ask a question that doesn't make any</p> <p>6 sense to you and it's hard to understand. If I do that,</p> <p>7 please don't answer the question. Just tell me you don't</p> <p>8 understand it, and we'll kind of work it through until we</p> <p>9 arrive at a question that you understand and can answer.</p> <p>10 Is that fair?</p> <p>11 A. That is.</p> <p>12 Q. All right. So you won't answer any question that I</p> <p>13 ask unless you understand the question; is that right?</p> <p>14 A. Correct.</p> <p>15 Q. The parties have exchanged a fair number of pieces</p> <p>16 of paper in this lawsuit so far. If from time to time I</p> <p>17 ask a question and you think it might be helpful for you</p> <p>18 to review any documents or E-mails or that kind of thing</p> <p>19 to answer my question, let me know, and we'll see if we</p> <p>20 can't track these down. Is that fair?</p> <p>21 A. That is fair.</p> <p>22 Q. If at any time you think about one of the answers</p> <p>23 that you've already given, and you think you need to add</p> <p>24 to that answer or clarify it to make sure that it's not</p> <p>25 in any way misleading or incomplete, you're welcome to do</p>	<p>1 that at any time. Do you understand, sir?</p> <p>2 A. Yes.</p> <p>3 Q. You can take a break any time you want. All that I</p> <p>4 ask is if there is a question pending or we're in sort of</p> <p>5 a series of related questions that you let -- you answer</p> <p>6 that question or we get through the series before you</p> <p>7 take a break.</p> <p>8 A. That's great. No problem.</p> <p>9 Q. From time to time your lawyer may pose an objection</p> <p>10 to one of the questions that I ask. Unless she advises</p> <p>11 you not to answer it and you decide to accept that</p> <p>12 advice, I would like it if you answer those questions.</p> <p>13 Do you understand that, sir?</p> <p>14 A. Correct.</p> <p>15 Q. All right. Is there any reason why you can't</p> <p>16 provide complete and honest testimony today?</p> <p>17 A. No.</p> <p>18 MR. KINGSTON: I will advise my friends on</p> <p>19 the other side of the table that sometimes I</p> <p>20 have four copies of stuff and sometimes I have</p> <p>21 three, so I may not always be able to get you</p> <p>22 an extra copy, but I'll at least have one extra</p> <p>23 copy that I can slide across.</p> <p>24 (Exhibit 1 was marked.)</p> <p>25 BY MR. KINGSTON (CONT.):</p>
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<p>1 Q. Mr. Langston, I'm handing you a document that I</p> <p>2 have marked as Exhibit 1. Exhibit 1 is, excuse me, an</p> <p>3 Amended Notice of Deposition Pursuant to Federal Rule of</p> <p>4 Civil Procedure 30(b)(6) of Windstream Holdings, Inc.</p> <p>5 It's an eight page document.</p> <p>6 Do you recognize Exhibit 1, sir?</p> <p>7 A. Yes, I do.</p> <p>8 Q. And you understand that for certain of the topics</p> <p>9 identified on Exhibit 1, you've been identified as a</p> <p>10 corporate representative to speak on behalf of Windstream</p> <p>11 Holdings?</p> <p>12 A. Correct.</p> <p>13 Q. And I believe that you've been designated to</p> <p>14 testify on topics one, five, 12, 13, 15 with a caveat</p> <p>15 I'll circle back to, and 21 and 22; is that right, sir?</p> <p>16 A. I believe that's true, yes.</p> <p>17 Q. And circling back to 15, I read category 15 as</p> <p>18 follows: All communications with customers since</p> <p>19 February of 2019, including, but not limited to any</p> <p>20 communications regarding Windstream's Chapter 11 cases,</p> <p>21 Windstream's future and Windstream potentially going out</p> <p>22 of business or potentially cutting off services.</p> <p>23 Have I read category 15 correctly?</p> <p>24 A. Yes, you have.</p> <p>25 Q. And I think that your lawyers have fairly pointed</p>	<p>1 out that that's pretty broad and have proposed the</p> <p>2 following addition -- or excuse me, edit to category 15,</p> <p>3 and that would be deleting but not in that first line and</p> <p>4 replacing it with and.</p> <p>5 A. Okay.</p> <p>6 Q. I see you made that edit on Exhibit 1; is that</p> <p>7 right, sir?</p> <p>8 A. That is correct.</p> <p>9 Q. And so with that edit, I read subcategory 15 to</p> <p>10 refer to all communications with customers since</p> <p>11 February, 2009, including and limited to any</p> <p>12 communications regarding Windstream's Chapter 11 cases,</p> <p>13 Windstream's future and Windstream's -- and Windstream</p> <p>14 potentially going out of business or potentially cutting</p> <p>15 off services.</p> <p>16 A. That is correct.</p> <p>17 Q. And you're prepared to talk about those topics that</p> <p>18 we've identified; is that right, sir?</p> <p>19 A. That is correct.</p> <p>20 Q. And we may address some of these other topics, and</p> <p>21 to the extent that you can provide information relating</p> <p>22 to those topics based on your personal knowledge, that's</p> <p>23 great, but we understand that Windstream is not producing</p> <p>24 you as a witness on behalf of the company for these</p> <p>25 topics; is that right?</p>

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<p>1 A. That's what I understand, yes.</p> <p>2 Q. And I'll count on Miss Sims to tell me if I have</p> <p>3 that wrong.</p> <p>4 MS. SIMS: That's correct, but I will say</p> <p>5 that we would object to him answering any</p> <p>6 questions in his personal capacity. That's not</p> <p>7 the purpose of this deposition, but we can</p> <p>8 cross that road when we come to a --</p> <p>9 MR. KINGSTON: Sure.</p> <p>10 MS. SIMS: -- particular question I might</p> <p>11 raise.</p> <p>12 MR. KINGSTON: That's fine.</p> <p>13 BY MR. KINGSTON (CONT.):</p> <p>14 Q. Let's start out of with topic number one, sir, all</p> <p>15 statements --</p> <p>16 Well, maybe I should back up, Mr. Langston.</p> <p>17 Tell me what you did to get ready for today's</p> <p>18 deposition.</p> <p>19 A. I reviewed the -- my prior affidavit which was</p> <p>20 referenced here in number one. I also reviewed my</p> <p>21 supplemental affidavit and also reviewed most, if not all</p> <p>22 of the exhibits that were included in those affidavits,</p> <p>23 both the original and the supplemental, as well as</p> <p>24 reviewed additional materials or exhibits that were</p> <p>25 produced since then.</p>	<p>1 Q. Did you choose any documents on your own to review</p> <p>2 to prepare for today's deposition?</p> <p>3 A. I did choose, but nothing outside of the scope that</p> <p>4 I just mentioned.</p> <p>5 Q. So what are the additional documents that you chose</p> <p>6 on your own?</p> <p>7 A. They weren't additional documents. They were -- I</p> <p>8 chose which of those documents I chose to read. Those</p> <p>9 weren't any additional documents other than what I just</p> <p>10 mentioned, affidavit, supplemental affidavit, exhibits,</p> <p>11 the materials exchanged back and forth between the</p> <p>12 parties. That -- that was the extent. There were no</p> <p>13 other materials other than that.</p> <p>14 Q. Okay. And so did you -- did you -- did you review</p> <p>15 some of the documents that Windstream produced to Charter</p> <p>16 in a kind of initial document exchange in this case?</p> <p>17 A. Yes, I did.</p> <p>18 Q. All right. What did you review?</p> <p>19 A. Well, you know, nothing that wasn't in the exhibits</p> <p>20 that were in my affidavit. So the letters back and forth</p> <p>21 between Carol Keith and the counsel at Charter, some of</p> <p>22 the call center logs and scripts, some of the advertising</p> <p>23 campaigns on the behalf of both parties.</p> <p>24 Let me think. What else?</p> <p>25 Maybe some of the transcripts of social media posts</p>
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<p>1 by our customers, things like that, so --</p> <p>2 Q. You refer to a call center script. Tell me what</p> <p>3 that is.</p> <p>4 A. Call center script -- sorry, my tongue is tied.</p> <p>5 The call center script is actually talking points</p> <p>6 that we give to our representative such that if they</p> <p>7 receive certain types of calls, we educate them on how to</p> <p>8 respond to those calls or how to go address potential</p> <p>9 questions or concerns.</p> <p>10 Q. And so was a script provided to Windstream call</p> <p>11 center workers related to the Spectrum advertising that</p> <p>12 is at issue in this lawsuit?</p> <p>13 A. Yes, it was.</p> <p>14 Q. Was a script provided to Windstream call center</p> <p>15 workers just generally related to Windstream's</p> <p>16 bankruptcy?</p> <p>17 A. Yes.</p> <p>18 Q. When -- when did that happen?</p> <p>19 A. The talking points, and I'd have to deal with</p> <p>20 approximations here, but shortly -- really the day of the</p> <p>21 filing back in February. We provided those to our call</p> <p>22 center reps, as well as I can't recall if this is</p> <p>23 accurate, but probably some follow on talking points that</p> <p>24 were -- that were provided within, you know, a day or two</p> <p>25 after the initial filing.</p>	<p>1 Q. So roundabout February 25, 2019, Windstream</p> <p>2 provided a script to its call center workers with talking</p> <p>3 points related to Windstream's bankruptcy filing?</p> <p>4 A. Yes. We provided it to all employees as well</p> <p>5 though, too. It wasn't necessarily specific to the call</p> <p>6 center reps. It was provided to all Windstream employees</p> <p>7 in case there were questions or concerns.</p> <p>8 Q. Okay. So this was a document that was provided to</p> <p>9 Windstream employees, including call center employees,</p> <p>10 that would have talking points that would be useful for</p> <p>11 those employees to field questions related to</p> <p>12 Windstream's filing of the bankruptcy?</p> <p>13 A. Yeah, just in case if a customer did call in that</p> <p>14 they would be prepared of how to go address that</p> <p>15 question.</p> <p>16 Q. Were the call center employees given training</p> <p>17 related to fielding phone calls inquiring about</p> <p>18 Windstream's bankruptcy in February of 2019?</p> <p>19 A. I wouldn't -- I wouldn't call it training. They</p> <p>20 were given these talking points. They were educated,</p> <p>21 what we call huddle sessions, where usually the</p> <p>22 supervisor gets together with their representatives that</p> <p>23 they supervise. They say, you know, here's some talking</p> <p>24 points. New talking points that we might have in case</p> <p>25 you get these calls. That was the extent of it.</p>

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<p>1 Training -- nothing -- nothing that formal.</p> <p>2 Q. How many call center employees does Windstream</p> <p>3 have?</p> <p>4 A. I have no idea what the exact number is.</p> <p>5 Q. A rough number is fine, sir.</p> <p>6 A. It would be a few thousand.</p> <p>7 Q. So several thousand call center employees?</p> <p>8 A. It would be two, three thousand potentially.</p> <p>9 Q. And are those two to three thousand call center</p> <p>10 employees provided guidance as to what they can and can</p> <p>11 not say about Windstream's competitors?</p> <p>12 A. Clarify your question a little bit. I'm not</p> <p>13 exactly sure where you're --</p> <p>14 Q. Does Windstream tell any of those two to three</p> <p>15 thousand call center customer employees, hey, don't say</p> <p>16 thus and such about Charter or don't say thus and such</p> <p>17 about AT&amp;T, anything like that?</p> <p>18 A. As a general answer, that's not necessary, but in</p> <p>19 specific situation if there's a special event, you know,</p> <p>20 in our case, you know, bankruptcy filing, if that</p> <p>21 happened with one of our competitors, we would give them</p> <p>22 specific guidance of what they could and could not do,</p> <p>23 rules of the road.</p> <p>24 Q. So was -- were you with Windstream in 2009?</p> <p>25 A. No, I was not.</p>	<p>1 Q. You were with Verizon?</p> <p>2 A. I was with Verizon.</p> <p>3 Q. Give me some -- leaving aside bankruptcy, give me</p> <p>4 some examples of the sort of special events that would</p> <p>5 have prompted Windstream to -- excuse me, that would have</p> <p>6 prompted Windstream to provide guidance to its call</p> <p>7 center employees as to things they could or could not say</p> <p>8 about competitors.</p> <p>9 MS. SIMS: I'm going to object to this</p> <p>10 line of questioning. I don't believe it's on</p> <p>11 one of the topics designated, and on that</p> <p>12 basis, I would instruct the witness not to</p> <p>13 answer.</p> <p>14 If you can point to me the topic that</p> <p>15 would be helpful.</p> <p>16 MR. KINGSTON: I -- I think that it's</p> <p>17 appropriate to instruct a witness not to answer</p> <p>18 based upon privilege and if I'm harassing the</p> <p>19 witness and you're going to terminate the</p> <p>20 deposition.</p> <p>21 I -- I don't think that -- I don't</p> <p>22 understand counsel to be invoking a privilege</p> <p>23 objection. I don't think the record is going</p> <p>24 to suggest that I'm harassing the witness. So</p> <p>25 I would ask that the witness answer the</p>
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<p>1 question. If -- if we want to by agreement</p> <p>2 agree that for both depositions, the one that's</p> <p>3 going on right now and the one that's going on</p> <p>4 in Stanford, Connecticut where a Charter</p> <p>5 corporate representative is being deposed, that</p> <p>6 questions beyond the scope of the corporate</p> <p>7 representative notice are ones for which it is</p> <p>8 appropriate and the parties will consent to an</p> <p>9 instruction not to answer, we can do that. We</p> <p>10 can get on the horn with somebody there, but</p> <p>11 absent that agreement, I think I would like the</p> <p>12 witness to answer.</p> <p>13 MS. SIMS: Let's take a break and discuss</p> <p>14 this off record for a moment.</p> <p>15 MR. KINGSTON: Sure.</p> <p>16 MR. SIMS: We're going off the record.</p> <p>17 The time is approximately 9:42 a.m.</p> <p>18 (The deposition recessed at 9:42 a.m. and</p> <p>19 reconvened at 9:53 a.m.)</p> <p>20 MR. SIMS: We are back on the record. The</p> <p>21 time is approximately 9:53 a.m.</p> <p>22 MR. KINGSTON: We had an off-the-record</p> <p>23 colloquy, and I'll let Miss Sims -- looking for</p> <p>24 a ring, I will let Miss Sims correct me where I</p> <p>25 screw anything up, but I think the parties'</p>	<p>1 understanding is that to the extent that a</p> <p>2 question -- a question calls for an answer that</p> <p>3 would be beyond the scope of the -- what are</p> <p>4 the live issues for a preliminary injunction</p> <p>5 hearing, that an instruction not to answer</p> <p>6 would be proper.</p> <p>7 MS. SIMS: And I would add to that, our</p> <p>8 position is that questions beyond the scope of</p> <p>9 the topics that Mr. Langston has been</p> <p>10 designated for would be off topic with respect</p> <p>11 to the deposition today.</p> <p>12 MR. KINGSTON: Okay. And this is</p> <p>13 splitting hairs as only somebody who's paid by</p> <p>14 the hour would do, but -- so if I ask</p> <p>15 Mr. Langston a question that's not on the</p> <p>16 topic, but is within the scope of the PI, would</p> <p>17 that be the subject of instruction not to</p> <p>18 answer?</p> <p>19 MS. SIMS: I would because he's not been</p> <p>20 designated on that particular topic, and</p> <p>21 it's -- he's in here in the capacity of a</p> <p>22 representative for those particular topics</p> <p>23 today.</p> <p>24 MR. KINGSTON: So if Mr. Langston has</p> <p>25 personal knowledge about something that's</p>

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<p>1 beyond the scope -- or excuse me. If</p> <p>2 Mr. Langston has personal knowledge of</p> <p>3 something that is beyond the scope of -- I'm</p> <p>4 screwing it up again. Do you mind if I take</p> <p>5 one more run at that, Miss Sims?</p> <p>6 MS. SIMS: No problem.</p> <p>7 MR. KINGSTON: If Mr. Langston has</p> <p>8 personal knowledge of something that is within</p> <p>9 the scope of the disputed issues for the</p> <p>10 pending preliminary injunction hearing, but is</p> <p>11 not in counsel's judgment within the scope of</p> <p>12 the corporate designee topics for which he's</p> <p>13 been designated, then it's counsel's intent to</p> <p>14 instruct Mr. Langston not to answer?</p> <p>15 MS. SIMS: Correct. However, I would say</p> <p>16 that's a very abstract example. I'm very hard</p> <p>17 pressed to think of any question you're going</p> <p>18 to ask that could possibly --</p> <p>19 MR. KINGSTON: I want everybody in this</p> <p>20 room to remember that Miss Sims said that.</p> <p>21 BY MR. KINGSTON (CONT.):</p> <p>22 Q. Okay. Mr. Langston, you understand that one of the</p> <p>23 allegations made by Windstream in this lawsuit is that</p> <p>24 folks working the phones for Charter said things that</p> <p>25 they ought not have said about Windstream's bankruptcy?</p>	<p>1 A. That is correct.</p> <p>2 Q. Okay. Tell me what Windstream does to ensure that</p> <p>3 folks that answer the telephone for Windstream don't say</p> <p>4 things that they ought not say about their competitors?</p> <p>5 A. We provide -- as I stated earlier, we provide</p> <p>6 scripts to our call center reps, not just specific to,</p> <p>7 you know, unique situations, but general conversations</p> <p>8 around company policies, products that we offer, services</p> <p>9 that we offer, how to handle troubleshooting, scripts on</p> <p>10 how to troubleshoot customer problems, things like that.</p> <p>11 To -- to ensure that, we provide basically plugging and</p> <p>12 coaching where a supervisor might actually plug into a</p> <p>13 live call, listen to a call with a rep, provide realtime</p> <p>14 coaching, provide coaching after the call. We do</p> <p>15 extensive call monitoring where we record our calls, come</p> <p>16 back and do coaching afterwards on that. If a rep is --</p> <p>17 a customer service rep or a care rep has provided, you</p> <p>18 know, conversation to a customer that would be out of</p> <p>19 context or out of line with that, we provide coaching to</p> <p>20 that representative. That would be the general nature of</p> <p>21 what we do.</p> <p>22 Q. This realtime coaching, how does that work?</p> <p>23 A. We have the ability for a supervisor to listen to a</p> <p>24 call at the same time that the representative is having a</p> <p>25 call with the customer. So they can actually listen in</p>
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<p>1 to the call and provide guidance either through instant</p> <p>2 messaging or through standing over the shoulder providing</p> <p>3 guidance. The -- the representative may put the customer</p> <p>4 on hold, the supervisor provides guidance. In some</p> <p>5 cases, a care rep is not able to handle a call</p> <p>6 themselves. They might actually provide escalation to</p> <p>7 the supervisor where the representative is actually</p> <p>8 listening to the supervisor talk to the customer as well.</p> <p>9 Q. So supervisors can provide guidance to people that</p> <p>10 are answering the phone calls from customers through</p> <p>11 instant messaging?</p> <p>12 A. They can provide through instant messaging. More</p> <p>13 than likely, the supervisor if they're listening to a</p> <p>14 call and -- and there's aspects of the call that the</p> <p>15 representative is either not handling well or should be</p> <p>16 handling differently, the supervisor will get up and go</p> <p>17 over to the representative themselves. They're in the</p> <p>18 same physical proximity.</p> <p>19 Q. How many -- so, generally, how many call center</p> <p>20 employees to a supervisor?</p> <p>21 A. Generally somewhere between eight and 10.</p> <p>22 Q. And so there's eight to 10 people -- between eight</p> <p>23 and 10 people in the room. Supervisor has the ability to</p> <p>24 plug in and listen to calls in realtime and provide</p> <p>25 guidance to the call center employee as they are on the</p>	<p>1 phone with the customers?</p> <p>2 A. That is correct.</p> <p>3 Q. If I wanted to identify circumstances in which what</p> <p>4 we just described happened among the transcripts of</p> <p>5 telephone calls that have been produced in this lawsuit,</p> <p>6 how would I go about doing that?</p> <p>7 A. Can you restate your question?</p> <p>8 Q. Sure. You understand that -- Windstream records</p> <p>9 its phone calls with customers?</p> <p>10 A. Yes.</p> <p>11 Q. And you understand that transcripts of those phone</p> <p>12 calls have been provided to -- have been produced by</p> <p>13 Windstream in this lawsuit?</p> <p>14 A. Yes. Yes.</p> <p>15 Q. And some of those calls could have involved</p> <p>16 realtime supervisor coaching?</p> <p>17 A. Some of those could have involved that. Some of</p> <p>18 those could have -- and you wouldn't necessarily hear the</p> <p>19 supervisor on the recording. That would be, you know,</p> <p>20 basically an off-the-record conversation with the</p> <p>21 supervisor and the representative or maybe they put the</p> <p>22 customer on hold and they provide coaching to the</p> <p>23 representative or it could have been them, you know,</p> <p>24 whispering over their shoulder to them.</p> <p>25 Q. Would the -- you understand that among the</p>

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<p>1 documents produced by Windstream in this lawsuit, there</p> <p>2 are screenshots of call center notations?</p> <p>3 A. As they were taking -- as they were on the call</p> <p>4 with the customer, yes.</p> <p>5 Q. And notations can't possibly be the right word.</p> <p>6 What am I trying to say there?</p> <p>7 A. Notes.</p> <p>8 Q. Notes. So is there --</p> <p>9 A. You were close.</p> <p>10 Q. Well, sadly, I use to say utilize instead of use.</p> <p>11 I'm ashamed of myself for doing that.</p> <p>12 A. I'm sure it costs more.</p> <p>13 Q. What -- so is there -- there's a app. There's kind</p> <p>14 of an application that's available to Windstream customer</p> <p>15 service representatives where they can kind of plug in</p> <p>16 their notes in realtime?</p> <p>17 A. It's actually in our billing system.</p> <p>18 Q. Okay.</p> <p>19 A. So the billing system, the customer records are --</p> <p>20 the main customer records are stored are in the billing</p> <p>21 system as well as clearly their bills, right, and so if a</p> <p>22 customer calls in with a question, we have the ability to</p> <p>23 create a notation on a customer's account so that if you</p> <p>24 want to go back later and say, okay, this customer called</p> <p>25 in. Why did they call in? What happened? Should there</p>	<p>1 be a follow-up call from the customer that comes in to a</p> <p>2 different representative or if there's a problem with</p> <p>3 that customer and initiates escalating that somebody else</p> <p>4 needs to take a look at it, then there's notes on the</p> <p>5 account so that you have a record of the call.</p> <p>6 Q. Are -- thank you for that.</p> <p>7 I will note that you used notation in there, but if</p> <p>8 there is a -- if there's an interaction where a</p> <p>9 supervisor -- do you mind if I take another run at that,</p> <p>10 Mr. Langston?</p> <p>11 A. Sure.</p> <p>12 Q. Will the customer call notes reflect where a</p> <p>13 supervisor has provided guidance either by instant</p> <p>14 messaging or over the shoulder?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 A. No.</p> <p>18 Q. Does Windstream save those instant messages for the</p> <p>19 realtime supervisor -- supervision?</p> <p>20 A. I believe we do retain instant messaging and that's</p> <p>21 company -- I don't know how long they're retained.</p> <p>22 It's -- and quite frankly, while I refer to the instant</p> <p>23 messaging, most situations I would tell you that is a</p> <p>24 very rare situation. Most of it is going to be live</p> <p>25 coaching because of the proximity of the supervisor to</p>
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<p>1 the representative. It's just -- it's easier to handle.</p> <p>2 Because if a customer is on the phone working with the --</p> <p>3 working with the customer and they're looking at a</p> <p>4 screen, the distraction of having an instant message</p> <p>5 going down here is fine. More than likely, they will</p> <p>6 signal to the supervisor. The supervisor will walk over</p> <p>7 or they'll plug in, one of the two.</p> <p>8 Q. You have been with Windstream since 2009?</p> <p>9 A. I've been with Windstream since 2015.</p> <p>10 Q. 2015. I'm sorry. Well, let me -- tell me where</p> <p>11 you were between 2009 and 2015.</p> <p>12 A. Oh, my. Well, I was with Verizon in 2009. I left</p> <p>13 Verizon and joined a company called Allied Wireless</p> <p>14 Communications Corporation. We sold that to AT&amp;T. I was</p> <p>15 with AT&amp;T for approximately four to five months. I did</p> <p>16 some consulting on my own after leaving AT&amp;T, and then I</p> <p>17 joined Windstream.</p> <p>18 Q. Was Allied Wireless -- is that affiliated with</p> <p>19 Alltel in some respect?</p> <p>20 A. We purchased the properties that Verizon could not</p> <p>21 keep when they acquired Alltel.</p> <p>22 Q. Okay.</p> <p>23 A. So they were former Alltel properties, and they</p> <p>24 were brand named underneath the Alltel brand name.</p> <p>25 Q. And then what did you do at AT&amp;T?</p>	<p>1 A. I assisted with the transition after the purchase</p> <p>2 of Allied Wireless.</p> <p>3 Q. All right. So you've been with Windstream since</p> <p>4 2015?</p> <p>5 A. Correct.</p> <p>6 Q. How did you come to develop expertise about</p> <p>7 Windstream's policies and practices in its call centers</p> <p>8 since 2015?</p> <p>9 A. I was in the position of chief information officer,</p> <p>10 so I provided assistance that support our call center</p> <p>11 reps up to and including our IVRs, are billing system,</p> <p>12 the systems that all the representatives use. I'm fairly</p> <p>13 well acquainted with the processes associated with how</p> <p>14 they use the systems.</p> <p>15 Q. Did you ever act as a supervisor in a call center?</p> <p>16 A. No, I did manage a major call center organization</p> <p>17 in a prior life at Alltel.</p> <p>18 Q. If I wanted to talk to the person at Windstream who</p> <p>19 was -- who could identify specific call center</p> <p>20 supervisors by name, who would I talk to?</p> <p>21 A. Within Windstream, probably Paul Strickland. He</p> <p>22 manages the call center organization for Windstream.</p> <p>23 Q. Can you spell Mr. Strickland's name? His last</p> <p>24 name.</p> <p>25 A. S-T-R-I-C-K-L-A-N-D.</p>

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<p>1 Q. You said IVR. What does that stand for?</p> <p>2 A. Interactive voice response system.</p> <p>3 Q. Well, now what is it? What is IVR?</p> <p>4 A. IVR, you call in. It's an automated system that</p> <p>5 handles phone calls coming in. So, you know, you call</p> <p>6 in. It's an automated system. It says what is your</p> <p>7 question. You press the option for what your issue is</p> <p>8 and it directs you to the appropriate representative.</p> <p>9 Q. You talked --</p> <p>10 A. It's a -- as a general description. I'm sure it</p> <p>11 does a lot more than that, but that's a general</p> <p>12 description.</p> <p>13 Q. You talked about scripts provided to customer</p> <p>14 service representatives. Without telling me the details</p> <p>15 of any scripts, does Windstream provide competitor</p> <p>16 specific scripts to its customer service representatives?</p> <p>17 A. You know, I -- generally speaking, no. I mean,</p> <p>18 other than providing potentially, you know, competitive</p> <p>19 selling. I mean, of saying how our product compares to,</p> <p>20 but all that's public information anyway on the Internet,</p> <p>21 but it just helps reps if a customer calls in and they're</p> <p>22 trying to compare prices. So that's about -- that's all</p> <p>23 I'm generally aware of unless there's an extraordinary</p> <p>24 situation that would require that.</p> <p>25 Q. So in one of the -- I will represent to you,</p>	<p>1 Mr. Langston, that in one of the transcripts that was</p> <p>2 provided by Windstream in this litigation, a Windstream</p> <p>3 technician made the representation that Charter in-home</p> <p>4 technicians steal dogs.</p> <p>5 A. They do what?</p> <p>6 Q. Steal dogs.</p> <p>7 A. I'm not aware of that.</p> <p>8 Q. Does Windstream -- just with respect to Charter,</p> <p>9 has Windstream taken any steps to ensure that its</p> <p>10 technicians don't accuse Charter technicians of stealing</p> <p>11 dogs?</p> <p>12 A. Proactively or reactively?</p> <p>13 Q. Either way, sir.</p> <p>14 A. You know, proactively, I'm not aware of a company</p> <p>15 policy where we instruct representatives to stop stealing</p> <p>16 dogs. Reactively, if we were aware of that situation, we</p> <p>17 would provide coaching to that employee.</p> <p>18 Q. And that would be appropriate. If somebody -- if</p> <p>19 an employee says something they ought not say about a</p> <p>20 competitor, you would instruct that employee don't do</p> <p>21 that any more?</p> <p>22 A. Provided it was out of company policy or, you know,</p> <p>23 not correct.</p> <p>24 Q. Right.</p> <p>25 A. But I would very much view that as a rogue</p>
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<p>1 behavior, not a concerted effort on the part of multiple</p> <p>2 employees.</p> <p>3 Q. Excuse me. Did Windstream send out a notice to its</p> <p>4 customers when it filed bankruptcy?</p> <p>5 A. By law we're required to notice all of our</p> <p>6 customers.</p> <p>7 Q. So Windstream did send out a notice to all of its</p> <p>8 customers?</p> <p>9 A. Yes, in accordance with the bankruptcy code.</p> <p>10 Q. Tell me -- tell me what was included in the notice</p> <p>11 that Windstream sent out to all of its customers</p> <p>12 regarding the Windstream bankruptcy.</p> <p>13 A. Generally that Windstream had filed for bankruptcy,</p> <p>14 talked generally about the bankruptcy process, also</p> <p>15 talked about their -- their services and workings with</p> <p>16 Windstream would not be affected by that. That's a</p> <p>17 general statement. I would have to look at the full</p> <p>18 detail.</p> <p>19 Q. Was there -- was there a -- so Windstream sent out</p> <p>20 kind of the official notice of bankruptcy? Yes?</p> <p>21 A. Yes.</p> <p>22 Q. And then was there a cover letter as well?</p> <p>23 A. I don't recall.</p> <p>24 Q. You don't know whether Windstream sent out just the</p> <p>25 notice or the --</p>	<p>1 A. I don't think we sent out anything extraordinary</p> <p>2 besides what the legal notice is required for bankruptcy</p> <p>3 code.</p> <p>4 Q. So Windstream sent out the notice, but no cover</p> <p>5 letter?</p> <p>6 A. I don't believe so, but, you know, I don't -- quite</p> <p>7 frankly, I don't recall.</p> <p>8 Q. What's your current position at Windstream?</p> <p>9 A. Special adviser to the CEO.</p> <p>10 Q. And what are your responsibilities as special</p> <p>11 adviser to the CEO?</p> <p>12 A. Coordination of bankruptcy operation.</p> <p>13 Q. So tell me -- kind of tell me, I guess, the day to</p> <p>14 day of your responsibilities as the person in charge of</p> <p>15 coordinating bankruptcy operations.</p> <p>16 A. We have multiple advisers in with Windstream. We</p> <p>17 have Alvarez &amp; Marsal that's helping manage bankruptcy</p> <p>18 operations. We have our law firms that represent us for</p> <p>19 in terms of this. We have our financial advisers with</p> <p>20 PJT. We have our outside call centers and notice agents</p> <p>21 with KCC. So I help to provide coordination amongst</p> <p>22 that.</p> <p>23 In addition to that, should there be operational</p> <p>24 issues, we help to troubleshoot those issues, such as</p> <p>25 maybe vendors that cut off services that need to be</p>



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1 restored due to the -- due to the bankruptcy, appropriate  
2 escalation through legal channels if those happen to be  
3 against, you know, the first day hearings. You know, if  
4 there's any customer issues, escalation around customer  
5 issues. If there appears to be policy changes or  
6 additions made for a company -- company policy, I'll help  
7 oversee to make sure those are made. I might not  
8 necessarily make those, but I'll ensure that the  
9 appropriate parties are making those.  
10 Q. When did you assume all these responsibilities that  
11 you've just described?  
12 A. Approximately 48 hours after the Aurelius ruling.  
13 Q. And what -- tell me what you mean by the Aurelius  
14 ruling.  
15 Before you do that, sir, spell Aurelius for --  
16 A. A-U-R-E-L-I-U-S, I believe.  
17 Q. Okay. Now tell me what you mean by the Aurelius  
18 ruling, sir.  
19 A. That would be the ruling where the judge found in  
20 favor of Aurelius in their lawsuit against Windstream for  
21 default on our -- on our bonds related to our spinoff of  
22 the Uniti.  
23 Q. Was that -- was it February of 2000 -- was that  
24 February or January?  
25 A. That was February. I'd have to look at the

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1 calendar to see the specific date, but it was on a  
2 Friday.  
3 Q. So February of 2019 you get involved in  
4 coordinating Windstream's bankruptcy related operations?  
5 A. Correct.  
6 Q. And did that involvement include any involvement in  
7 the notices that Windstream sent out related to its  
8 bankruptcy?  
9 A. Yes, it would.  
10 Q. So you'd be in a position to know whether or not  
11 Windstream sent a cover letter when it notified its  
12 customers that it was entering bankruptcy?  
13 A. I would be aware of it at that time. We -- there's  
14 multiple required notices related to bankruptcy. To say  
15 I remember every one of them in detail and what's  
16 included would be more than farfetched.  
17 Q. Sure. This may be one of those situations we  
18 talked about earlier where looking at a piece of paper  
19 could help you answer a question?  
20 A. Correct.  
21 Q. Do you know whether Windstream has produced any  
22 cover letter -- well, let me back up. Do you mind if I  
23 do that, sir?  
24 A. Sure.  
25 Q. Assuming that a cover letter exists, do you know

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1 whether Windstream has produced any cover letter that  
2 would have gone out in connection with a notice of  
3 bankruptcy being provided to Windstream customers?  
4 A. I don't recall if a cover letter is provided  
5 related to -- the notices we've sent out are particular  
6 to the bankruptcy code, that we have to notice our  
7 customers. We have to notice our creditors. We have to  
8 notice our vendors. There may be other parties in that  
9 scope as well.  
10 I'm not aware of necessarily, quote, cover letters.  
11 I know the official notice that we sent out, but I can't  
12 necessarily rule that out. I -- there's multiple -- in  
13 addition to that, we had to since then send other  
14 communications out to customers related to Charter's  
15 mailing that went out. So, you know, there's a number of  
16 things that we've had to send out now that weren't  
17 necessarily planned.  
18 Q. When did Windstream send a notice of bankruptcy to  
19 its customers?  
20 A. I don't recall. It would have to be -- have to be  
21 later March.  
22 Q. Did any of Windstream's customers call Windstream  
23 in response to the notice of bankruptcy that Windstream  
24 sent to its customers?  
25 A. Not that I am aware of. I can't say that they

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1 didn't, but not that I specifically aware of.  
2 Q. As far as you're specifically aware, zero  
3 Windstream customers called in response to the notice of  
4 bankruptcy that was sent to all Windstream customers  
5 pursuant to the bankruptcy rules?  
6 A. I'm not saying here. I'm just saying I'm not aware  
7 of them. I haven't -- I haven't gone and -- I haven't  
8 had a tremendous amount of escalation. In fact, the  
9 knowledge -- any knowledge I would have of this after we  
10 sent the mailings, we did query our business operations  
11 to see if we've had extraordinary call volume, any  
12 additional issues come in from the customers related to  
13 bankruptcy. I'm not aware of any that were raised to me.  
14 Q. You queried who?  
15 A. Our business operations. So they would be like  
16 Paul Strickland that I mentioned earlier. We would have  
17 queried him to check on that.  
18 Q. So at some point after Windstream sent a notice of  
19 bankruptcy to all of its customers, you made an inquiry  
20 to Mr. Strickland asking whether or not there was an  
21 increase in call volume related to bankruptcy, and he  
22 told you no?  
23 A. Correct.  
24 Now, in all fairness, at the bottom of the -- of  
25 the notice that went out, it did inform the customers

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1 there was nothing they needed to do at this time. So --  
2 Q. When you say at the bottom, what do you mean?  
3 A. I think at the bottom of the notice, if I remember  
4 correctly, somewhere in that notice, I believe it's  
5 towards the bottom, it'd say after -- after they read  
6 through the notice, it'd say at this time there's nothing  
7 that you need to do about this.  
8 Q. Do you know how many pages the notice of bankruptcy  
9 that Windstream sent to its customer?  
10 A. I don't -- I don't recall.  
11 Q. More than five?  
12 A. Oh, no. No. It would be -- it would be less than  
13 that. It may have been -- if I recall correctly, it may  
14 have been a single sheet.  
15 Q. A single sheet of paper that says Windstream has  
16 declared -- has filed for Chapter 11 bankruptcy?  
17 A. Right.  
18 Q. And then at the bottom of that single sheet of  
19 paper, it says you don't need to do anything?  
20 A. That's right, because the notice in itself just  
21 says this is an official filing. This is the  
22 circumstances of the bankruptcy. You know, your services  
23 and your products from Windstream will not be  
24 interrupted. It will not be impacted, and there's  
25 nothing that you need to do at this time. I believe

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1 that's the general context of that notice, but like I  
2 said, that was, you know, over a month ago.  
3 Q. The notice went out over a month ago?  
4 A. Yes, I think that notice according to the  
5 bankruptcy code probably -- I'm thinking if the timing is  
6 correct would probably have been late March.  
7 Q. And Mr. Strickland can confirm that the call volume  
8 related to -- I guess for bankruptcy related inquiries  
9 didn't go up after the notice of bankruptcy went out to  
10 all of Windstream's customers?  
11 A. He would be able -- yeah, talk about -- talk about  
12 that more specifically. They just -- those business  
13 operations, such as Paul, indicated we didn't -- they  
14 didn't have anything extraordinary.  
15 Q. Are you aware of any of Windstream's competitors  
16 other than Charter referring to Windstream's bankruptcy  
17 in advertising?  
18 A. I'm not aware of any.  
19 Q. As far as you know, Charter is the only Windstream  
20 competitor to refer to Windstream's bankruptcy?  
21 A. As far as I know.  
22 Q. If we wanted to see if wind center had received  
23 calls related to other competitors making statements  
24 about Windstream's bankruptcy, would Mr. Strickland be  
25 the guy that we talk to?

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1 A. I believe so.  
2 Q. Tell me -- you may have already told me this, sir,  
3 but tell me Mr. Strickland's position again, please.  
4 A. He is vice president of customer service for our  
5 consumer/small business business unit.  
6 Q. I think you referred to your involvement in first  
7 day motions when you were kind of describing your  
8 responsibilities as -- as they relate to Windstream's  
9 bankruptcy. Do you recall that, sir?  
10 A. I'm aware of the first -- I wasn't involved in  
11 first day motions. I was involved in helping to prepare  
12 for the first day motions and coordination of some of the  
13 activity, but our legal counsel and other executives were  
14 involved with the actual first day hearings.  
15 Q. Tell me your involvement in preparing for the first  
16 day motions.  
17 A. There are certain motions that have to be prepared  
18 and reviewed, may have been wages and salaries, could be  
19 vendor operations, could be critical vendors. You know,  
20 there's any number of motions associated with a  
21 Chapter 11 filing. My participation in that would have  
22 been to review such documents, maybe gather additional  
23 data or materials required for those motions and help --  
24 help provide that to the team preparing them.  
25 Q. And those first day motions, you understand they

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1 asked for both interim relief and final relief?  
2 A. Yes.  
3 Q. And what's your understanding of what interim  
4 relief is?  
5 A. Well, interim relief is that -- my understanding,  
6 this is very much layman's terms, it's protection from --  
7 from the creditors so that business operations are not  
8 impacted.  
9 Q. So it's -- is it temporary or permanent protection?  
10 A. That would be temporary until -- until a final  
11 hearing is done or final ruling is done.  
12 Q. And so the idea is here's my interim decision, and  
13 I'll make a final decision down the record if I'm the  
14 court?  
15 A. That's my basic understanding, but I think you've  
16 reached the extent of my bankruptcy law knowledge.  
17 Q. We're fast approaching mine as well.  
18 Okay. Who do you report to?  
19 A. Tony Thomas, the chief executive officer of  
20 Windstream.  
21 Q. And who reports to you?  
22 A. Nobody.  
23 Q. Who do you -- who do you work with on a day-to-day  
24 basis?  
25 A. I work with each of Tony Thomas' direct reports. I

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<p>1 work with certain business operation leaders and</p> <p>2 organizations as necessary to gather maybe materials or</p> <p>3 help facilitate problems for them that they need to have</p> <p>4 resolved. We have a representative of our project</p> <p>5 management organization helps me coordinate the</p> <p>6 bankruptcy activities. Doesn't report to me, but helps</p> <p>7 me coordinate those activities. And then I deal with all</p> <p>8 my new adviser friends. Mostly Alvarez &amp; Marsal.</p> <p>9 Q. Could you spell that, please?</p> <p>10 A. A-L-V-A-R-E-Z and Marsal, M-A-R-S-A-L.</p> <p>11 (Exhibit 2 was marked.)</p> <p>12 BY MR. KINGSTON (CONT.):</p> <p>13 Q. Mr. Langston, I am marking as Exhibit 2 a -- an 11</p> <p>14 page document that I will represent to you is the</p> <p>15 affidavit that you submitted in support of debtors'</p> <p>16 motion for both the temporary restraining order and a</p> <p>17 preliminary injunction in this litigation without</p> <p>18 exhibits.</p> <p>19 Do you recognize Exhibit 2, sir?</p> <p>20 MS. SIMS: At this point I want to make</p> <p>21 sure just to see if this is the redacted</p> <p>22 version or not.</p> <p>23 MR. KINGSTON: Oh, can you slide that back</p> <p>24 to me? I'm sorry.</p> <p>25 MS. SIMS: So, John, this is not the</p>	<p>1 redacted version. We find this confidential,</p> <p>2 but --</p> <p>3 MR. KINGSTON: I'll defer to you</p> <p>4 completely, however you want to mark it. I</p> <p>5 don't have strong feelings about sharing it</p> <p>6 with our other friend across the table.</p> <p>7 MS. SIMS: So we'll just see -- it's</p> <p>8 redacted specifically because of</p> <p>9 confidentiality clause in the contract. So</p> <p>10 that was -- that was the reason for the</p> <p>11 redaction in this, so --</p> <p>12 MR. KINGSTON: Okay. So how would you</p> <p>13 like to designate it?</p> <p>14 MS. SIMS: I think I would be comfortable</p> <p>15 just saying as to the committee would be</p> <p>16 attorney's eyes only given our kind of working</p> <p>17 process of how we're doing that.</p> <p>18 MR. KINGSTON: That's fine with me.</p> <p>19 MS. SIMS: Okay.</p> <p>20 MR. SMITH: Yes.</p> <p>21 MR. KINGSTON: If counsel for the</p> <p>22 committee will confirm that their -- that</p> <p>23 Deposition Exhibit 2 won't be shared with</p> <p>24 anyone beyond outside counsel for the committee</p> <p>25 until we've reach some other agreement or</p>
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<p>1 gotten contrary guidance by the court, I'm</p> <p>2 happy to slide it back across the table.</p> <p>3 MS. GREER: Sure. Counsel for the</p> <p>4 committee agrees.</p> <p>5 MR. KINGSTON: Okay.</p> <p>6 MS. SIMS: I would note such for purposes</p> <p>7 that this should be designated confidential so</p> <p>8 it's not inadvertently filed in this form.</p> <p>9 MR. KINGSTON: Sure. And why don't we go</p> <p>10 ahead, and if -- Mr. Langston, if you'll slide</p> <p>11 that back to me, I'll -- I'll write</p> <p>12 confidential, and I'll right AOE on it as well</p> <p>13 which --</p> <p>14 MS. SIMS: Okay.</p> <p>15 MR. KINGSTON: -- we'll agree stands for</p> <p>16 attorney's eyes only.</p> <p>17 Here you go.</p> <p>18 MR. LANGSTON: What's your question?</p> <p>19 BY MR. KINGSTON (CONT.):</p> <p>20 Q. Is that your affidavit, sir?</p> <p>21 A. It is.</p> <p>22 Q. Take a look, if you would, sir, at paragraph five.</p> <p>23 A. Okay.</p> <p>24 Q. I read -- I won't need to read the first sentence</p> <p>25 of paragraph five into the record, but I read a reference</p>	<p>1 there to a national footprint spanning approximately</p> <p>2 150,000 fiber miles?</p> <p>3 A. That is correct.</p> <p>4 Q. That is -- what is that? Is that --</p> <p>5 A. So fiber is a network technology. It's basically</p> <p>6 the technology path that you distribute communications</p> <p>7 across, so whether it be data communications or voice</p> <p>8 communication. So it traverses, you know, terrain,</p> <p>9 geographical terrain, geographical areas of the country.</p> <p>10 Q. And does Windstream -- does Windstream own that</p> <p>11 150,000 miles of fiber?</p> <p>12 A. They do. Some of it they lease. Some of it they</p> <p>13 actually directly -- directly own, so --</p> <p>14 Q. How much do they lease?</p> <p>15 A. I don't know the breakout --</p> <p>16 Q. Is that --</p> <p>17 A. -- of lease versus strictly -- directly owned.</p> <p>18 Q. I'm sorry.</p> <p>19 A. I don't know the difference between -- I don't know</p> <p>20 the appropriate amount of what is owned versus what's</p> <p>21 leased.</p> <p>22 Q. Was a big chunk of that 150,000 fiber miles owned</p> <p>23 by the entity that was involved in the Aurelius</p> <p>24 litigation?</p> <p>25 A. I can't really speak to how much of that, if any,</p>

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1 that -- that entity owned. That wouldn't be my area of  
2 expertise.  
3 Q. Your understanding is that Uniti, and that's  
4 U-N-I-T-I, owns some percentage of the fiber that  
5 Windstream uses to provide broadband, entertainment and  
6 core transport solutions to its customers -- to its  
7 consumer and business customers?  
8 A. I don't know -- they would own some of that. I  
9 don't know to what degree it supports consumer versus  
10 broadband versus entertainment versus core transport. I  
11 don't know the breakout of what they do. So a lot of  
12 that is owned on our own network. We own that ourselves,  
13 but I can't tell you the breakout, and then there's other  
14 third parties involved, too, besides Uniti. You could  
15 have other third party providers that we lease fiber  
16 network from, so --  
17 Q. So it lease -- Windstream leases fiber from other  
18 third party providers and then Uniti?  
19 A. Oh, yes.  
20 Q. And Windstream at some point sold a whole bunch of  
21 fiber to Uniti and then leased it back; right?  
22 A. I don't -- well, I'm not sure that we sold it. We  
23 spun it -- we spun it off as a legal entity. Those were  
24 part of the assets that went with the transaction, but  
25 like I said, I can't tell you how much of that is fiber

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1 versus copper versus whatever network technology. That's  
2 just -- it's just not my area.  
3 Q. Is the -- in your work on the bankruptcy on behalf  
4 of Windstream, have you done anything with the -- related  
5 to the master lease agreement with Uniti?  
6 A. I have not.  
7 Q. Do you know how much Windstream pays on that lease  
8 agreement per year?  
9 A. I believe the amount is 650 million.  
10 Q. 650 million a year?  
11 A. Uh-huh.  
12 Q. So Windstream pays 650 million a year to lease  
13 fiber and probably coaxial from Uniti?  
14 A. I -- like I said, it's just -- I would be  
15 speculating as -- I'm just not a subject matter expert  
16 into what assets specifically Uniti owns and what  
17 technology the rest is comprised of.  
18 Q. But one of the contracts that is at issue in this  
19 bankruptcy is the \$650 million a year lease with Uniti;  
20 right?  
21 A. That is correct.  
22 Q. And then there's some other contracts that are at  
23 issue in this bankruptcy that are other -- that wherein  
24 Windstream leases other fiber that's within that 150,000  
25 miles of fiber that's referenced in paragraph five;

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1 right?  
2 A. I'm not sure I understand the question.  
3 Q. That question got away from me a little bit, didn't  
4 it, sir?  
5 A. Yeah.  
6 Q. Miss Sims was making, you know, polite signs. I  
7 wanted to make sure we were still talking about paragraph  
8 five.  
9 So within that 150,000 miles of fiber that's  
10 referenced in paragraph five of the affidavit, there's  
11 some 66,000 miles that are leased from Uniti?  
12 A. I -- I don't know. I know some is. I can't tell  
13 you the specific breakout. Like I said, it's just not my  
14 area of expertise.  
15 Q. Beyond the \$650 million a year that's tied to that  
16 master lease agreement with Uniti, do you know how much  
17 Windstream pays for fiber leasing from the other third  
18 parties?  
19 A. No, I don't.  
20 Q. I'll move along.  
21 I read the last sentence of paragraph five to say  
22 that Windstream's operational performance is on an upward  
23 trajectory throughout 2018, Windstream added over 14,000  
24 new broadband subscribers and improved strategic sales  
25 revenue.

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1 Have I read that correctly, sir?  
2 A. That is correct.  
3 Q. What does strategic sales revenue mean?  
4 A. That's associated with our strategic product sales.  
5 So products we specifically designated as strategic to  
6 the future performance of the company, ongoing product  
7 sales that are important.  
8 Q. What are the products that you've designated as  
9 strategic products?  
10 A. Including, but not limited to things such as  
11 SD-WAN, unified communication as a service or UCAS,  
12 network security products, those would be some. I can't  
13 really say that those are all of them, but those are the  
14 majority of what we've talked about. Broadband services  
15 clearly is also a strategic product.  
16 Q. Tell me what you meant when you said that the  
17 strategic sales revenue had improved as that relates to  
18 SD-WAN.  
19 A. We've increased the sales revenue for those  
20 products.  
21 Q. By how much? From what to what?  
22 A. I don't recall.  
23 Q. What about UCAS, U-C-A-S?  
24 A. I don't know the specific numbers.  
25 Q. Can you tell me any specific numbers that are tied

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1 to the improved strategic revenue -- excuse me, improved  
2 strategic sales revenue in paragraph five of your  
3 affidavit?  
4 A. Not without referencing some other materials.  
5 Q. What would you need to reference?  
6 A. I would need to reference to some of our financial  
7 documents related to that. I think and I believe we  
8 indicate some of that within our 10-K as well.  
9 Q. Was the 10-K one of the documents you reviewed to  
10 prepare for today's deposition?  
11 A. No.  
12 Q. But if I wanted information that was tied to your  
13 representations regarding improved strategic sales  
14 revenue in paragraph five of your declaration, I could  
15 take a look at Windstream's 10-K?  
16 A. I believe you could.  
17 Q. Do you see the reference to 14,000 new broadband  
18 subscribers?  
19 A. Yes.  
20 Q. How many total broadband subscribers does  
21 Windstream have?  
22 A. Oh. I think approximately 1.2 million, maybe  
23 1.2 million and change.  
24 Q. How many employees does Windstream have?  
25 A. In total, 12,000.

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1 Q. Take a look at paragraph nine if you would, sir.  
2 A. Okay.  
3 Q. And I read the first sentence of paragraph nine as  
4 follows: On information and belief, Windstream's strong  
5 operational achievements will not be disrupted by the  
6 Chapter 11 filing. Have I read that correctly?  
7 A. Yes.  
8 Q. What did you mean by on information and belief,  
9 sir?  
10 A. Based upon the information provided to me and my  
11 understanding in conversations with others, my belief is  
12 those operational achievements won't be interrupted.  
13 Q. What was the information that was provided to you?  
14 I need to back up. Do you mind if I take another  
15 run at that, sir?  
16 A. Sure.  
17 Q. So when you say on information and believe, you're  
18 describing what you believe?  
19 A. What I believe and what I -- yes. Yes.  
20 Q. And so that's your opinion?  
21 A. That's my opinion.  
22 Q. And so your opinion is that Windstream's strong  
23 operational achievement will not be disrupted by the  
24 Chapter 11 filing. Is that fair?  
25 A. That is correct.

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1 Q. I read the next sentence of paragraph nine to say  
2 the debtors' business will continue operating in the  
3 ordinary course and the debtor will be able to pay  
4 employees, maintain relationships with vendors and  
5 business partners, and most importantly serve customers  
6 as usual without disruption.  
7 Have I read that correctly, sir?  
8 A. Yes.  
9 Q. And you're referring to things that the debtor will  
10 be able to continue to do?  
11 A. Yes.  
12 Q. And, again, that's your opinion, sir?  
13 A. That's my opinion and knowledge based upon what's  
14 actually occurred since filing.  
15 Q. Take a look if you would -- if you would, sir, at  
16 paragraph 11.  
17 A. Okay.  
18 Q. So -- and we were talking about strategic sales  
19 earlier. You see a reference to three consecutive  
20 quarters of strategic sales in excess of total enterprise  
21 sales?  
22 A. Yes.  
23 Q. What does that mean?  
24 A. It means the strategic product sales, that growth  
25 or the growth in those areas are starting to exceed the

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1 total sales for that area, meaning other products and  
2 services there, the strategic products are starting to  
3 eclipse the older products sales.  
4 Q. Okay. Can you give me sort of concrete examples of  
5 that, sir?  
6 A. You know, old services you might have provided  
7 would have been like providing TDM circuits, TDM sales,  
8 maybe some MPLS sales, things like that, and we're  
9 starting to see now that strategic sales where they're  
10 eclipsing those older products.  
11 Q. And I guess what I'm looking at is what does total  
12 enterprise sales mean?  
13 A. Total enterprise sales would be all -- all of the  
14 sales of those -- of those products. So the growth --  
15 the growth of the strategic products as in terms of  
16 growth percentages eclipsing the total growth. So the  
17 older products are starting to diminish, right. These  
18 new products are eclipsing those.  
19 Q. So total enterprise -- so when you're talking about  
20 total enterprise sales, you're talking about the growth  
21 rate of the total of everything that you sell?  
22 A. Right. Of the -- for the enterprise sales, for the  
23 enterprise business unit.  
24 Q. Okay. So that -- maybe that's what I'm missing.  
25 A. Enterprise --

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<p>1 Q. Enterprise sales is --</p> <p>2 A. Yes, that's business unit specific.</p> <p>3 Q. Okay. And -- and that's sales to businesses?</p> <p>4 A. Yeah, EA is B to B for everything above a small</p> <p>5 business. So small business is within the consumer/small</p> <p>6 business business unit, and then you have all other</p> <p>7 businesses, including the wholesale business that are in</p> <p>8 the enterprise.</p> <p>9 Q. And if somebody says something about I've heard</p> <p>10 logo customers. Have you heard that phrase?</p> <p>11 A. I haven't heard -- well, you have new logo</p> <p>12 customers, which represents brand new customers to</p> <p>13 Windstream versus existing customers.</p> <p>14 Q. That doesn't have anything to do with enterprise</p> <p>15 sales or if it does, it's is happenstance?</p> <p>16 A. Yeah. Yeah.</p> <p>17 Q. So enterprise sales are businesses that are not</p> <p>18 small businesses?</p> <p>19 A. That's right.</p> <p>20 Q. Would enterprise sales -- it's kind of skipping</p> <p>21 ahead, but you know there was the disconnects around</p> <p>22 March 15th, were those to enterprise sales?</p> <p>23 A. Some of those were enterprise and some of those</p> <p>24 were small business.</p> <p>25 Q. So the last mile customers that are referred to</p>	<p>1 kind of further on in your declaration, those would be</p> <p>2 small business customers and enterprise customers?</p> <p>3 A. Yes.</p> <p>4 Q. Are there any consumer last mile customers?</p> <p>5 A. You know, I don't know. I don't know.</p> <p>6 Q. You can't identify any consumer -- it's a bad</p> <p>7 question. You wouldn't be able to specifically identify</p> <p>8 any consumer customers anyway?</p> <p>9 A. That's right.</p> <p>10 Q. But you don't know sitting here today whether or</p> <p>11 not the last mile customers includes consumer customers?</p> <p>12 A. I don't know that.</p> <p>13 Q. Okay. And just to be sure we're clear on that</p> <p>14 point, sir, can you take a look at paragraph 25 on page</p> <p>15 eight?</p> <p>16 A. Okay.</p> <p>17 Q. And I read the first sentence of paragraph 25 as</p> <p>18 follows: Windstream has a contractual relationship with</p> <p>19 Charter whereby it uses Charter for, open quote, last</p> <p>20 mile, closed quote, connectivity to provide access for a</p> <p>21 customer in Windstream's network.</p> <p>22 Have I read that correctly, sir?</p> <p>23 A. Yes.</p> <p>24 Q. So as far as that hypothetical customer that's</p> <p>25 referenced in the first paragraph -- excuse me, in the</p>
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<p>1 first sentence of paragraph five, you don't know of any</p> <p>2 consumer customers that would fit that definition?</p> <p>3 A. I don't know the makeup of the customers that were</p> <p>4 in those that are disconnected. I know of some of them</p> <p>5 specifically, such as a homeless shelter, you know, a</p> <p>6 preschool, things like that. There might have been, you</p> <p>7 know, restaurants, entertainment venues that the</p> <p>8 consumers would be in when they were cut off, but I don't</p> <p>9 know the exact makeup of the type of customer that were</p> <p>10 in that 350 disconnects.</p> <p>11 Q. Mr. Langston, you can't say sitting her today that</p> <p>12 any of the customers referenced in the first sentence of</p> <p>13 paragraph 25 were consumer customers; isn't that true?</p> <p>14 A. That is correct.</p> <p>15 Q. Did sending out the notice of bankruptcy to all of</p> <p>16 Windstream's customers do any harm to Windstream's good</p> <p>17 will?</p> <p>18 A. Not that I'm aware of.</p> <p>19 Q. Notifying every single one of Windstream's</p> <p>20 customers that Windstream had filed Chapter 11 bankruptcy</p> <p>21 didn't hurt Windstream's good will?</p> <p>22 A. I can't speculate. I -- I don't know that it did</p> <p>23 or didn't. Not that I'm aware of though.</p> <p>24 Q. You're not aware?</p> <p>25 A. Of any damage to good will from that.</p>	<p>1 Q. You're not aware of any damage to Windstream's good</p> <p>2 will from Windstream notifying every single one of its</p> <p>3 customers that it had entered Chapter 11 bankruptcy?</p> <p>4 A. I'm not. I'm not aware of any.</p> <p>5 Q. Take a look at subparagraph D, if you would, sir,</p> <p>6 of paragraph 11. It's on page five.</p> <p>7 A. Okay.</p> <p>8 Q. I read that subpart as follows: The growth was</p> <p>9 driven by both stronger sales and lower churn as</p> <p>10 Windstream benefited from recent investments in its</p> <p>11 network. Have I read that correctly?</p> <p>12 A. That is correct.</p> <p>13 Q. What do you mean by lower churn?</p> <p>14 A. Less customers disconnecting.</p> <p>15 Q. What are the recent investments that you refer to</p> <p>16 in that subparagraph?</p> <p>17 A. Can we pause for --</p> <p>18 Q. Sure.</p> <p>19 A. -- a question with my counsel?</p> <p>20 Q. Yeah. You want to take a break?</p> <p>21 A. Sure.</p> <p>22 MS. SIMS: Was there a question pending</p> <p>23 though?</p> <p>24 MR. LANGSTON: There is a question</p> <p>25 pending.</p>



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<p>1 MR. KINGSTON: There was, but I think he's</p> <p>2 going to talk to you about whether or not he</p> <p>3 wants to assert a privilege.</p> <p>4 MS. SIMS: Okay.</p> <p>5 MR. KINGSTON: And which -- it's something</p> <p>6 I should have said is I'd like you to answer --</p> <p>7 if I ask you a question, I'd like to answer the</p> <p>8 question before we take a break unless you'd</p> <p>9 like to talk to you counsel about whether or</p> <p>10 not to assert a privilege.</p> <p>11 MR. LANGSTON: I'd like to talk to counsel</p> <p>12 about asserting a privilege.</p> <p>13 MR. KINGSTON: That's fine, sir.</p> <p>14 MR. SIMS: All right. We're going off the</p> <p>15 record. The time is approximately 10:43 a.m.</p> <p>16 (The deposition recessed at 10:43 a.m. and</p> <p>17 reconvened at 10:56 a.m.)</p> <p>18 MR. SIMS: We are back on the record. The</p> <p>19 time is approximately 10:56 a.m.</p> <p>20 MR. KINGSTON: And I'll note for the</p> <p>21 record that we're going to go ahead and</p> <p>22 designate the entire transcript as attorney's</p> <p>23 eyes only, which means that it will -- which is</p> <p>24 effectively outside counsel -- outside</p> <p>25 counsel's eyes only under the -- currently --</p>	<p>1 or under -- according to the stipulation that's</p> <p>2 currently being discussed, recognizing, of</p> <p>3 course, that Windstream's counsel is obviously</p> <p>4 welcome to take a look at all this stuff seeing</p> <p>5 as it's Windstream's witnesses.</p> <p>6 BY MR. KINGSTON (CONT.):</p> <p>7 Q. Mr. Langston, do you remember my last question?</p> <p>8 A. I do.</p> <p>9 Q. All right. What was -- what's the answer?</p> <p>10 A. So I believe your question was how did Windstream</p> <p>11 benefit from the recent investments in our network. So</p> <p>12 through investments and additional network technology,</p> <p>13 expansion of network technology, we were able to see</p> <p>14 additional customer growth, meaning retention of existing</p> <p>15 customers. They were able to take advantage of these new</p> <p>16 increased speeds in our network, as well as the</p> <p>17 attraction and addition of new customers to Windstream as</p> <p>18 well.</p> <p>19 Q. So investments with speed related?</p> <p>20 A. For expansion of higher speeds.</p> <p>21 Q. So is that essentially adding more fiber or thicker</p> <p>22 fiber so Windstream can push more data through?</p> <p>23 A. Could be fiber. There's many -- there's many</p> <p>24 attributes of a network that could cause increased speed.</p> <p>25 Q. Okay. But, essentially, you bought more stuff, you</p>
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<p>1 installed more stuff, and that let people run their --</p> <p>2 get faster speed on the Internet?</p> <p>3 A. For broadband, yes.</p> <p>4 Q. And what -- in rough terms, tell me a dollar amount</p> <p>5 of that recent investment that you're referring to in</p> <p>6 subpart D.</p> <p>7 A. I don't recall.</p> <p>8 Q. Millions, billions, thousands?</p> <p>9 A. I'd say approximately hundreds of millions.</p> <p>10 Q. Hundreds of millions.</p> <p>11 And is that -- is that -- the recent investment in</p> <p>12 your network, is that tied to this sub part E, which I</p> <p>13 read to say, Windstream has steadily increased the</p> <p>14 percentage of its footprint with access to high speed</p> <p>15 Internet?</p> <p>16 A. That is correct.</p> <p>17 Q. Take a look at paragraph 12, sir, please.</p> <p>18 I read that second sentence to say that the</p> <p>19 bankruptcy court has already granted the relief requested</p> <p>20 in all debtors' first day motions to help ensure that the</p> <p>21 debtors' businesses will continue operating in the</p> <p>22 ordinary course and that the debtors will be able to pay</p> <p>23 employees, maintain relationships with vendors and</p> <p>24 business partners, and, most importantly, serve customers</p> <p>25 as usual without disruption.</p>	<p>1 Have I read that correctly, sir?</p> <p>2 A. That is correct.</p> <p>3 Q. And those are those interim motions or -- the</p> <p>4 interim relief that was granted on the first day of</p> <p>5 bankruptcy?</p> <p>6 A. On the first day motions, yes.</p> <p>7 Q. Had Windstream registered any trade dress with the</p> <p>8 United States Patent &amp; Trademark Office?</p> <p>9 A. Trade dress?</p> <p>10 Q. Yes, sir.</p> <p>11 A. What does that mean?</p> <p>12 Q. You don't know what trade dress means?</p> <p>13 A. No.</p> <p>14 Q. And so it's a fair inference then that if</p> <p>15 Windstream has reference -- has -- mind if I take another</p> <p>16 run at that, sir?</p> <p>17 A. Sure.</p> <p>18 Q. It's a fair inference then, isn't it, Mr. Langston,</p> <p>19 that Windstream has not registered any trade dress with</p> <p>20 the United States Patent &amp; Trademark Office given that</p> <p>21 you don't know what trade dress means?</p> <p>22 MS. SIMS: I'll object on -- I don't</p> <p>23 believe this is a topic or something that he</p> <p>24 would have been designated for. Like all trade</p> <p>25 dress registrations?</p>

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<p>1 MR. KINGSTON: If -- if counsel is</p> <p>2 representing that Windstream's trade dress is</p> <p>3 beyond the scope of the preliminary injunction</p> <p>4 hearing, I'm happy to move on. I guess --</p> <p>5 MS. SIMS: I think if you can be more</p> <p>6 specific as to the topic of your question.</p> <p>7 You're asking very general across company</p> <p>8 lines, so I don't believe that is relevant. If</p> <p>9 you can be more specific, that would be</p> <p>10 helpful.</p> <p>11 MR. KINGSTON: Sure.</p> <p>12 BY MR. KINGSTON (CONT.):</p> <p>13 Q. Take a look at Exhibit Number 1.</p> <p>14 A. Okay.</p> <p>15 Q. Paragraph -- subpart seven.</p> <p>16 A. Yes.</p> <p>17 Q. Do you see a reference to Windstream's support</p> <p>18 after the statement Charter deliberately used</p> <p>19 Windstream's distinct color pattern on the envelope to</p> <p>20 cause consumer confusion as alleged in paragraph 20 of</p> <p>21 the Windstream complaint?</p> <p>22 A. Yes.</p> <p>23 Q. Have I read that correctly, sir?</p> <p>24 A. Yes.</p> <p>25 Q. All right. Has Windstream, to your knowledge,</p>	<p>1 registered any trade dress with the United States Patent</p> <p>2 &amp; Trademark Office?</p> <p>3 A. You mean have they -- well, I don't want to</p> <p>4 speculate here. So I -- I don't know the term dress. I</p> <p>5 know about trademarks. I know about registering names or</p> <p>6 logos or things like that, but Windstream has registered</p> <p>7 its -- clearly its name, its trade -- its brand name</p> <p>8 Windstream, and I believe we've also filed based upon my</p> <p>9 knowledge of talking with counsel, we filed for</p> <p>10 trademarks associated with --</p> <p>11 MS. SIMS: Okay. Hold on. I just want to</p> <p>12 be clear, if you're talking specifically about</p> <p>13 a conversation with counsel, don't --</p> <p>14 MR. LANGSTON: Okay.</p> <p>15 MS. SIMS: -- don't talk about that.</p> <p>16 MR. LANGSTON: Okay.</p> <p>17 MS. SIMS: Wait until he asks the</p> <p>18 question.</p> <p>19 MR. KINGSTON: Sure.</p> <p>20 MR. LANGSTON: Okay.</p> <p>21 BY MR. KINGSTON (CONT.):</p> <p>22 Q. You know that Windstream has registered logos and</p> <p>23 its name with the trademark office?</p> <p>24 A. Yes.</p> <p>25 Q. Do you know of anything else that Windstream has</p>
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<p>1 registered with the trademark office?</p> <p>2 A. I'm not aware of the entire scope of anything that</p> <p>3 we may or may not have registered with the trademark</p> <p>4 office.</p> <p>5 Q. But you don't know of anything else that Windstream</p> <p>6 has registered with the trademark office, sir?</p> <p>7 A. I'm not aware of any.</p> <p>8 Q. Take a look if you would at paragraph 24,</p> <p>9 Mr. Langston.</p> <p>10 MS. SIMS: Of Exhibit 2?</p> <p>11 MR. KINGSTON: I'm sorry. Exhibit 2.</p> <p>12 Thank you, counsel.</p> <p>13 BY MR. KINGSTON (CONT.):</p> <p>14 Q. So Exhibit 2, page eight, paragraph 24, do you see</p> <p>15 that, sir?</p> <p>16 A. Yes.</p> <p>17 Q. I read the first sentence as follows: As a direct</p> <p>18 result of Charter's advertising campaign, Windstream has</p> <p>19 been forced to expend substantial time, money and</p> <p>20 resources to combat Charter's false claims. Have I read</p> <p>21 that correctly?</p> <p>22 A. Correct.</p> <p>23 Q. How much time has Windstream been forced to expend?</p> <p>24 A. I don't know the specific number, but it's been</p> <p>25 significant on the part of any number of people across</p>	<p>1 the company up to and including myself, people in our</p> <p>2 business units, clearly outside counsel, just inside</p> <p>3 counsel, members of our executive team. All of our call</p> <p>4 center representatives that had to be briefed on talking</p> <p>5 points to explain to customers about the Spectrum</p> <p>6 advertisement, so thousands of people, varying -- varying</p> <p>7 degrees of time.</p> <p>8 Q. What's the difference between the talking points</p> <p>9 that were provided to customers following Windstream's</p> <p>10 providing notice of -- do you mind if I try that again,</p> <p>11 sir?</p> <p>12 A. Sure.</p> <p>13 Q. I think I misspoke.</p> <p>14 Tell me the difference between the talking points</p> <p>15 that were provided to Windstream call center</p> <p>16 representatives following Windstream providing notice of</p> <p>17 bankruptcy to all of its customers and the talking points</p> <p>18 that were provided to those customer service</p> <p>19 representatives following Windstream's discovery of the</p> <p>20 challenge to advertisements in this lawsuit?</p> <p>21 A. To characterize the two, the first set of talking</p> <p>22 points were very general about bankruptcy, about</p> <p>23 generally what bankruptcy is and more importantly what it</p> <p>24 isn't, meaning it doesn't interrupt your operations. It</p> <p>25 doesn't interrupt your services. They won't be impacted</p>



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<p>1 by it.</p> <p>2 The talking points associated related to Spectrum</p> <p>3 were specific to the fact that there was a Spectrum</p> <p>4 communication that went out, what was incorrect in that</p> <p>5 statement, and to specifically alleviate customers'</p> <p>6 concerns about those specific services that Spectrum</p> <p>7 noted in their communication that would be interrupted or</p> <p>8 potentially interrupted by the bankruptcy that were</p> <p>9 false. So most of it was to do to calm and soothe</p> <p>10 customer concerns and to, in some cases, work with those</p> <p>11 customers to, you know, potentially stop them from</p> <p>12 leaving Windstream and going -- going to Spectrum or</p> <p>13 Charter.</p> <p>14 Q. When -- the talking points that were provided after</p> <p>15 Windstream provided notice of bankruptcy to all of its</p> <p>16 customers would have instructed the call center</p> <p>17 technicians to say that it was business as usual?</p> <p>18 A. Correct.</p> <p>19 Q. Is that sometimes abbreviated as BAU?</p> <p>20 A. Correct.</p> <p>21 Q. And the talking points related to Spectrum would</p> <p>22 have instructed call center employees to say that it is</p> <p>23 business as usual; isn't that right?</p> <p>24 A. Correct.</p> <p>25 Q. The talking points that were provided to call</p>	<p>1 center employees following Windstream providing notice of</p> <p>2 bankruptcy to all of its customers would have included an</p> <p>3 instruction to inform customers that their service would</p> <p>4 not be interrupted; isn't that right?</p> <p>5 A. That is correct.</p> <p>6 Q. And the talking points that were provided to</p> <p>7 customers -- or excuse me, that were provided to call</p> <p>8 center employees after a written response to the Spectrum</p> <p>9 advertising would have instructed the call center</p> <p>10 employees to say that service wasn't being interrupted;</p> <p>11 isn't that right?</p> <p>12 A. Amongst other things, yes.</p> <p>13 Let me -- and let me --</p> <p>14 Q. Talking point -- go ahead.</p> <p>15 A. Let me correct one of the statements. So back in</p> <p>16 the first answer, say that the -- on the original</p> <p>17 bankruptcy filings that their services wouldn't be</p> <p>18 interrupted specifically as a result of the bankruptcy</p> <p>19 operation or bankruptcy filing. Nothing related to</p> <p>20 bankruptcy would interrupt their services.</p> <p>21 Q. I follow. So after the notification of bankruptcy</p> <p>22 was provided to all of Windstream's customers, Windstream</p> <p>23 would have circulated talking points that included an</p> <p>24 instruction to tell customers that the bankruptcy</p> <p>25 wouldn't cause an interruption of service?</p>
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<p>1 A. That is correct.</p> <p>2 Q. And that same talking point that the bankruptcy</p> <p>3 wouldn't cause an interruption in service would have been</p> <p>4 provided to call center employees in response to the</p> <p>5 Spectrum advertising?</p> <p>6 A. Amongst other things we told them as a result of</p> <p>7 the Spectrum advertising.</p> <p>8 Q. And the talking point that the bankruptcy wouldn't</p> <p>9 cause service interruptions would have been provided in</p> <p>10 response to the Spectrum advertising; isn't that right?</p> <p>11 A. Can you restate your question?</p> <p>12 Q. Sure. Windstream notifies all of its customers</p> <p>13 that it's in bankruptcy. Yes?</p> <p>14 A. Correct.</p> <p>15 Q. After it does that, Windstream provides talking</p> <p>16 points. Yes?</p> <p>17 A. Yes.</p> <p>18 Q. Those talking points include an instruction to say</p> <p>19 that it's business as usual?</p> <p>20 A. Correct.</p> <p>21 Q. And that same instruction in response to the</p> <p>22 Charter advertising?</p> <p>23 A. Amongst other things in the Charter one. The</p> <p>24 Charter one was more specific based upon specific points</p> <p>25 made in the Charter advertisement.</p>	<p>1 Q. The instruction to say that it's business as usual</p> <p>2 was in both the --</p> <p>3 A. I believe so.</p> <p>4 Q. The -- I'm sorry. I'm going to have to finish it</p> <p>5 off just because --</p> <p>6 A. I'm sorry.</p> <p>7 Q. No, you didn't interrupt me. I was --</p> <p>8 A. I thought you had stopped.</p> <p>9 Q. I sort of trailed off. The fault is mine on that.</p> <p>10 A. No problem.</p> <p>11 Q. The instruction to say that it was business as</p> <p>12 usual at Windstream was in response to both Windstream's</p> <p>13 own notice of bankruptcy to its customers and the</p> <p>14 Spectrum advertising; correct?</p> <p>15 A. That is correct.</p> <p>16 Q. The instruction that there would be no bankruptcy</p> <p>17 related interruption of service was in the talking points</p> <p>18 for both Windstream's notice of bankruptcy to its</p> <p>19 customers and its response to the Spectrum advertising;</p> <p>20 correct?</p> <p>21 A. I believe so.</p> <p>22 Q. The instruction to inform customers that the</p> <p>23 bankruptcy was not the product of operational failures</p> <p>24 would have been in both the response to the -- to</p> <p>25 Windstream's own notice of bankruptcy to its customers</p>

1 and the Spectrum advertising; isn't that true?  
2 A. I don't recall. I know it was in the first general  
3 one. I don't recall if it was in the second one or not.  
4 I'm not saying it wasn't. I just don't recall if it was.  
5 Q. So we know that the representation that the  
6 bankruptcy was not the product of operational failures  
7 was in the talking points circulated in response to the  
8 Windstream notice of bankruptcy by Windstream. We don't  
9 know -- it may or may not be the case that that  
10 instruction was included in the talking points that were  
11 circulated in response to the Spectrum advertising?  
12 A. Yeah, I just -- I don't recall. I just don't know.  
13 It may have been in there. I don't know.  
14 Q. When customers inquired about bankruptcy in  
15 response to Windstream's notice of bankruptcy, were they  
16 offered higher speeds?  
17 A. Are you talking about the first -- as a result of  
18 the first notice?  
19 Q. Yes, sir.  
20 A. I don't recall. As I stated earlier, I don't  
21 recall a specific -- of -- or have knowledge of specific  
22 calls from customers coming in related to the first  
23 notice. I'm not saying there weren't. I just don't know  
24 of any. We asked, and they said there weren't any --  
25 wasn't any extraordinary call volume.

1 promotions more proactively in the cases that a customer  
2 called in and was trying to move to Spectrum as a result  
3 of the advertising, and we saw that they had certain  
4 abilities in their areas to get increased speed or they  
5 were available for promotions, we were more actively,  
6 more proactively offering those than we normally would.  
7 Q. So if I'm an existing Windstream customer and I  
8 decide I want to change my provider because I hate the  
9 Kinetic, the -- that sort of flower shaped logo, and I  
10 call in, what -- would there be -- there would be  
11 promotions that would not be available for that customer  
12 that would be available for a customer that called in in  
13 response to the Spectrum advertising?  
14 A. I don't know. I don't know.  
15 Q. Okay. I'm not -- I'm not sure that question made a  
16 lot of sense. I'm going to take another run at that.  
17 There were promotions that were available to  
18 customers who called in in response to the Spectrum  
19 advertising. Yes?  
20 A. Yes.  
21 Q. Which of those promotions would not have been  
22 available to a customer that called in for another  
23 reason?  
24 A. I don't know.  
25 Q. Any?

1 So on the first -- related to the first one, I  
2 don't believe we had as part of our talking points any  
3 specific, you know, that weren't already normal  
4 promotional offers. I mean, we always have promotional  
5 officers there for retention. That's normal course of  
6 business.  
7 Q. What are the normal promotional offers that you  
8 have for retention that would have been available after  
9 that Windstream notice of bankruptcy?  
10 A. Well, it would have been available before and  
11 after. And they're just -- I don't think we did anything  
12 extraordinary. It may be increase your speed for the  
13 same cost. It may increase your speed for a minor cost.  
14 It might have been a -- you know, extension of a  
15 promotional credit. There's just general things that are  
16 used like that, and I'm not saying that's inclusive of  
17 everything. It's just ones I don't have knowledge of.  
18 Q. What were the -- were there specific -- were there  
19 specific promotions offered to customers in response to  
20 the Spectrum advertising?  
21 A. I do know that we -- there were -- yes, there were.  
22 We -- well, let me -- let me explain that further, so --  
23 Q. Please.  
24 A. -- I don't know that those were new promotions  
25 created. We instructed our representatives to use

1 A. I just -- I don't know.  
2 Q. Sitting here today, you can't identify any  
3 promotions that would have been available specific to the  
4 Spectrum advertising that wouldn't have been available in  
5 the general course?  
6 A. Well, as I said earlier, I don't know that we  
7 necessarily created unique promotions. We -- I think we  
8 just made those promotions available to people or to  
9 customers that we would not normally have done or we were  
10 more proactive in encouraging to take a promotion than we  
11 would have been prior to the Spectrum advertisement.  
12 Q. So as far as promotions that were only available  
13 for customers calling in or related to the Spectrum  
14 advertising that would not be otherwise available to the  
15 customers, there were none; correct?  
16 A. Well, let me -- let me clarify my answer on this.  
17 So I'm not saying is it's a unique promotion. What I'm  
18 saying is we're making promotion available to people that  
19 we would not normally have made the promotion available  
20 to, and we did it more proactively. Sometimes you do  
21 those reactively if a customer calls in. Sometimes we  
22 proactively go out and reach them because we say they're  
23 available, they're clearly concerned about the Spectrum  
24 advertising, so we're going to proactively offer this to  
25 them, and we would not have normally done that without

1 the customer asking.  
2 Q. So, no, there were no unique promotions created in  
3 response to the Spectrum advertising?  
4 A. Not that I'm aware of.  
5 Q. Call center representatives would have been  
6 instructed to be more proactive in offering promotions to  
7 customers that called in about the Spectrum advertising?  
8 A. Correct.  
9 Q. What is the difference to Windstream in a customer  
10 that's lost because of Spectrum advertising and a  
11 customer that's lost because he or she doesn't care for  
12 the Kinetic logo?  
13 A. Well, a lost customer related to just the general  
14 disconnect or dissatisfaction with service or they like  
15 another company better or lots of cases they decide they  
16 can't afford broadband. They just disconnect. That's,  
17 you know, a lost customer.  
18 The disconnect to go to Charter is a customer that  
19 would not have normally disconnected if it had not been  
20 for the Charter advertisement. So it's a unexpected  
21 disconnect so to speak. It's not planned, would not have  
22 been a normal course of business disconnect.  
23 Q. Okay. So your review of the notes related to  
24 customer call ins that were calling in about Spectrum  
25 indicated that those customers weren't switching to

1 Charter because of lower costs or higher speeds?  
2 A. I'd have to -- I just don't recall reading through  
3 all those transcripts all the different reasons. I mean,  
4 I'm not -- I'm not saying they couldn't have been related  
5 to Charter's offers or higher speeds. The vast majority  
6 of the call transcripts I read were related specifically  
7 to the Spectrum advertisement and the customer calling in  
8 and being concerned.  
9 Q. If the customer disconnects from Windstream --  
10 well, I'm struggling maybe -- I'm hoping you can explain  
11 to me the difference between a customer that -- that  
12 hasn't reviewed the Spectrum advertising at issue and  
13 calls in and says Windstream just costs too much and the  
14 customer who calls in and just says Windstream costs too  
15 much? What's the difference between those two?  
16 A. The difference is the Charter advertising  
17 precipitated the call to come in and the conversation  
18 versus a general disconnect would have been a -- just a  
19 normal course of wanting to change or disconnect service.  
20 Q. And so if a customer that calls in and says  
21 Windstream costs too much, there are promotions that  
22 wouldn't be available to that customer, but that would be  
23 available to a customer that says I reviewed the Spectrum  
24 ad and I think Windstream costs too much?  
25 A. I can't say it's a different promotion. It's the

1 context and what is used and what the situation that it's  
2 offered. It's very dependent upon the customer's  
3 situation, the availability of service in their area, the  
4 availability of what pricing or network technology in the  
5 area. There's a lot of different variables, but,  
6 primarily, it's not that it's a different set of  
7 promotions. It's the nature in which the promotion is  
8 used.  
9 Q. Did any of the promotions offered to customers to  
10 stay with Windstream cause Windstream to lose money on  
11 its contracts -- or excuse me, on its relationship with  
12 that customer?  
13 A. Are you -- are you talking specifically about as a  
14 result of the Charter advertising?  
15 Q. Yes, sir.  
16 A. Yes, it would.  
17 Q. So there are customers right now who Windstream is  
18 losing money by providing service to?  
19 A. We're making less money is another way of saying  
20 that.  
21 Q. I want to -- I want to be clear that we're talking  
22 about --  
23 A. Okay.  
24 Q. -- the difference between making less money and  
25 losing money.

1 A. Okay.  
2 Q. Is Windstream losing money on any customers that it  
3 is providing services to right now?  
4 A. Not that I'm aware of.  
5 Q. Is -- so given that Windstream isn't, as far as  
6 you're aware, losing money on any customers that it's  
7 providing services to, it's fair to say that Windstream  
8 isn't losing money on any customers that it's providing  
9 services to that reviewed the Spectrum advertisement?  
10 A. That I'm aware of, yes.  
11 Q. So the concern with the customers that were offered  
12 promotions because they reviewed the Spectrum advertising  
13 isn't that Windstream is losing money on those customers.  
14 It's that it's making less money on those customers;  
15 correct?  
16 A. Correct.  
17 Q. And even though Windstream is making less money on  
18 those customers in connection with the promotions, those  
19 customers are either receiving faster speeds or paying a  
20 lower bill; true?  
21 A. Those -- those could be the results.  
22 Q. All right. How many manhours did Windstream expend  
23 to combat Charter's claim that's alleged in paragraph 24  
24 of your affidavit?  
25 A. I don't have a specific number. I would say it's

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1 10s of thousands.  
2 Q. If I wanted to look at pieces of paper that could  
3 validate the contention that Windstream was forced to  
4 expend 10s of thousands of hours responding to Charter's  
5 advertising campaign, what pieces of paper would I look  
6 to?  
7 A. I don't necessarily look at pieces of paper. I  
8 think we'd have to look -- I'm not saying there's a  
9 specific official document. You would have to look at  
10 the time that it took to coach each of the call center  
11 reps through the script, to provide the script, their  
12 time to go read or view those scripts, any questions they  
13 might have had. I don't know if it's necessarily a piece  
14 of paper for, for example, my time associated with this  
15 or internal counsel's time or other analysts' time.  
16 That's pieces of paper, but, you know, it -- it could be  
17 a educated approximation.  
18 Q. So --  
19 A. You've got 3,000 call center reps times some period  
20 of time it takes to go do that.  
21 Then on top of that, you've got all the time  
22 associated with handling the customer calls related to  
23 these, the escalation time related to these, the --  
24 Q. Are call center reps -- I'm sorry.  
25 A. Go ahead.

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1 Q. Are call center representatives paid hourly or by  
2 the call?  
3 A. Hourly.  
4 Q. If I wanted -- say that you said you spend 10s of  
5 thousands of hours responding to the Spectrum campaign,  
6 and I said, 10s of thousands of hours seems like an awful  
7 lot. And you said, no, really, here's some pieces of  
8 paper that I could show you to validate my 10s of  
9 thousands of hours claimed, what would -- what documents  
10 would we be looking at, sir?  
11 A. I don't know that you just look at time  
12 documents -- I mean, that you look at time tracking  
13 documents in this stuff. It would just have to go  
14 through each of the individuals that are communicated to,  
15 approximately based upon our supervisor's knowledge how  
16 long it took to communicate that, how many calls were  
17 received. We'd have to go back and estimate the time  
18 associated with our marketing department to prepare the  
19 advertising campaigns to combat accuracies as well as,  
20 you know, accounting for all of my time, et cetera, as  
21 well as our counsel time, outside counsel time.  
22 Q. Are you paid hourly, sir?  
23 A. No.  
24 Q. Miss Sims is we'll stipulate.  
25 Who would I talk -- as far as if I wanted to talk

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1 to a person other than you who could validate that 10s of  
2 thousands of hours were spent responding to the Spectrum  
3 advertising, who are the people that I would talk to?  
4 A. Oh, you would have to talk to, once again,  
5 Paul Strickland, our vice president of customer service.  
6 You'd have to talk to Jeff Small, the president of our  
7 business unit for customer -- consumer/small business,  
8 and talk to who all in his organization was involved in  
9 the efforts both from a marketing perspective, the call  
10 center perspective. You'd have to talk to our general  
11 counsel, Kristi Moody, in terms of all the legal  
12 representatives and paralegals that's involved with that.  
13 You know -- you know, that's offhand what I would think  
14 of in addition -- in addition to others.  
15 There's also support organizations within  
16 consumer/small business that were involved with gathering  
17 all of the materials to determine the extent of the  
18 damage. There's just a number of -- there's a number of  
19 people that we'd have to call to be -- once again, it  
20 would be extraordinary effort just to gather the amount  
21 of hours called to deal with the original calls.  
22 Q. Tell me -- you said was it Christine?  
23 A. Kristi Moody.  
24 Q. Chris -- Kristi.  
25 A. K -- K-R-I-S-T-I Moody. She's the general counsel

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1 at Windstream.  
2 Q. M-O-O-D?  
3 A. Y.  
4 Q. Y.  
5 How much money has Windstream spent as a result of  
6 this Spectrum advertising?  
7 A. I don't have the specific number.  
8 Q. More than a thousand dollars?  
9 A. Oh, yes.  
10 Q. More than a billion dollars?  
11 A. No.  
12 Q. Roughly, sir.  
13 A. You know, I'm not saying it's fully inclusive or  
14 it's inclusive of all damages or all costs associated  
15 with this, but it's going to be north of -- north of a  
16 million dollars.  
17 Q. Between one and two million?  
18 A. I feel more comfortable saying keep it between one  
19 and five million maybe or I have no idea to the extent  
20 that we're paying outside counsel. I have no knowledge  
21 of their fee structure, what we're having to do to pay --  
22 pay them. So I -- you know, my internal knowledge would  
23 be between one and five. Beyond that, there would be  
24 more costs that I'm not aware of.  
25 Q. Well, what was in your mind, sir, when you said

1 that Windstream has been forced to expend substantial  
2 money?  
3 A. The involvement of internal personal as well as  
4 marketing campaigns.  
5 Q. Was there a dollar amount in your mind?  
6 A. Dollar amount was between that one and  
7 five million. It's my general instinct that that's where  
8 the range is going to come in.  
9 Q. And who are the people that I would talk to? I  
10 mean, dollar amount, we could get receipts or something;  
11 right?  
12 A. We can get receipts. We could also go back and do  
13 approximation on, once again, of the internal labor cost  
14 time to go deal with this.  
15 Q. So what would we look to as far as documents for --  
16 I guess electronically stored information that we could  
17 review to determine how much money Windstream has been  
18 forced to expend as contended in the first sentence of  
19 paragraph 24 of your affidavit?  
20 A. We would have to go back to probably our finance  
21 leader for the consumer/small business unit and look at  
22 the cost there. We would have to go to our legal team  
23 here within Windstream to get the estimates on all the  
24 outside counsel, as well as all the internal time and  
25 effort spent as well. We would have to go to our

1 marketing teams for the consumer/small business to get  
2 the receipts for all the outside -- all the campaigns  
3 we've had to go run. And then I think we'd have to get  
4 some sort of estimation from our call center organization  
5 about how long it took to do the talking points for  
6 the -- each of the customer service representatives.  
7 Q. What was included in the talking points for -- in  
8 response to the Spectrum advertising that wasn't included  
9 in the talking points related to Windstream's own notice  
10 of bankruptcy?  
11 A. Acknowledgment of -- of Spectrum's ads, the nature  
12 of the false statements made and how to respond or  
13 assuage customers' concerns associated with those  
14 advertisements.  
15 Q. What were you saying other than business as usual,  
16 not operational and your services aren't going to be  
17 interrupted because of the bankruptcy?  
18 A. The -- we've talked about the specific Internet  
19 services, broadband services, entertainment services that  
20 Spectrum referenced in their ad that would be interrupted  
21 as a result of Windstream's bankruptcy.  
22 Q. So in response to the original notice of  
23 bankruptcy, Windstream didn't say that Internet services  
24 aren't going to be interrupted as a result of bankruptcy?  
25 A. We talked about services generally. We didn't talk

1 them as specifically as the Spectrum ad did.  
2 Q. So the Spectrum ad said something about Internet  
3 and broadband?  
4 A. I don't recall. I mean, it talked about specific  
5 services. They're in there. I'd have to go refresh  
6 myself and look at that again.  
7 Q. So the differences that you've articulated between  
8 the talking points in response to the Spectrum ad that  
9 weren't in the talking points related to Windstream's own  
10 notice of bankruptcy are to say, well, there's the  
11 Spectrum ad and that Internet and broadband services  
12 won't be interrupted because of bankruptcy?  
13 A. Yeah. So the -- the original notice to the  
14 customers were -- was very general in nature about  
15 services being interrupted. The Spectrum ad was much  
16 more specific about specific services being interrupted,  
17 and the talking points that we had given to the customer  
18 service reps would have been related to the specific  
19 services as well as once again reiterating generally all  
20 services won't be interrupted.  
21 Q. So when I go back and I look at the call center  
22 notes and the transcripts, I'll be able to tell that a  
23 customer -- that a customer service representative is  
24 talking about -- is using talking points in response to  
25 Spectrum ads because he or she will be referring to

1 specific broadband and Internet services not being  
2 interrupted as opposed to making general statements about  
3 services not being interrupted?  
4 A. That is correct. Specific calls that I actually  
5 listened to as well as I saw the transcripts of were  
6 customers relating to specific services called out in the  
7 Spectrum ad and the customers questioning if those  
8 services were going to be cut off.  
9 Q. So if it's a call about a Spectrum advertisement,  
10 we're more likely to see references to specific Internet  
11 service or broadband service not being interrupted. If  
12 it's a call related to just the notification of  
13 bankruptcy, it's going to be more general, and it's just  
14 going to talk about service interruptions; correct?  
15 A. That's my knowledge of it. To the best of my  
16 knowledge.  
17 Q. I'm sorry. You said -- I thought you said you  
18 would talk to the finance leader if we were looking to  
19 validate the one to five million dollars?  
20 A. That would be one of the sources.  
21 Q. What's a -- is a finance leader a person?  
22 A. There's a -- there's a specific finance leader for  
23 the consumer/small business unit. His name is Ben Bruce.  
24 Q. Spell --  
25 A. B -- B-E-N Bruce, B-R-U-C-E.



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<p>1 Q. So Mr. Bruce is somebody we would talk to?</p> <p>2 A. He would be one source of information. It would</p> <p>3 require some effort to -- and, you know, there's specific</p> <p>4 sources we have to get stuff to, but there's -- it's</p> <p>5 spider webbed through -- extensively throughout the</p> <p>6 organization. So it would be an extensive effort to go</p> <p>7 after each person's time that spent time on this thing.</p> <p>8 So it was an extensive issue across one of our largest</p> <p>9 organizations.</p> <p>10 Q. Who else would we talk to in addition to Mr. Bruce?</p> <p>11 A. Probably Paul Strickland once again, talk to</p> <p>12 Jeff Auman, who's our -- who owns our marketing</p> <p>13 organization to get the estimates of time and cost</p> <p>14 associated with the marketing campaigns, and then I would</p> <p>15 think we would have a number of people within the</p> <p>16 corporate groups that we -- the corporate support groups</p> <p>17 that we'd have to go talk to to understand the complete</p> <p>18 amount of time. We'd have to go talk to Kristi Moody and</p> <p>19 her organization to get the amount of time and cost</p> <p>20 associated with the outside counsel and the preparation</p> <p>21 time for this, and the cost associated with just getting</p> <p>22 ready for this.</p> <p>23 Q. How long has Carol Keith been with Windstream?</p> <p>24 A. I have no idea.</p> <p>25 Q. Have you worked with miss -- Mrs. Keith before?</p>	<p>1 A. I have worked with her from time to time.</p> <p>2 Q. Is she sort of a false advertising specialist in</p> <p>3 the legal department?</p> <p>4 A. No. She's just our -- I believe it's associate</p> <p>5 general counsel.</p> <p>6 Q. Is there -- is there, excuse me, a false</p> <p>7 advertising specialist in the legal department?</p> <p>8 A. No. In that case given our size, if we get into a</p> <p>9 specific topical area, we typically go to outside</p> <p>10 counsel.</p> <p>11 Q. And so what, Miss Keith was working with outside</p> <p>12 counsel?</p> <p>13 A. I don't know to the degree that she consulted with</p> <p>14 outside counsel before her letters back and forth with</p> <p>15 Charter.</p> <p>16 Q. You don't know whether Miss Keith talked to outside</p> <p>17 counsel before sending letters -- the cease and desist</p> <p>18 letters that are referenced in your affidavit?</p> <p>19 A. I don't know.</p> <p>20 Q. She may have, she may not have?</p> <p>21 A. Correct.</p> <p>22 Q. Whether it was by virtue of her contact with</p> <p>23 outside counsel or based on her own personal expertise,</p> <p>24 we can infer that Miss Keith was sufficiently experienced</p> <p>25 in false advertising issues that she felt comfortable</p>
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<p>1 signing a cease and desist letter with specific</p> <p>2 references to false advertising and deceptive trade</p> <p>3 practice statutes. Is that fair?</p> <p>4 A. That would be speculation on my part. I --</p> <p>5 Q. You don't think that's an unfair inference, do you,</p> <p>6 sir?</p> <p>7 A. I don't think it's unfair.</p> <p>8 Q. Do you see in -- sticking with paragraph 25, the</p> <p>9 penultimate sentence I read to say, in addition, as a</p> <p>10 direct result of Charter's advertising campaign,</p> <p>11 Windstream has undertaken an extensive mailing and</p> <p>12 advertising campaign at significant cost and expense to</p> <p>13 counter Charter's false and misleading advertising</p> <p>14 campaign?</p> <p>15 A. Did you say paragraph 25? I think --</p> <p>16 Q. Oh, did I say paragraph 25?</p> <p>17 A. You did.</p> <p>18 MS. SIMS: Yes.</p> <p>19 BY MR. KINGSTON (CONT.):</p> <p>20 Q. Dog gone it. I said penultimate and everything in</p> <p>21 that one. I was pretty proud of that question.</p> <p>22 A. That was a -- that was a big dollar word.</p> <p>23 Q. It was. It was pretty good.</p> <p>24 A. Yeah, penultimate is a great word.</p> <p>25 Q. All right. We're going to move up to 24. I guess</p>	<p>1 we're going to -- second to last sentence, please, sir.</p> <p>2 Is that okay with you?</p> <p>3 A. It's your question.</p> <p>4 Q. I read the second to last sentence in paragraph 24</p> <p>5 as follows: In addition, as a direct result of Charter's</p> <p>6 advertising campaign, Windstream has undertaken an</p> <p>7 extensive mailing and advertising campaign at significant</p> <p>8 cost and expense to counter Charter's false and</p> <p>9 misleading advertising campaign.</p> <p>10 Have I read that correctly?</p> <p>11 A. That is correct.</p> <p>12 Q. Can you tell me how much -- tell me the cost.</p> <p>13 A. That I'm aware of, and I don't think it's limited</p> <p>14 to this yet, because I believe there will be ongoing</p> <p>15 campaigns as well, but to date the latest estimate I've</p> <p>16 seen is approximately a million dollars.</p> <p>17 Q. So a million dollar ad campaign?</p> <p>18 A. Yes.</p> <p>19 Q. And how many customers did that million dollar ad</p> <p>20 campaign target?</p> <p>21 A. And this, again, is going to be a rough</p> <p>22 approximation. I'd say around 800,000, seven hundred to</p> <p>23 eight hundred thousand customers were the -- was the</p> <p>24 target. Not just customers, seven to eight hundred</p> <p>25 thousand mailings went out, which would have been a very</p>

1 broad set of customers and potential customers.  
2 Q. So it cost Windstream a million dollars to send  
3 letters to 800,000 people?  
4 A. Well, not just to send, but you also have to pay  
5 for materials that's comprised of the letter.  
6 Q. Okay.  
7 A. So you have mailing and you have the actual  
8 physical document, and then you have the printing expense  
9 as well.  
10 Q. So Windstream works with somebody who does creative  
11 work that puts together a mailing for Windstream?  
12 A. Correct.  
13 Q. And Windstream pays whoever that is; correct?  
14 A. That is correct.  
15 Q. Who does Windstream use?  
16 A. I don't know.  
17 Q. Who would know?  
18 A. Probably Jeff Auman, who's our -- and don't ask me  
19 to spell his last name. I'd probably butcher it all up,  
20 but he's our senior vice president over sales and  
21 marketing for consumer/small business.  
22 Q. So you say it's a million dollars. It's a million  
23 dollars for working with an outside creative firm, an  
24 outside printer and for mailing costs?  
25 A. That is correct.

1 document is what you're relying on when you say that the  
2 campaign was in the million dollar range?  
3 A. Correct.  
4 MR. KINGSTON: Now a good time for a  
5 break?  
6 MS. SIMS: Yes.  
7 MR. SIMS: We're going off the record.  
8 The time is approximately 11:40 a.m.  
9 (The deposition recessed at 11:40 a.m. and  
10 reconvened at 12:26 p.m.)  
11 MR. SIMS: We are back on the record. The  
12 time is approximately 12:26 p.m.  
13 BY MR. KINGSTON (CONT.):  
14 Q. Mr. Langston, I'm going to stick with your -- with  
15 Exhibit 2, your declaration in support of the motion for  
16 preliminary injunction, and I'm going to direct your  
17 attention to paragraph 21 on page seven where you state  
18 that Windstream customer care associates take  
19 contemporaneous notes of calls made to the customer  
20 service center. Do you see that, sir?  
21 A. Yes.  
22 Q. How would I be able to tell from those  
23 contemporaneous notes whether a particular call was in  
24 response to an AT&T advertisement, Windstream's own  
25 notice of bankruptcy or the Spectrum advertising that's

1 Q. Is there anything else included in that million  
2 dollars beyond those three things that I've articulated?  
3 A. Those are expenses I've seen. I've not included  
4 any kind of internal resource time to work on the  
5 creative or work on the design. Those are just the  
6 out-of-pocket expenses to a third party that I've seen so  
7 far.  
8 Q. What's the -- what's the piece of the million  
9 dollars that would be associated with just the physical  
10 mailing.  
11 A. What's the piece of it?  
12 Q. Yeah, like is it 700,000, 800,000? What's the  
13 dollar amount --  
14 A. Of the mailing?  
15 Q. -- specifically with just mailing?  
16 A. The mailing expense?  
17 Q. Yes, sir.  
18 A. I don't know the breakout of that. I've seen it,  
19 but I haven't -- I don't recall the exact mail cost.  
20 Q. But you've seen it on a piece of paper or an  
21 E-mail?  
22 A. Yeah, I saw it -- I saw it in a -- in a document  
23 explaining what the marketing campaign was going to be.  
24 Q. So there's a document out there that identifies the  
25 cost associated with that marketing campaign and that

1 in issue in this adversary proceeding?  
2 A. Most likely what you would see a specific reference  
3 to the name of it, it being either Spectrum, Charter,  
4 AT&T or specifically call out the term bankruptcy. There  
5 wouldn't be necessarily an abbreviation associated with  
6 that that's a standard abbreviation.  
7 Q. Okay.  
8 I apologize.  
9 I'd like to review if we could, Mr. Langston, some  
10 of the contemporaneous notes that were produced to  
11 Charter by Windstream in this action.  
12 MR. KINGSTON: Miss Sims, I'll let you  
13 take a look at this and tell me if you want  
14 to -- I'll share it or not share it, however  
15 you see fit.  
16 MS. SIMS: We'll continue just as we have  
17 been doing.  
18 MR. KINGSTON: Rather than deface all  
19 these, the exhibits are all labeled as  
20 confidential, and can we just agree, counsel,  
21 that it's all to be treated as attorney's eyes  
22 only?  
23 MS. GREER: Yes, I agree.  
24 MR. KINGSTON: And if you'd just make a  
25 note of that, that's perfect. Thank you.

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1 notes associated with the call.  
2 Q. And I read the remarks for Exhibit 5 as follows:  
3 Customer inquiry to check on modem return ported out,  
4 said due to we filed Chapter 11 and sent him a letter. I  
5 advised only restructuring, not going to close. He  
6 changed to Spectrum, said would have anyway due to cost.  
7 Have I read that correctly, sir?  
8 A. That is correct.  
9 Q. And so this looks like a reference to -- when --  
10 what do you read the phrase -- do you mind if I start  
11 that over, Mr. Langston?  
12 A. No, not at all.  
13 Q. What do you read the phrase we filed Chapter 11 and  
14 sent him a letter to mean?  
15 A. Meaning that Windstream filed for Chapter 11 and  
16 Windstream sent him a letter.  
17 Q. So is this a reference to Spectrum advertising or  
18 Windstream's own notice of bankruptcy?  
19 A. It would appear to be related to Windstream's  
20 notice.  
21 Q. In any event, the bankruptcy wasn't the reason why  
22 the customer changed providers. He changed to  
23 Spectrum -- or the customer changed to Spectrum due to  
24 cost; isn't that right?  
25 A. That's what it indicates.

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1 (Exhibit 6 was marked.)  
2 BY MR. KINGSTON (CONT.):  
3 Q. Mr. Langston, Exhibit 6 is a single page  
4 document -- excuse me.  
5 Mr. Langston, Exhibit 6 is a single page document  
6 that is Bates labeled WIN 236. Can you tell me what  
7 Exhibit 6 is, sir?  
8 A. It is another record of a customer call coming in  
9 and the notes taken as a result.  
10 Q. Is the customer considering switching to Spectrum?  
11 A. Yes.  
12 Q. And is there any indication in Exhibit 6 that the  
13 customer was considering switching to Spectrum because of  
14 Windstream's bankruptcy?  
15 A. No.  
16 Q. And, ultimately, the customer stayed with  
17 Windstream?  
18 A. It appears to be so.  
19 Q. What does -- and what does CAMP mean? C-A-M-P,  
20 that kind of salutation at the end with a -- bracketed by  
21 explanation point.  
22 A. I'm not sure. We actually have a system called  
23 CAMP. They might be referencing that. It could be  
24 referencing the billing system, which is called CAMS, and  
25 they put something in there. I really don't know.

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1 Q. Okay.  
2 A. It could be many things.  
3 (Exhibit 7 was marked.)  
4 BY MR. KINGSTON (CONT.):  
5 Q. Mr. Langston, Exhibit 7 is a single page document  
6 Bates labeled WIN 257. Do you recognize Exhibit 7, sir?  
7 A. It appears to be notes in our system related to  
8 another customer call.  
9 Q. And I read those notes at follows: Called and I  
10 let know that we did file Chapter 11 and we are not  
11 closing and all is fine. Have I read that correctly,  
12 sir?  
13 A. Yes.  
14 Q. How can you tell from Exhibit 7 whether or not this  
15 customer is calling in response to an advertisement by  
16 AT&T, an advertisement by Spectrum or Windstream's own  
17 notice of bankruptcy to all of its customers?  
18 A. You can not.  
19 Q. When Windstream was identifying customer inquiries  
20 in support of its motion for a preliminary injunction,  
21 how did it go about excluding inquiries from customers  
22 that were calling in response to Windstream's own notice  
23 of bankruptcy -- bankruptcy and inquiries from customers  
24 that were calling in response to bankruptcy related  
25 advertising by other competitors such as AT&T and

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1 Verizon?  
2 A. I don't know.  
3 (Exhibit 8 was marked.)  
4 BY MR. KINGSTON (CONT.):  
5 Q. Exhibit 8 is a single page document Bates labeled  
6 WIN 262. Do you recognize Exhibit 8, sir?  
7 A. Yes.  
8 Q. And what is it?  
9 A. Another customer call and associated notes with  
10 that call.  
11 Q. How can you tell from Exhibit 8 whether the  
12 customer was inquiring as a result of receiving a  
13 Spectrum advertisement as opposed to receiving  
14 Windstream's own notice of bankruptcy or an advertisement  
15 from a different Windstream competitor?  
16 A. You can not.  
17 (Exhibit 9 was marked.)  
18 BY MR. KINGSTON (CONT.):  
19 Q. Exhibit 9 is a single page document Bates labeled  
20 WIN 275. Do you recognize Exhibit 9, sir?  
21 A. Yes.  
22 Q. And what is it?  
23 A. Another customer call with the associated notes.  
24 Q. And can you tell -- and I read Exhibit 9 to include  
25 the following notes: Customer inquiry verified wanted to

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1 ask if Windstream is going out of business. Advised no  
2 and reviewed account.  
3 Have I read that correctly?  
4 A. That is correct.  
5 Q. And can you tell from Exhibit 9 whether the  
6 customer is calling in response to Windstream's own  
7 notice of bankruptcy?  
8 A. No, you can't tell that.  
9 Q. And can you tell from Exhibit 9 whether the  
10 customer is calling in response to bankruptcy related  
11 advertising by, for example, AT&T?  
12 A. No.  
13 Q. You can't tell one way or the other from Exhibit 9,  
14 can you, sir?  
15 A. No.  
16 (Exhibit 10 was marked.)  
17 BY MR. KINGSTON (CONT.):  
18 Q. Exhibit 10 is a single page document Bates labeled  
19 WIN 291. Do you recognize Exhibit 10, sir?  
20 A. Yes.  
21 Q. And what is that?  
22 A. Another customer call with the associated notes.  
23 Q. And I read the notes as follows: Customer inquiry,  
24 was sent letter from Spectrum about bankruptcy. Wanted  
25 us to beat offer from Spectrum. Offered modem credit,

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1 accepted.  
2 Have I read that correctly?  
3 A. Yes.  
4 Q. And so in this instance, a customer received a  
5 Spectrum advertisement about bankruptcy and then asked  
6 Windstream to beat Spectrum's offer?  
7 A. That is correct.  
8 Q. And it appears from Exhibit 10 that the customer  
9 stayed with Spectrum -- or excuse me, stayed with  
10 Windstream; isn't that right?  
11 A. Yes.  
12 Q. And that customer -- or that consumer received a  
13 modem credit from Windstream?  
14 A. Yes.  
15 Q. What's a modem credit?  
16 A. That would be, you know, the monthly rental fee  
17 that we charge for a modem. We give them credit for  
18 that.  
19 Q. So Windstream sells -- does Windstream sell modems  
20 or does it rent them?  
21 A. Rents them.  
22 Q. And at some point --  
23 A. I don't know if they gave -- I can't discern from  
24 this whether they got credit for one month's rental or  
25 the life of the modem or what they got. I just know they

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1 got a credit related to a modem.  
2 Q. Do you know what Windstream charges for modem  
3 rental?  
4 A. No, I don't.  
5 (Exhibit 11 was marked.)  
6 BY MR. KINGSTON (CONT.):  
7 Q. I marked as Exhibit 11 a single page document.  
8 It's Bates labeled WIN 365. Do you recognize Exhibit 11,  
9 sir?  
10 A. Yes.  
11 Q. And what is it?  
12 A. It is a call -- customer call and the associated  
13 notes.  
14 Q. I read the notes, customer inquiry, verified wanted  
15 to know if Windstream is going out of business. Advised  
16 BAU. Have I read that correctly?  
17 A. That is correct.  
18 Q. And BAU is that acronym -- or I guess the  
19 abbreviation that we discussed earlier business as usual?  
20 A. That is correct.  
21 Q. And business as usual was one of the talking points  
22 that was circulated in connection with Windstream  
23 providing a notice of bankruptcy to all of its customers?  
24 A. That is correct.  
25 Q. And can you tell from the notes in Exhibit 11

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1 whether or not that customer is calling in response to  
2 Windstream's own notice of bankruptcy or the Spectrum  
3 advertising?  
4 A. You can't tell.  
5 There's a quota for those.  
6 (Exhibit 12 was marked.)  
7 BY MR. KINGSTON (CONT.):  
8 Q. And, sir, I've marked as Exhibit 12, excuse me, a  
9 single page document that is Bates labeled WIN 367. Do  
10 you recognize Exhibit 12, sir?  
11 A. I do.  
12 Q. And what is Exhibit 12?  
13 A. Another customer call in and associated notes.  
14 Q. And can you tell from that customer call in whether  
15 the customer is calling in response to something -- in  
16 response to an advertisement by one of Windstream's  
17 competitors other than Spectrum, in response to  
18 Windstream's own notice of bankruptcy to all of its  
19 customers or in response to the Spectrum advertising at  
20 issue?  
21 A. You can't tell.  
22 Q. If you'd put those aside, sir.  
23 Can we talk a little bit about the last mile  
24 contractual relationship discussed in paragraph 25 of  
25 your affidavit?

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1 A. Okay.  
2 Q. Now, that -- that's a contractual relationship  
3 between Windstream and Charter?  
4 A. That is correct.  
5 Q. And in that circumstance, Windstream is the  
6 customer and Charter is the vendor?  
7 A. That is correct.  
8 Q. And then Windstream -- Windstream maintains the  
9 relationship with the end users?  
10 A. That is correct.  
11 Q. And if the end users have a problem, they contact  
12 Windstream?  
13 A. Typically, yes.  
14 Q. In what circumstances wouldn't they contact  
15 Windstream?  
16 A. I think in specific to this situation in paragraph  
17 25, and to be honest with you, I'm not sure how they got  
18 in contact with Charter, but these customers actually  
19 contacted Charter because of their circuits being turned  
20 off.  
21 Q. You don't know how the customers referenced in  
22 paragraph 25 of your affidavit were able to contact  
23 Charter?  
24 A. I'm not aware of how they did that, no.  
25 Q. Windstream didn't provide its customers with

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1 Charter customer service lines or anything like that?  
2 A. Not that I'm aware of.  
3 And I'm not sure where in the sequence when they  
4 contacted Windstream, did they then contact Charter after  
5 that or vice versa. I don't know what order they  
6 contacted them.  
7 Q. The contact -- the contacting Charter isn't  
8 something that Windstream would encourage its customers  
9 to do?  
10 A. No. No. We would maintain that relationship.  
11 (Exhibit 13 was marked.)  
12 BY MR. KINGSTON (CONT.):  
13 Q. Mr. Langston, I'm handing you a document that I've  
14 marked as Exhibit 13, which I will represent to you and  
15 to your counsel and counsel for the unsecured creditors  
16 is Exhibit 3 to your affidavit. Do you recognize  
17 Exhibit 3 to your affidavit, sir?  
18 A. Yes.  
19 Q. And Exhibit 3 contains the Spectrum advertising  
20 that Windstream objects to in this adversary proceeding?  
21 A. Yes.  
22 Q. Some of it, I understand.  
23 A. Some of it. It's not totally inclusive, but some  
24 of it.  
25 Q. If it's -- if it's in Exhibit 3, it's fair to say

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1 that Windstream objects to it?  
2 A. I think that's fair.  
3 Q. About seven pages in, do you see an insert that  
4 says Now is the time to switch to Spectrum?  
5 A. Yes.  
6 Q. If you look at the bottom, it says -- in the  
7 bottom, there's a small rectangle in the -- in the center  
8 of the page that includes the following sequence of  
9 numbers 00020538. Do you see that, sir?  
10 A. Yes.  
11 Q. I don't see any reference to bankruptcy in that ad.  
12 Do you, sir?  
13 A. No.  
14 Q. So explain to me what Windstream finds  
15 objectionable about this particular mailer.  
16 A. I would say the overall collective implication that  
17 our future is unknown, meaning Windstream. We don't know  
18 what's going to happen with Windstream. And then  
19 secondly, the implication at the bottom that says we're  
20 going away by the fact that it says good-bye, Windstream.  
21 Q. So the message at the bottom that says good-bye,  
22 Windstream, hello, Spectrum, and then a reference to  
23 Windstream's future is unknown, you think that suggests  
24 that Windstream is going out of business?  
25 A. I think -- I think it does. I think the

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1 collective -- the collective message of all of that  
2 entire series of statements implies that Windstream is  
3 going away and going out of business.  
4 Q. So if Windstream is successful in its  
5 reorganization efforts and emerges from Chapter 11 and  
6 Charter ran this identical ad, would that in your view be  
7 false and deceptive?  
8 A. When Windstream -- I couldn't speculate. I  
9 would -- I still think it's false if our future is not  
10 unknown, and we're not going away anywhere, so I still  
11 think it's a false implication.  
12 Q. I mean, is -- is the concern that the context of  
13 this ad is one in which Windstream's bankruptcy is known  
14 to all of its customers by virtue of Windstream's notice  
15 of bankruptcy?  
16 A. It's taking advantage of Windstream's bankruptcy  
17 filing to create uncertainty about the future existence  
18 of the company.  
19 Q. And so this ad takes advantage of Windstream's  
20 bankruptcy filing in your view without mentioning the  
21 word bankruptcy at all?  
22 A. That is correct.  
23 Q. And that's because --  
24 A. Logical proximity to the timing of the filing.  
25 Q. Explain that to me.

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<p>1 A. Meaning this -- this ad was run, you know, very 2 closely after Windstream filed for bankruptcy to create 3 the uncertainty and doubt. So even if the customers 4 weren't aware of Windstream's bankruptcy, it elicited 5 concern about Windstream's future existence. 6 Q. So a customer that wasn't aware of Windstream's 7 bankruptcy would, in your view, be concerned about 8 Windstream's future existence solely based on what this 9 ad says? 10 A. Yes. 11 Q. Well, then why does it matter the proximity to the 12 timing of Windstream's bankruptcy? 13 A. Well, I was -- there are customers that were aware 14 of the bankruptcy. There are customers that weren't. I 15 think if you looked at the collective group, you have to 16 say that not all customers might have been aware of it. 17 So this would elicit some amount of concern for those 18 customers part, but there were a great amount of 19 customers that were aware of it, and this ad, I believe, 20 was run -- and I don't know for certain, but I believe 21 this ad was run prior to us sending out the notice to all 22 of our customers about the bankruptcy filing. 23 Q. So you sent out the notice for the bankruptcy file 24 beginning March 15th of 2009 -- 19? 25 A. As I stated earlier today, I don't recall the</p>	<p>1 specific date. I know it was in later March, past the 2 middle of the month sometime I believe. 3 Q. So your -- your belief that the advertisement that 4 includes that two -- 20538 number at the bottom went out 5 before Windstream's -- Windstream notified its customers 6 that it was entering bankruptcy is based on your 7 understanding that the -- that Windstream notified its 8 customers that it was going into bankruptcy in the end of 9 March? 10 A. I said later March in terms of Windstream's notice. 11 I'm not sure when -- once again, that's just my 12 recollection. I -- I don't know for certain the date 13 that we mailed the notices, but I believe in proximity to 14 when these are, the notices came out after the 15 advertisement. 16 Q. So I'm trying to understand, are you -- are you 17 concerned about this ad that doesn't reference bankruptcy 18 at all because you think it would work in combination 19 with Windstream's own notice of bankruptcy or are you 20 concerned about it in isolation? 21 A. I'm worried about the ad in the context of, one, 22 news that Windstream had gone bankrupt out there, whether 23 we had mailed the notice or -- or they received the 24 notice or not. Secondly, if we -- if they weren't aware 25 that we had filed for bankruptcy and they hadn't received</p>
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<p>1 the notice, it created doubt as to Windstream's 2 existence. And then thirdly, taking in the context of 3 all the other advertising that Spectrum had done 4 specifically referencing -- calling attention to 5 Windstream customers on the envelopes, that this just 6 adds to the general concern, the collective impact of all 7 the advertising that's connected with that. 8 Q. And your belief is this -- this particular piece of 9 advertising, which doesn't include the word bankruptcy, 10 is false and deceptive because it creates a misleading 11 impression related to Windstream's bankruptcy? 12 A. Yes. 13 MR. KINGSTON: Let's go off the record for 14 like five minutes. I think I may be wrapping 15 up. 16 MR. SIMS: We're going off the record. 17 The time is approximately 1 p.m. 18 (The deposition recessed at 1:00 p.m. and 19 reconvened at 1:16 p.m.) 20 MR. SIMS: We are back on the record. The 21 time is approximately 1:16 p.m. 22 (Exhibit 14 was marked.) 23 BY MR. KINGSTON (CONT.): 24 Q. Mr. Langston, I'm handing you Exhibit 14. I'll 25 just ask you one question about Exhibit 14. Is that the</p>	<p>1 advertisement among the multiple advertisements in 2 Exhibit 13 that we were discussing? 3 A. Yes, it is. 4 Q. I direct your attention back to Exhibit 1, the 5 notice of deposition. 6 A. Okay. 7 Q. And I'd like to briefly talk to you about 8 categories 21 and 22, which are on page six. 9 A. Okay. 10 Q. And I read category 21 to be the alleged 11 interruption or disconnection of services to certain 12 Windstream customers. Have I read that correctly? 13 A. That is correct. 14 Q. And who did you talk to to prepare yourself to 15 provide deposition testimony on behalf of Windstream with 16 respect to that company -- excuse me, with respect to 17 that category? 18 A. I spoke to our operational team that supports that. 19 So that would have been our service delivery organization 20 with Rick Hausman, also talked to I think -- who all was 21 involved with this thing. With members of our executive 22 team, the business unit leaders that are over that, that 23 would have been like Layne Levine, and also talked to our 24 access team, which is the team responsible for acquiring 25 these services from Charter. So that team -- there's</p>

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<p>1 multiple people on that team that are involved in that,</p> <p>2 but our access team is the primary one that acquires the</p> <p>3 services. So if there's a disconnect to underlying</p> <p>4 services, that's the team that escalates back with</p> <p>5 Charter.</p> <p>6 Q. So who specifically on the access team did you talk</p> <p>7 to?</p> <p>8 A. That would be Jean -- Jeanne Dale primarily, maybe</p> <p>9 Wendy Hayes as well.</p> <p>10 Q. Do -- you said Rick Hausman?</p> <p>11 A. Rick Hausman is over the service delivery work</p> <p>12 section. So if the customer has a problem, they're</p> <p>13 primarily going to call into Rick's organization first.</p> <p>14 They may also call Elizabeth Orth as well, which is over</p> <p>15 customer service.</p> <p>16 Q. Tell me Elizabeth -- I got --</p> <p>17 A. Orth, O-R-T-H.</p> <p>18 Q. Tell me how to spell Mr. Hausman's last name.</p> <p>19 A. H-A-U-S-M-A-N.</p> <p>20 Q. So Rick Hausman, what's his title?</p> <p>21 A. He is the executive vice president of service</p> <p>22 delivery.</p> <p>23 Q. And you said he contacts -- he's in contact with</p> <p>24 the customer?</p> <p>25 A. So if there's a service delivery -- if there's a</p>	<p>1 service interruption with a customer, they're more than</p> <p>2 likely either going to call him -- call his organization,</p> <p>3 somewhere in his organization for service delivery, or</p> <p>4 they're going to call our customer care organization</p> <p>5 underneath Elizabeth Orth to -- to notify us of a</p> <p>6 problem, that there's a problem.</p> <p>7 Q. And is Mr. Hausman's organization, do they liaise</p> <p>8 with enterprise customers or --</p> <p>9 A. Those are enter -- those are enterprise customers.</p> <p>10 Like I said earlier, if -- and if they were -- some of</p> <p>11 these were underlying small business customers that were</p> <p>12 in our consumer/small business unit, then that would have</p> <p>13 come through Paul Strickland's organization.</p> <p>14 Q. Paul Strickland wasn't a person that you talked to</p> <p>15 to prepare for --</p> <p>16 A. Paul Strickland -- not specifically on this one.</p> <p>17 Most of this I -- this knowledge I acquired was through</p> <p>18 our access team. And then we had further information</p> <p>19 from them about the customers impacted, but that was all</p> <p>20 via the access team. So I guess to be specific, to</p> <p>21 correct myself and be very specific to your answer, it</p> <p>22 would have been Jeanne Dale, Wendy Hayes.</p> <p>23 Q. And they're on the access team?</p> <p>24 A. And that's the access -- yes, they're two of the</p> <p>25 leaders in the access team.</p>
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<p>1 Q. And I'm -- I'm trying to get my arms around what --</p> <p>2 access team, what's their -- what's the responsibility of</p> <p>3 the access team?</p> <p>4 A. They're the ones that acquire the underlying</p> <p>5 services or that last mile access referenced here in</p> <p>6 my -- in my affidavit.</p> <p>7 Q. I see.</p> <p>8 A. They're the ones that actually acquire the service</p> <p>9 from Charter.</p> <p>10 Q. They're the folks who talk to Charter?</p> <p>11 A. Yes.</p> <p>12 Q. So the notion is Windstream has 99 miles of fiber</p> <p>13 and needs one more. It gets that one more by -- through</p> <p>14 a -- through a contract with other providers, one of --</p> <p>15 for example, Charter?</p> <p>16 A. That is correct.</p> <p>17 Q. And so is this -- is this kind of the cable</p> <p>18 industry analog to like a reciprocal compensation</p> <p>19 agreement in the telephone industry?</p> <p>20 A. It's akin to it. It's a good -- that's a fairly</p> <p>21 good analogy. In some cases where we don't have service,</p> <p>22 we have to lean on other carriers for that last mile</p> <p>23 access. In some cases, we're the last mile access. So</p> <p>24 it is very much akin to that.</p> <p>25 Q. Does -- so does Windstream provide last mile access</p>	<p>1 to other carriers?</p> <p>2 A. Yes.</p> <p>3 Q. If I ask who, is that a question that's going to</p> <p>4 make you or your counsel uncomfortable?</p> <p>5 MS. SIMS: Can you repeat the question?</p> <p>6 MR. KINGSTON: If I ask who Windstream</p> <p>7 provides last mile access to, is that a --</p> <p>8 MS. SIMS: I don't believe that's relevant</p> <p>9 at all, so -- or a topic, so yes.</p> <p>10 BY MR. KINGSTON (CONT.):</p> <p>11 Q. Not Charter.</p> <p>12 A. I -- I don't know.</p> <p>13 Q. Okay.</p> <p>14 A. I don't know who all -- I don't know who all we</p> <p>15 provide to. I know we do in general. I can't -- and</p> <p>16 I -- but I just don't know them all.</p> <p>17 Q. Okay. And tell me who -- so I think your answer is</p> <p>18 going to be the same for topic 22, but as far as</p> <p>19 Windstream's communications with customers regarding the</p> <p>20 alleged interruption or disconnection of service to</p> <p>21 certain Windstream customers, would that have been</p> <p>22 Miss Dale and Miss Hayes as well?</p> <p>23 A. That -- they would have provided the status back</p> <p>24 to -- once again, there are front line organizations;</p> <p>25 right? Are the ones that take the calls from the</p>

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<p>1 customers and handle the customer issues, so those would</p> <p>2 have been Mr. Hausman's organization, Miss Orth's</p> <p>3 organization or Mr. Strickland's organizations. They're</p> <p>4 the ones that interface directly with the customers. Not</p> <p>5 to say the access team may not get involved to help</p> <p>6 explain what was going on with those customers, but they</p> <p>7 wouldn't be the primary source of contact. That would be</p> <p>8 the not -- not the normal flow of the conversations.</p> <p>9 Q. And you didn't talk to Mr. Strickland to gather</p> <p>10 information related to section -- particularly 22; right?</p> <p>11 A. No. My knowledge was all obtained through the</p> <p>12 access organization. And -- and also on the -- well, I</p> <p>13 would tell you the other piece of this. We received</p> <p>14 executive escalations about the outage from our general</p> <p>15 counsel, Kristi Moody. The issue was escalated to her</p> <p>16 from the business unit organizations upon customers being</p> <p>17 cut off because they were pre-petition balances were the</p> <p>18 reasons being given, and so there's immediate escalation</p> <p>19 so that Miss Moody can escalate with counsel at Charter</p> <p>20 to get the services turned back on.</p> <p>21 Q. So you talked to Windstream lawyers. You talked to</p> <p>22 Mr. Hausman, and you talked to Mr. Orth?</p> <p>23 A. Yes.</p> <p>24 Q. And I'm just focusing just on category 22,</p> <p>25 Windstream's communications with customers regarding the</p>	<p>1 alleged interruption or disconnection of service to</p> <p>2 certain Windstream customers; right?</p> <p>3 A. Yes.</p> <p>4 Q. So legal, Hausman, Orth as far as communications</p> <p>5 with the customers; right?</p> <p>6 A. Yes.</p> <p>7 Q. And what is -- what is Mr. Orth's first name again?</p> <p>8 A. Elizabeth.</p> <p>9 Q. Oh, that's -- so what, is it Ms. Orth? It's</p> <p>10 probably misses. Mrs. Orth's first name?</p> <p>11 A. I prefer to say miss.</p> <p>12 Q. Oh, miss.</p> <p>13 A. And lack of understanding, yeah.</p> <p>14 Q. That's fine. Miss Orth's first name is Elizabeth.</p> <p>15 And what's her -- what's her group again?</p> <p>16 A. Customer care for our enterprise business unit.</p> <p>17 Q. And when I -- tell me -- tell me about Windstream's</p> <p>18 communications with customers regarding the</p> <p>19 interruptions.</p> <p>20 A. One, the communication would be to acknowledge</p> <p>21 receipt when they call in and say we acknowledge -- yes,</p> <p>22 we see you have an issue. We have to research what's</p> <p>23 going on with the issue. Secondly, then to follow back</p> <p>24 up with the customer to status them -- on the status of</p> <p>25 their issue. In this situation, I know we were receiving</p>
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<p>1 customer -- you know, calls back from the customer</p> <p>2 saying, you know, when is this going to be fixed, you</p> <p>3 know, we're out of service. We can't -- we can't</p> <p>4 operate. Some of those services that were impacted the</p> <p>5 customers called back were things like they lost 911</p> <p>6 access. They lost Internet access. Some of those -- as</p> <p>7 I said earlier today, some of those were homeless</p> <p>8 shelters, day cares, et cetera, so they had a heightened</p> <p>9 sense of escalation. And I don't know all 350 businesses</p> <p>10 sitting here today, but those were typical of what's</p> <p>11 going on.</p> <p>12 So, you know, proactive communication back with</p> <p>13 them as well throughout the outage to let them know what</p> <p>14 was going on to status them on their tickets, and that</p> <p>15 was probably done in that case not by -- not by</p> <p>16 specifically a care rep, by an account -- an account</p> <p>17 representative that owns that account, that relationship</p> <p>18 with the account, was statusing back with them as well.</p> <p>19 That would be the normal path that we would follow.</p> <p>20 Q. So were there 350 discrete businesses?</p> <p>21 A. My understanding there were 350 discrete customers</p> <p>22 impacted. Those customers could have been a small</p> <p>23 business, a B to B business and within that range. So it</p> <p>24 could have been a restaurant. It could have been, as I</p> <p>25 said, lack of better terms, I know two of them</p>	<p>1 specifically were a homeless shelter and a day care.</p> <p>2 Q. Right, but you're saying there was 350 specific,</p> <p>3 individual businesses?</p> <p>4 A. Discrete -- discrete customers. Just call them</p> <p>5 customers because I don't know the exact discernment</p> <p>6 between were they a large B to B customer, were they a</p> <p>7 small B to B customer, were they individual small</p> <p>8 business owner. It could have been. It could have been</p> <p>9 a small business owner with a connection going into a</p> <p>10 location that was also a household.</p> <p>11 Q. Among those 350 customers, are you aware of a</p> <p>12 single consumer customer?</p> <p>13 A. Like I said, I don't know the specific breakdown.</p> <p>14 I'm not -- I'm not aware that one of them was. I'm not</p> <p>15 aware that one of them was not.</p> <p>16 Q. Are you aware of a single one of those, excuse me,</p> <p>17 350 customers that received the advertisements or any --</p> <p>18 any of the advertisements that are collected in Exhibit 3</p> <p>19 to your affidavit?</p> <p>20 A. I'm not aware that any of them received it or did</p> <p>21 not receive it.</p> <p>22 Q. You're not aware?</p> <p>23 A. There were 800,000 sent out by Charter in all of</p> <p>24 our operating territory, so that's a pretty significant</p> <p>25 coverage.</p>

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<p>1 Q. You're not aware of any of those 350 customers 2 referencing Windstream's complaint that received the 3 advertisements that are collected as Exhibit 3 to your 4 affidavit?</p> <p>5 A. I'm not aware of that, no.</p> <p>6 Q. And you're the person designated by Windstream to 7 provide testimony on behalf of the company related to 8 Windstream's communications with customers regarding the 9 alleged interruption or disconnection of service to 10 certain Windstream customers?</p> <p>11 A. That is correct.</p> <p>12 MR. KINGSTON: I pass the witness.</p> <p>13 MS. SIMS: Okay. If we can take a short 14 break and we'll get set up.</p> <p>15 MR. SIMS: We're going off the record. 16 The time is approximately 1:29 p.m. 17 (The deposition recessed at 1:29 p.m. and 18 reconvened at 1:42 p.m.)</p> <p>19 MR. SIMS: We are back on the record. The 20 time is approximately 1:42 p.m.</p> <p>21 BY MS. SIMS: 22 Q. Good afternoon, Mr. Langston. 23 A. Good afternoon. 24 Q. Can you please tell me generally about Windstream's 25 business?</p>	<p>1 A. We are a nationwide provider of telecommunication 2 services including consumer services such as broadband, 3 entertainment services, things such as that. We're also 4 a long haul carrier of things like big customer networks 5 from B to B customers. We have a wholesale business 6 where we wholesale the network assets that we own or that 7 we have to third parties, such as other 8 telecommunications providers and wireless companies, et 9 cetera. And maybe hosting sites such as, you know, Apple 10 or Google or things like that.</p> <p>11 Q. And where are Windstream's customers located?</p> <p>12 A. We're in 18 states, such states as Arkansas, North 13 Carolina, Georgia, Ohio, Kentucky, Florida, amongst 14 others, Iowa.</p> <p>15 Q. Do you have customers in Alabama?</p> <p>16 A. Yes.</p> <p>17 Q. Minnesota?</p> <p>18 A. Yes.</p> <p>19 Q. What about Mississippi?</p> <p>20 A. I don't know if they're on that list or not.</p> <p>21 Q. What about Missouri?</p> <p>22 A. I don't know.</p> <p>23 Q. Nebraska?</p> <p>24 A. Yes.</p> <p>25 Q. And what New Mexico?</p>
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<p>1 A. Yes. And Texas.</p> <p>2 Q. Are you familiar with Windstream's consumer 3 broadband customer numbers for 2018?</p> <p>4 A. Yes.</p> <p>5 Q. And can you tell me generally what those numbers 6 were like?</p> <p>7 A. Our end of year number was, you know, approximately 8 1.2 million at the end of the year. We grew that 9 customer base by 14,000 over -- over the period of that 10 year.</p> <p>11 Q. And how was this growth accomplished?</p> <p>12 A. Many factors. One, we were coming off an extended 13 period, I'd say the last three to four years, of 14 significant network investment to acquire and expand our 15 high speed network and improve the access to high speed 16 services in many of those markets. The other thing was, 17 you know, creation of new products and pricing plans over 18 the last couple of years, and then an extensive 19 advertising campaign using our Kinetic brand starting in 20 September, 2017.</p> <p>21 Q. And are you familiar with Windstream's customer 22 broadband numbers for 2019?</p> <p>23 A. Generally speaking, I can speak towards it. So 24 we've continued to see broadband growth through the first 25 part of this year as a continuation we saw last year.</p>	<p>1 And so at this point I would say through February, we've 2 continued that broadband growth.</p> <p>3 Q. Are you familiar with Windstream's Chapter 11 4 bankruptcy filing?</p> <p>5 A. Yes.</p> <p>6 Q. And what prompted Windstream to file for 7 Chapter 11?</p> <p>8 A. We had a -- a ruling from a judge regarding a 9 lawsuit from one of our bondholders regarding some of the 10 conditions in our bonds or the contractual nature of our 11 bonds that resulted in a -- you know, potential cause of 12 default of our -- of our bonds. So given -- given that 13 adversarial ruling, we had to declare bankruptcy. So it 14 was totally external to the operations of the company.</p> <p>15 Q. What is Windstream's goal in filing for Chapter 11?</p> <p>16 A. Our main goal is to restructure our debt 17 considerations, potentially some of our lease or 18 contractual obligations, and then to exit out of 19 bankruptcy as a much healthier company and to continue to 20 offer -- and expand and offer the broadband services as 21 well as other new strategic services we've been launching 22 over the last few years.</p> <p>23 Q. And to your knowledge, has Windstream's day-to-day 24 operations been affected by the Chapter 11?</p> <p>25 A. No.</p>



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1 Q. And to your knowledge, has Windstream's services to  
2 its customers been impacted by the Chapter 11?  
3 A. None other than the impact of Charter cutting off  
4 the customers that we've spoken about previously.  
5 Q. Other than disconnect, is there any impact at all  
6 with respect to customers being impacted by Chapter 11?  
7 A. Not that I'm aware of.  
8 Q. Are there any plans for Windstream to liquidate?  
9 A. No.  
10 Q. Are there any plans for Windstream to downsize its  
11 operations?  
12 A. No.  
13 Q. Are there any plans for Windstream to downsize its  
14 services to its customers?  
15 A. No, not at all.  
16 Q. And there are any plans for Windstream to terminate  
17 services to its customers?  
18 A. Not at all.  
19 Q. Do you know whether Windstream has received  
20 debtor-in-possession financing?  
21 A. We have.  
22 Q. Do you know approximately how much?  
23 A. Approximately \$1 billion.  
24 Q. Do you know whether that financing was accompanied  
25 with a ranking or a grade?

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1 A. Yes, we received investor -- investment grade  
2 ranking on those -- on that debt.  
3 Q. What does that mean?  
4 A. That means basically it's of a much higher quality  
5 debt and one that people are more willing to participate  
6 in. It attracts a higher level of investors.  
7 Q. And do you know what the debtor-in-possession  
8 financing will be used for generally?  
9 A. Primarily for just normal day in/day out  
10 operations, business as usual type operations. You know,  
11 prior to the bankruptcy filing, we had a revolver, but  
12 because of the judge's ruling related to the Aurelius  
13 case, you know, that got locked down, and so we had to  
14 acquire financing to continue operations and so that's  
15 what the debtor-in-possession financing is. It's just  
16 normal day in/day out operation.  
17 Q. And does that debtor-in-possession financing ensure  
18 that the day-to-day operations are not impacted by the  
19 Chapter 11?  
20 A. Yes. Yes.  
21 Q. You mentioned a Kinetic Internet earlier; is that  
22 right?  
23 A. Correct.  
24 Q. Can you explain what that is?  
25 A. So that's our -- that's our -- Kinetic is our brand

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1 name that we use for a lot of our consumer/small business  
2 services. The internet side of that is our broadband or  
3 high speed data connection services into consumer  
4 households or into small business households.  
5 Q. And do you know whether Windstream has advertised  
6 its Kinetic Internet?  
7 A. Yes, we have, extensively.  
8 Q. And did you -- did you say when that advertising  
9 started?  
10 A. That advertising started in September, 2017, I  
11 believe.  
12 Q. And how has Windstream advertised Kinetic Internet?  
13 A. Oh, we've had print advertising, media advertising.  
14 We've had Internet advertising. We've had direct mail  
15 pieces. Many, many different advertising forms and  
16 channels.  
17 Q. I'm going to hand you a document that was  
18 previously marked at Exhibit 1 to your declaration.  
19 Consistent with the earlier deposition exhibits for the  
20 deposition, I'm going to go ahead and retain that exhibit  
21 cover sheet, and I'm going to mark this as Exhibit 15.  
22 (Exhibit 15 was marked.)  
23 MR. KINGSTON: I'm trying to be  
24 consistent. Are we marking on the top? Hold a  
25 moment.

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1 BY MS. SIMS (CONT.):  
2 Q. There you go, Mr. Langston. And can you please  
3 take a look at the document?  
4 A. Okay.  
5 Q. Do you recognize it?  
6 A. It's one of Windstream's Kinetic advertisements.  
7 Q. And if you go to the third -- the last page of the  
8 exhibit, it's Bates numbered WIN -- WIN 4?  
9 A. Yes.  
10 Q. What is that?  
11 A. That is our -- our Web site. So it would be one of  
12 our Web advertisements.  
13 Q. And where were -- where was Kinetic Internet  
14 advertised?  
15 A. Well, so it would be all -- all the states we offer  
16 consumer services in. So -- so of note would be our --  
17 respectfully our most -- our largest competitive states,  
18 so Ohio, Kentucky, Nebraska, North Carolina, amongst  
19 others.  
20 Q. Do your -- I'm sorry. How did you describe it?  
21 You said the highest -- the most highest?  
22 A. I said of note, those are the highest ones, but it  
23 would be all the states that we offer our consumer  
24 services in.  
25 Q. Are Alabama and Georgia included in the highest



1 kind of competitive market states?  
2 A. Yes. I mean, they would be. I mean, yeah, I'm  
3 just calling out of note those states, those other  
4 states.  
5 Q. You can set that aside for now.  
6 I'm going to hand to you -- actually, I'm going to  
7 take a moment to mark two exhibits at the same time  
8 because they're --  
9 (Exhibits 16 and 17 were marked.)  
10 BY MS. SIMS (CONT.):  
11 Q. I'm marking two documents. The first one is going  
12 to be Exhibit 16, and the -- it's Bates numbered WIN 167  
13 to WIN 168. The second document is Exhibit 17, and it's  
14 Bates numbered WIN 173 to 176. I'll hand these to you.  
15 I'll also hand copies to counsel.  
16 Mr. Langston, do you recognize Exhibit 16?  
17 A. Yes.  
18 Q. And what is that?  
19 A. It's a direct mail piece advertising our Kinetic  
20 high speed Internet.  
21 Q. And turning to Exhibit 17, do you recognize that  
22 document?  
23 A. Yes, another direct mail piece for our high speed  
24 Internet.  
25 Q. And that's for Kinetic Internet?

1 services states that we're in.  
2 Q. And specifically for what service?  
3 A. I would tell you two. The primary service would be  
4 broadband, but there are some -- in some cases  
5 entertainment services as well, video.  
6 Q. And how competitive is the broadband industry in  
7 the market?  
8 A. It's very competitive.  
9 Q. And is Charter one of Windstream's main competitors  
10 in that market space?  
11 A. Yes.  
12 Q. Would you say that Charter competes directly with  
13 Windstream?  
14 A. Absolutely.  
15 Q. Are you familiar with an advertising campaign by  
16 Charter involving Windstream's Chapter 11?  
17 A. Yes, I am.  
18 Q. And do you know when this advertising campaign  
19 began?  
20 A. Basically upon, my knowledge, it would be about the  
21 middle of March, maybe a little bit earlier than that.  
22 Q. And what generally, to your knowledge, did that --  
23 did Charter's advertising campaign regarding Windstream's  
24 Chapter 11 consist of?  
25 A. Informing the people that were the recipients of

1 A. For Kinetic Internet, specifically advertising our  
2 gig service.  
3 Q. And do you know whether Windstream has registered  
4 its name Windstream as a trademark?  
5 A. We have.  
6 Q. You can set those aside for now.  
7 Are you familiar with Charter Communications, Inc.  
8 and Charter Communications Operating, LLC?  
9 A. Generally.  
10 Q. And generally what is your knowledge of Charter  
11 generally?  
12 A. They're a large telecommunications provider,  
13 primarily cable and broadband services to both, you know,  
14 consumer as well as business.  
15 Q. How would you describe Windstream's relationship  
16 with Charter?  
17 A. They're a competitor, but at the same time they're  
18 also somebody that we buy services for for last mile  
19 services.  
20 Q. And when you say that Charter is a competitor, can  
21 you be more specific?  
22 A. We sell the same services in the same markets, and  
23 so we're competing for customers, for the same customers.  
24 Q. And which market would that be?  
25 A. Those 18 states that we're in, those consumer

1 the advertising that Windstream had declared bankruptcy,  
2 that our future was uncertain and that specific -- don't  
3 risk certain services like Internet being interrupted and  
4 that Charter was -- was here to stay, and then at the end  
5 of the advertisement it saying, you know, basically  
6 good-bye, Windstream; hello, Spectrum.  
7 Q. And do you know what form the advertisements  
8 were -- let me rephrase.  
9 Do you know the format of the advertisements  
10 that -- that Charter ran?  
11 A. Explain format.  
12 Q. Do you know if it was direct mail?  
13 A. You had direct mail. Later there were door  
14 hangers, but the initial way that was launched in early  
15 March were primarily direct mail.  
16 Q. I'm going to refer to you what's previously marked  
17 as Exhibit 13. Do you recognize this document?  
18 A. Yes.  
19 Q. And what is this document?  
20 A. These are the examples of the Spectrum advertising  
21 or Charter advertising that Windstream became in  
22 possession of related to that early to mid March  
23 advertising campaign I mentioned earlier.  
24 Q. And do you know where these advertisements were  
25 disseminated?

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1 A. Where they were disseminated?  
2 Q. Yes.  
3 A. Into Windstream's markets.  
4 Q. And do you know which specific markets those were?  
5 A. I know Kentucky, Ohio, Nebraska. I haven't heard  
6 that it wasn't sent -- that it was limited not to be sent  
7 to other markets, but those are the ones that I'm  
8 primarily aware of, North Carolina.  
9 Q. Do you know whether the direct advertisements were  
10 sent to customers in Alabama?  
11 A. No, I don't know that.  
12 Q. And do you know whether the direct advertisements  
13 were sent to customers in Georgia?  
14 A. No, I don't know that.  
15 Q. And the states that you mentioned that the  
16 advertisements were sent to, are these any -- are any of  
17 those states Windstream's top performing states?  
18 A. Yes. I mean, the most competitive states that  
19 we've got or the largest market states, the biggest  
20 opportunities are Kentucky, you know, Ohio, Nebraska, you  
21 know, those -- those are -- you know, north -- I mean  
22 north Georgia as well. Those are all highly competitive  
23 states, North Carolina as well.  
24 (Exhibit 18 was marked.)  
25 BY MS. SIMS (CONT.):

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1 Q. I'm going to hand you a document that we're going  
2 to mark as Exhibit 18. Mr. Langston, do you recognize  
3 this document?  
4 A. Yes, I do.  
5 Q. And what is it?  
6 A. This is the front of the envelope and the sealing  
7 flap on the back of the same envelope on the direct mail  
8 piece from Charter to the Windstream customers or -- and  
9 even more than Windstream customers.  
10 Q. And -- what was your action when you saw this  
11 envelope?  
12 A. One, that it's targeted to -- to Windstream  
13 customers. Secondly, you really don't know who it comes  
14 from. So it looks like -- and based upon the color  
15 markings on the back seal, using Windstream's colors that  
16 we've used on our Kinetic campaign, that it looks like it  
17 comes from Windstream.  
18 Q. Do you see Charter's name on the envelope?  
19 A. No, I do not.  
20 Q. And do you see Charter's logo anywhere on the  
21 envelope?  
22 A. No, I do not.  
23 Q. And what is the -- what's the -- how is the  
24 envelope addressed?  
25 A. It's addressed to Windstream customers.

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1 Q. And what specifically does it state in terms of  
2 being addressed to Windstream customers?  
3 A. Important information enclosed to draw your  
4 attention to it.  
5 Q. And you mentioned a door-to-door campaign; is that  
6 correct?  
7 A. Yes.  
8 Q. What's your understanding of the door-to-door  
9 campaign?  
10 A. That in certain markets, I'm not -- I'm not exactly  
11 sure what markets this was limited to, but at least in  
12 the case that -- of the example that we came across it.  
13 It was in Ohio, Elyria, Ohio. Once again, campaign --  
14 once again telling Windstream customers that, you know,  
15 don't risk your service being cut off. Cut over to  
16 Spectrum, special promotional offer being offered to come  
17 over to Spectrum.  
18 In addition, upon acquisition of the direct mail  
19 piece or of that door hanger, our -- one of our vice  
20 presidents of sales actually called the sales  
21 representative's name and number on the door hanger, and  
22 in conversation with that sales representative, the sales  
23 representative that Windstream would cut off their  
24 services within two months, that they were working in  
25 partnership with Windstream to move the customers over,

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1 that that's normal in a bankruptcy situation and that we  
2 had provided our list of customers to Spectrum to do  
3 that.  
4 MR. KINGSTON: I'm sorry.  
5 MS. SIMS: What was the name?  
6 MR. KINGSTON: I'll object, and I'll move  
7 to strike that answer as based on hearsay.  
8 Sorry.  
9 BY MS. SIMS (CONT.):  
10 Q. What was the name of the Spectrum -- do you know  
11 the name of the Spectrum representative?  
12 A. I believe -- I'd have to look at the document to be  
13 sure, but I believe it was a Emmitt Walker.  
14 Q. What was the name of the Windstream representative?  
15 A. Wayne Parrish.  
16 Q. And how did you learn this information from  
17 Mr. Parrish?  
18 A. I actually had a call from Mr. Parrish directly  
19 where he recounted everything that had happened up --  
20 including the conversation with Mr. Walker and -- so  
21 that's how I got it.  
22 (Exhibit 19 was marked.)  
23 BY MS. SIMS (CONT.):  
24 Q. I'm going to hand you a document that we're marking  
25 as Exhibit 19, and Exhibit 19 is Bates numbered WIN 64 to

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1 68.  
2 And I -- there's a slip sheet on the cover of this.  
3 Is this -- I believe was the Exhibit 1 to your  
4 supplemental declaration. And, Mr. Langston, do you  
5 recognize this document?  
6 A. Yes.  
7 Q. And what is that?  
8 A. So this is the advertisement from Spectrum that I  
9 was referencing for the door hanger that Mr. Walker, the  
10 sales representative for Spectrum, meaning Charter, put  
11 out there.  
12 Q. And was the -- was the materials in Exhibit 19, was  
13 this provide to you by Mr. Parrish?  
14 A. Yes.  
15 (Exhibit 20 was marked.)  
16 BY MS. SIMS (CONT.):  
17 Q. I'm going to hand you a document that I'm going to  
18 mark as Exhibit 20.  
19 MR. KINGSTON: Thank you.  
20 BY MS. SIMS (CONT.):  
21 Q. Mr. Langston, do you recognize this document?  
22 A. Yes.  
23 Q. And what is it?  
24 A. It's a voice mail message into one of our care  
25 centers from a customer that also received the same door

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1 hanger from Mr. Walker or received the door hanger. I'm  
2 not sure it came from Mr. Walker.  
3 Q. Okay. You can set that aside.  
4 Are you aware of any Windstream customers  
5 contacting Windstream because of the Spectrum  
6 advertisements?  
7 A. Yes.  
8 Q. And do you know the total current number of  
9 Windstream customers that have contacted Windstream  
10 regarding the Spectrum advertisements?  
11 A. The last number that I have is 215.  
12 Q. To your knowledge, has Windstream kept track of the  
13 customers that have contacted it regarding the Spectrum  
14 advertisements?  
15 A. Yes.  
16 Q. And to your knowledge, what has been done in terms  
17 of tracking this information?  
18 A. What do you mean by what has been done?  
19 Q. To your knowledge, what information has been  
20 gathered, if any, regarding the customer contacts?  
21 A. We've retrieved the -- the screenshots that are the  
22 actual notes the customer care rep makes when they  
23 receive a customer's call. They put that into our -- our  
24 system to keep track of that. In addition to that, we've  
25 gone back after the calls and captured the call

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1 recordings of all the conversation of the entire call.  
2 And then we've also, you know, just gathered the call  
3 stats on how many of the calls have come in themselves.  
4 (Exhibit 21 was marked.)  
5 BY MS. SIMS (CONT.):  
6 Q. I'm going to hand to you a document we'll mark as  
7 Exhibit 21.  
8 Mr. Langston, do you recognize this document?  
9 A. Yes, I do.  
10 Q. And what is it?  
11 A. So this is a log of all the customer calls that we  
12 captured so far of what's come in regarding the Spectrum  
13 advertising. And it notes the date of the call, the  
14 account number of the call, the state that the customer  
15 resides in, the type of contact, whether it was a call or  
16 a social media post or some other form of contact, so the  
17 form of contact. It also indicates whether we're able to  
18 pull the call recording, that's the call pulled category,  
19 and then it also contains whether we were able to  
20 retrieve a screenshot of the customer care system and  
21 notes contained therein.  
22 Q. And for the record, because I forgot to say at the  
23 beginning, Exhibit 21 is Bates numbered WIN 2058 to 2063.  
24 Stepping back for a moment, can you tell me what  
25 generally happens in terms of the process when a

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1 Windstream customer calls in to the customer service  
2 center?  
3 A. We're going to greet the customer and then ask how  
4 we can help and why are they calling in. Then we -- or  
5 we discern, you know, basically what the issue, concern  
6 or problem is that the customer has and try to figure out  
7 how to go deal with that appropriately.  
8 Q. And who -- and who is it that the customer talks  
9 to?  
10 A. A customer care representative.  
11 Q. And do the customer care representatives take notes  
12 of the call?  
13 A. Yes. They take that into our customer care system.  
14 It's called wind -- WindCare.  
15 Q. Do the customer care associates use shorthand for  
16 these notes?  
17 A. Yes.  
18 Q. Do you know what the abbreviation CI stands for?  
19 A. Customer inquiry.  
20 Q. And do you know what the abbreviation ADV stands  
21 for?  
22 A. Advice.  
23 Q. And do you know whether or not the -- these notes  
24 contain like every detail of the call with that customer?  
25 A. No, they don't. They contain just a -- what I

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1 would call a very brief synopsis of what's in the call.  
2 They -- the customer care reps are trying to work with  
3 the customer to get through the problem, and they're  
4 trying to take the notes the best they can through the  
5 call. So I would say it's a very abbreviated set of  
6 notes to give them reference for future purposes. It  
7 doesn't contain a great majority of the conversation.  
8 (Exhibit 22 was marked.)  
9 BY MS. SIMS (CONT.):  
10 Q. I'm going to hand to you what we're marking as  
11 Exhibit 22, and this was Exhibit 4 to your original  
12 declaration. And it's Bates numbered now WIN 28 through  
13 31.  
14 And, Mr. Langston, do you recognize Exhibit 22?  
15 A. Yes.  
16 Q. And what is Exhibit 22?  
17 A. This is the transcript of a customer service call  
18 recording.  
19 Q. Just to clarify, does this contain any notes at all  
20 from the customer -- from a customer care associate?  
21 A. Yes.  
22 Q. Is this -- are these customer care associate notes  
23 or is this a transcript of a call?  
24 A. I'm trying to go through with all the redactions  
25 and determine.

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1 A. It reflects the customer coming -- saying that  
2 Spectrum is going door to door telling people we're going  
3 out of business, also advised that she spoke with a  
4 representative of Spectrum -- the customer spoke to a  
5 representative of Spectrum, and then advised her of the  
6 Chapter 11 filing and an offer that Spectrum provided.  
7 I'm not sure exactly what tin means, but it says  
8 the customer would rather use a tin than go talk to  
9 Spectrum. It says the customer also received a flyer  
10 about Spectrum and about Windstream service and a  
11 Chapter 11 filing. It was a flyer. And then -- also  
12 talks about a letter from Charter.  
13 The call from Lincoln, Nebraska. The customer  
14 called in very upset about the flyer he got from  
15 Spectrum. Said it makes him very angry that Spectrum did  
16 this.  
17 And another call coming in from Covington, Ohio  
18 making sure that these services were not going to be  
19 disconnected because of reading the flyer from Spectrum.  
20 Another call from Kentucky, customer called in  
21 upset that Spectrum called her and sent letter in mailing  
22 that we filed bankruptcy and they needed to switch over.  
23 So multiple calls from customers in different  
24 states reflecting the Charter advertisements,  
25 door-to-door campaign and messaging.

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1 It appears to be --  
2 MR. KINGSTON: I'll object, lack of  
3 foundation.  
4 MR. LANGSTON: It appears to be notes.  
5 BY MS. SIMS (CONT.):  
6 Q. As part of your process in terms of -- let me  
7 rephrase.  
8 In preparing for this deposition, did you inquire  
9 and obtain information regarding customer contacts  
10 from -- contacts to Windstream regarding Spectrum  
11 advertisements?  
12 A. Yes.  
13 Q. And what are the sources of materials that you were  
14 provided?  
15 A. So sources of materials would have been our call  
16 recordings. They also would have been any kind of notes  
17 taken during the calls in reference specifically to those  
18 calls that we believed were associated with the Spectrum  
19 advertising.  
20 Q. And in looking at Exhibit 22, do you recognize this  
21 as one of -- as one of the documents that you were  
22 provided?  
23 A. Yes.  
24 Q. And in looking at this document again, are you able  
25 to tell what it reflects?

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1 Q. Okay. You can set that aside.  
2 (Exhibit 23 was marked.)  
3 BY MS. SIMS (CONT.):  
4 Q. I'm going to hand you a document that I'm marking  
5 now as Exhibit 23, and this was previously Exhibit 5 to  
6 your declaration. The Bates numbers on this document are  
7 WIN 32 through 36.  
8 Mr. Langston, do you recognize this document?  
9 A. Yes.  
10 Q. And what is it?  
11 A. So this is a listing of different customer calls  
12 associated with the -- about customers calling in about  
13 the Spectrum advertising. So you had different customers  
14 in multiple states calling in about it, and these appear  
15 to be out of the summary notes taken by the care reps.  
16 Q. Thank you. Just set that aside.  
17 MR. KINGSTON: I'm sorry. What exhibit  
18 was that?  
19 MS. SIMS: That was 23.  
20 MR. LANGSTON: 23.  
21 MS. SIMS: 23.  
22 MR. KINGSTON: Thank you.  
23 (Exhibit 24 was marked.)  
24 BY MS. SIMS (CONT.):  
25 Q. All right. I'm going to hand to you a document

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1 that we're going to mark as Exhibit 24. I will note that  
2 it's possible that certain of these pages were previously  
3 marked as single exhibits, but I don't -- for convenience  
4 sake, I'm going to keep this all as one -- one exhibit.  
5 And Exhibit 24 is a document that is Bates numbered WIN  
6 221 through WIN 374.  
7 And, Mr. Langston, do you recognize these  
8 documents?  
9 A. Yes.  
10 Q. And what are they?  
11 A. So this is a screenshot of a -- of the notes the  
12 customer care rep has taken based upon a conversation he  
13 had with the customer.  
14 Q. And you see that there is a date in the upper right  
15 of that screenshot. What does that date reflect?  
16 A. April 16th, 2019.  
17 Q. And do you know what that date represents?  
18 A. That would be the date of the actual call. So  
19 that's a system -- that's a screenshot of the date.  
20 Well, no, that date -- no. Let me take that back.  
21 Let me retract that. That's the date where we inquired  
22 into -- into that actual transaction.  
23 Q. And it looks like there's another date on the  
24 middle left-hand side under remarks?  
25 A. That is correct.

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1 wanted to report them to us. She told them she was happy  
2 with her service. So, you know, apparently a -- you  
3 know, concerned about Spectrum talking to her -- asked  
4 her -- contacting her.  
5 Q. You can set that aside.  
6 A. Okay.  
7 Q. And to your knowledge, are customer calls to the  
8 customer call center, are they recorded?  
9 A. Yes.  
10 Q. And do you know whether the customer calls  
11 specifically regarding the Spectrum advertisements --  
12 sorry. Let me rephrase.  
13 Do you know whether the customer call recordings  
14 for calls regarding the Spectrum advertisements were  
15 gathered in connection with this case?  
16 A. Yes, they were.  
17 Q. And do you know whether there are transcripts of  
18 those recorded calls?  
19 A. Yes.  
20 Q. And have you reviewed any of the transcripts?  
21 A. I have.  
22 Q. I'm going to hand to you a document -- hold on.  
23 It's a very large document.  
24 (Exhibit 26 was marked.)  
25 BY MS. SIMS (CONT.):

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1 Q. For example, on this first page, that date is  
2 March 25th. What does that date represent?  
3 A. That date would be the actual date of the call. I  
4 apologize for the confusion.  
5 Q. And when you say that there are customer care  
6 representative notes, are you referring to the text that  
7 is under the section labeled remarks?  
8 A. Yes, I am.  
9 Q. You can set that aside.  
10 (Exhibit 25 was marked.)  
11 BY MS. SIMS (CONT.):  
12 Q. I'm going to hand to you a document that we'll mark  
13 as Exhibit 25. And Exhibit 25 bears the Bates numbers  
14 WIN 1771 through 1773.  
15 And, Mr. Langston, do you recognize these  
16 documents?  
17 A. Yes.  
18 Q. And what are they?  
19 A. This is another screenshot of our care system  
20 recording the notes from a customer call.  
21 Q. And to your knowledge, do you -- do you know what  
22 the customer calls are generally about?  
23 A. Well, the customer called in on April 23rd, stated  
24 that -- wanted to let us know that Spectrum knocked on  
25 her door today and they seemed shady. Wanted to -- she

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1 Q. I'm going to hand to you a document that we're  
2 going to mark as Exhibit 26, and I will note for the  
3 record the beginning Bates number is WIN 381 and the very  
4 last Bates number is WIN 1770, but the Bates numbers are  
5 not consecutive all throughout -- throughout the document  
6 for the record.  
7 And, Mr. Langston, do you recognize these -- this  
8 document?  
9 MR. KINGSTON: I will object on  
10 foundation. I mean, if you'll represent what  
11 they are, I think that's fine, but I don't know  
12 that the witness is in a position to  
13 authenticate an entire phone book. I'll take  
14 you at your word, just tell me what they are.  
15 BY MS. SIMS (CONT.):  
16 Q. Do you recognize what these are, what Exhibit 26  
17 consists of?  
18 A. Yes, these are the transcriptions of customer  
19 calls, of the customer call recordings.  
20 Q. And do you know whether these were the customer  
21 call recordings regarding the Spectrum advertisements?  
22 A. Yes, they are.  
23 Q. Okay. You can set that aside.  
24 And do you know generally some of the concerns, if  
25 any, that Windstream customers have stated when they've

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1 called in regarding the Spectrum advertisements?  
2 A. The basic --  
3 MS. SIMS: I'm sorry. I object to lack of  
4 foundation, but you can answer.  
5 MR. LANGSTON: The basic concern the  
6 customers have had is Windstream really  
7 going away and are they going to lose their  
8 services. That's -- that's the basic extent of  
9 their concerns.  
10 (Exhibit 27 was marked.)  
11 BY MS. SIMS (CONT.):  
12 Q. I'm going to hand to you a document that was  
13 previously Exhibit 9 to your declaration. I'm now going  
14 to mark that as Exhibit 27.  
15 And, Mr. Langston, do you recognize this document?  
16 A. Yes.  
17 Q. And what is it?  
18 A. It's a social media post to us regarding  
19 advertisements received by a customer from Spectrum.  
20 Q. You can set that aside.  
21 And, Mr. Langston, in your view, has Windstream  
22 suffered harm as a result of Charter's advertisements?  
23 A. Yes.  
24 Q. And in what form has that harm taken?  
25 A. Brand image or degradation of brand image, you

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1 know, loss of good will with our customers, you know,  
2 being able to trust Windstream and think that  
3 Windstream's going to be around, creating doubt and  
4 confusion around that, loss of customers. You know, I  
5 think just general reputation and, you know, the  
6 things -- you know, we've tried to create a brand name,  
7 tried to create an image around our service and clearly  
8 seen good results with our broadband growth and clearly,  
9 you know, see that as -- as harm to that.  
10 Q. And when you say that, did you say customer image  
11 or what was the phrase that you --  
12 A. Brand image.  
13 Q. Brand image.  
14 A. Degradation of brand image.  
15 Q. How has Windstream built that brand image?  
16 MR. KINGSTON: I'm going to object to the  
17 question. Calls for a narrative.  
18 BY MS. SIMS (CONT.):  
19 Q. You can answer.  
20 A. So one, I mean, the most demonstrative version of  
21 that would be through our advertising campaigns, through  
22 the Kinetic advertising, you know, as I said earlier  
23 starting in September of '17, but also built that image  
24 through, you know, significant investment into our  
25 network infrastructure to expand our high speed

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1 broadband. You know, improvements to our customer  
2 service, our overall sales campaigns, promotional  
3 campaigns, you know, to our customers reflecting the  
4 availability of these services, and then just a, you  
5 know, focus over time that, you know, we're -- we're  
6 willing to invest in our customer base and want to be in  
7 these markets and compete.  
8 Q. And when you say harm to the brand image, what do  
9 you mean by that?  
10 A. You know, associating that there's uncertainty  
11 around Windstream, the name Windstream, and in our brand  
12 that we're going away. That -- the -- creating doubt and  
13 uncertainty over specific services that we offer and that  
14 people are going to lose those services, and then, you  
15 know, just the general uncertainty created by the  
16 advertisement, you know, indicating that we're going  
17 away.  
18 Q. And you indicated a loss of customer good will.  
19 What do you mean by that?  
20 A. You know, the customer seeing us as somebody who is  
21 trustworthy, that's going to be here, that's going to be  
22 here for the long term and be there to take care of them  
23 and honor our agreements with them, and, you know, the  
24 customers want to do business with somebody they could  
25 trust.

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1 Q. And to your knowledge, how has Windstream built its  
2 good will?  
3 A. You know, one is the indication we've done  
4 extensive advertising to the investments we've made into  
5 the markets and expanding the networks. We've also  
6 indicated through our advertising campaigns. We invested  
7 greatly into local market operations and bring a very  
8 local influence to how are markets operate and really  
9 returning to the fact that we're a -- we're a local  
10 telecommunications provider there, that we're part of the  
11 community.  
12 Q. And what does harm to the customer good will mean?  
13 A. Explain your question.  
14 Q. Well, you indicated before that you believe that  
15 like loss of customer good will was one of the harms. I  
16 just wanted to understand what you meant by that.  
17 A. Well, you just -- you're creating doubt and  
18 uncertainty in the -- in the customer's minds that  
19 Windstream is somebody there that's going to be around to  
20 take care of them, that they're going to be there in the  
21 long term and that it's somebody they want to do business  
22 with and, quite frankly, that we're, you know, somebody  
23 who's going to be present and available to them as a  
24 provider.  
25 Q. And when good will is harmed, can you be rebuilt?



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1 MR. KINGSTON: Objection, calls for expert  
2 opinion testimony. You can answer.  
3 MR. LANGSTON: It -- it can. It takes a  
4 long time. In our case, we've had to invest  
5 significant amounts of money to expand our  
6 network and grow our network over a number of  
7 years. Our brand campaign has been going for  
8 almost two years, a year and -- a year and  
9 three-quarters. It takes quite a while to  
10 build that up, and it takes -- the people that  
11 run these markets have put a lot of effort into  
12 it.  
13 BY MS. SIMS (CONT.):  
14 Q. And you mentioned of losing customers. Are you  
15 aware of Windstream losing customers especially because  
16 of the advertisements?  
17 A. Yes.  
18 Q. And what does losing a customer mean to Windstream?  
19 A. You know, you would think, you know, because you  
20 think about a company having a customer base of  
21 1.2 million broadband customers that losing a customer  
22 doesn't matter a lot, but, you know, simplistic economic  
23 terms, acquiring one customer costs, you know, quite a  
24 bit of money, but more importantly, we truly try and go  
25 after each customer relationship. We have -- we have

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1 effort in the install. We put effort into care. We  
2 invest in the network for that individual customer, so,  
3 you know, it's -- every customer lost is pretty painful.  
4 Q. And do you believe that 215 is the absolute cap on  
5 the number of customers who have concerns about the  
6 Spectrum advertisements?  
7 A. No, I don't. You know, the reality is, you know,  
8 the customers that actually call in are the most vocal  
9 piece. Most don't call in. They're generally concerned,  
10 they might have concerns, you know, there -- and there's  
11 also those that receive this flyer that aren't Windstream  
12 customers, and they might have been considering  
13 Windstream, but now with this advertisement, they look at  
14 it differently. You also don't know who else the 215  
15 people talked to.  
16 So, no, I don't -- I believe it's just the tip of  
17 the iceberg. You know, I -- for one, I don't like  
18 calling in to customer service. So to get to a customer  
19 and be so concerned to call in customer service, they  
20 represent a very small minority of the general  
21 population.  
22 Q. And has Windstream taken actions in response to  
23 this Spectrum advertising campaign?  
24 A. Yes, we have.  
25 Q. And what actions has Windstream taken?

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1 A. Well, in the most simplistic form, we had to  
2 provide call scripting notes to our customer care reps  
3 and to our sales reps and to others on how to go explain  
4 what Spectrum put out there and what it really means and  
5 what it doesn't mean out there as well to counter the  
6 false advertising, the -- on a bigger note, we've had to  
7 go down significant mail campaigns and advertising  
8 campaigns to work on restoring the confidence and brand  
9 image, you know, that was harmed by the Spectrum  
10 advertising.  
11 (Exhibit 29 was marked.)  
12 BY MS. SIMS (CONT.):  
13 Q. I'm going to mark as Exhibit 29 a document that  
14 bears the Bates number WIN 74 through 76, although I will  
15 note that 76 is actually a blank page.  
16 And, Mr. Langston, do you recognize Exhibit 27?  
17 A. These are some of the scripting guidance we gave to  
18 call center reps related to general bankruptcy  
19 information.  
20 Q. And is there any scripting with respect to the  
21 Spectrum advertising?  
22 A. Yes, there is.  
23 Q. And is the located on WIN 75?  
24 A. Yes, it is.  
25 Q. And is this what you were referring to when you

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1 said that you provided the customer care representatives  
2 with call scripts?  
3 A. Yes.  
4 (Exhibit 28 was marked.)  
5 BY MS. SIMS (CONT.):  
6 Q. I'm going to hand to you a document that we'll mark  
7 as Exhibit 28, and Exhibit 28 is Bates numbered WIN 77  
8 through WIN 84.  
9 And, Mr. Langston, do you recognize this document?  
10 A. This is our marketing campaign in response to the  
11 Spectrum campaign.  
12 Q. And do you know approximately how many  
13 advertisements for the corrective campaign were sent out?  
14 A. I think it's somewhere around 800,000.  
15 Q. And do you know the approximate cost of -- do you  
16 know the approximate cost for creating and sending out  
17 this corrective advertisement?  
18 A. The total dollar amount is approximately a million  
19 dollars for this piece of -- for this piece of the  
20 campaign.  
21 Q. And has Windstream taken other steps in response to  
22 Charter's advertisement -- advertising campaign?  
23 A. You know, it's not saying that it's limited to  
24 this, but I know that in response to customers calling  
25 and being concerned or saying that they want to switch to

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1 Spectrum as a result of this, we've had to offer, you  
2 know, maybe promotions, practically offer retention  
3 offers to keep those customers to say. We've also had  
4 to, you know, educate our sales force as well about how  
5 to go counter this, particularly I think our small  
6 business sales. Those would be the primary ones that I'm  
7 aware of.  
8 Q. And what effect, if any, do these counter response  
9 measures have on Windstream's bottom line?  
10 A. Well, it's a cost we didn't budget for. I mean, we  
11 did not plan on spending this money, and like most  
12 companies, we have a budget for the year, and so clearly  
13 we've had to spend the money on this advertising campaign  
14 versus spending on other things. We planned to continued  
15 to expand our brand and our sales.  
16 (Exhibit 30 was marked.)  
17 BY MS. SIMS (CONT.):  
18 Q. I'm going to hand to you a document that was  
19 previously Exhibit 10 to your declaration, and I'm  
20 marking that as Exhibit 30.  
21 And, Mr. Langston, do you recognize exhibit -- I'm  
22 sorry. And for the record, Exhibit 30 is Bates numbered  
23 WIN 56 through 61.  
24 Mr. Langston, do you recognize Exhibit 30?  
25 A. Yes, I do.

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1 Exhibit 11 to your declaration and now bears the Exhibit  
2 Number 31. The Bates numbers are WIN 62 through 63.  
3 Mr. Langston, do you recognize this document?  
4 A. Yes.  
5 Q. And what is it?  
6 A. It's a letter from Cody Harrison, the VP and  
7 associate general counsel at Charter, to Carol Keith  
8 disagreeing that they -- that there's any failing --  
9 false or misleading about the advertising.  
10 Q. And to your knowledge, other than Exhibit 31, did  
11 Charter have any other response to Windstream's cease and  
12 desist letters?  
13 A. Not that I'm aware of, no.  
14 Q. And do you know whether Charter sent Windstream any  
15 copies of future direct mail pieces regarding the  
16 bankruptcy?  
17 A. I am aware of -- I've seen the future follow on  
18 advertisements. I don't know if they directly sent those  
19 to us or not. I don't know the source. I've just seen  
20 them.  
21 Q. And you've seen that because of your role in this  
22 case?  
23 A. Yes.  
24 Q. And testifying at the TRO hearing?  
25 A. Yes, I saw them -- I saw them in evidence.

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1 Q. And what is it?  
2 A. It is the initial letter from Carol Keith to  
3 Charter's associate general counsel asking them to cease  
4 and desist their advertising campaign regarding our  
5 Chapter 11.  
6 Q. And if you go to WIN 60, Bates number 60, what is  
7 that portion of the exhibit?  
8 A. Okay.  
9 Q. And what is it?  
10 A. This is a follow-up letter dated five --  
11 approximately five days later regarding the first cease  
12 and desist letter and -- and asking once again,  
13 reiterating to cease and desist. Specifically calls out  
14 mailouts surfacing in Alabama, North Carolina, Nebraska  
15 and elsewhere.  
16 And then also referencing conversations told by  
17 Spectrum to these customers they have a contract with  
18 Windstream to buy us out.  
19 Q. And do you know whether Charter responded to  
20 Windstream's letter?  
21 A. Shortly after this March 26th letter, we received a  
22 response from Charter's counsel.  
23 (Exhibit 31 was marked.)  
24 BY MS. SIMS (CONT.):  
25 Q. I'm going to mark a document that was previously

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1 Q. You can set that aside.  
2 And, Mr. Langston, to your knowledge, did  
3 Windstream and Charter have a contractual relationship?  
4 A. Yes.  
5 Q. All right. Can you please describe that  
6 contractual relationship?  
7 A. It's a -- it's a relationship for Windstream to buy  
8 what in the industry is called last mile services to  
9 connect from Windstream's network into our customers and  
10 acquiring that -- that last mile connection from Charter,  
11 and then that's part of Windstream's service to the  
12 customer.  
13 Q. So can you describe, I guess, maybe more  
14 specifically in layman's terms what that last mile means?  
15 A. So if Windstream's network comes within a certain  
16 range of the customer's network, but we don't actually  
17 provide a connection all the way from our network all the  
18 way into the customer, sometimes we have to acquire a  
19 competitor's service in order to connect from our network  
20 into the actual physical customer premise.  
21 Q. And that last bit of connection from your network  
22 to the customer's premise, is that considered what you  
23 mean by last mile?  
24 A. That's last mile.  
25 Q. Okay. And have there been any recent instances



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1 regarding that last mile connection that Charter  
2 provides?  
3 A. Yes. In March of this year, I think it was  
4 March 15th, Charter disconnected approximately 350 lines  
5 of service that would be comprised of that last mile  
6 service. It was done on, like I said, the afternoon of  
7 the 15th I believe.  
8 Q. Bear with me a minute.  
9 MS. SIMS: Actually, if we can just take a  
10 short break, I just want to organize these last  
11 couple of exhibits that I have.  
12 MR. KINGSTON: Which is fine.  
13 MS. SIMS: Go off the record for a minute.  
14 MR. SIMS: We're going off the record.  
15 The time is approximately 2:40 p.m.  
16 (The deposition recessed at 2:40 p.m. and  
17 reconvened at 2:47 p.m.)  
18 MR. SIMS: We're back on the record. The  
19 time is approximately 2:47 p.m.  
20 (Exhibit 32 was marked.)  
21 BY MS. SIMS (CONT.):  
22 Q. Mr. Langston, I've marked and handed to you a  
23 document that is marked as Exhibit Number 32 that bears  
24 the Bates numbers WIN 469 through --  
25 Sorry. I didn't have my microphone. Let me repeat

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1 that.  
2 I've handed you a document that I've marked as  
3 Exhibit Number 32 and that bears the Bates numbers 469  
4 through 474.  
5 A. Yes.  
6 Q. All right. Mr. Langston, do you recognize this  
7 document?  
8 A. I do.  
9 Q. And what is it?  
10 A. This is a list of our last mile connections that  
11 were disconnected on the 15th that are with Charter  
12 Communications.  
13 Q. And do you have an understanding as to why these  
14 Windstream customers were disconnected by Spectrum?  
15 MR. KINGSTON: Objection, lack of  
16 foundation.  
17 MR. LANGSTON: My understanding is we were  
18 told that we were -- they were disconnected  
19 because of pre -- of lack of payment of  
20 pre-petition balances.  
21 BY MS. SIMS (CONT.):  
22 Q. And prior to disconnecting these customers, do you  
23 know whether any of these customers received a  
24 notification from Spectrum?  
25 MR. KINGSTON: Same objection.

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1 MR. LANGSTON: No.  
2 BY MS. SIMS (CONT.):  
3 Q. Sorry. To clarify, do you know whether or not  
4 these Windstream customers received a notification from  
5 Spectrum?  
6 A. I'm not aware of any notification of being  
7 disconnected, no.  
8 Q. Have you seen any documents indicating that  
9 Spectrum provided a notification to Windstream's  
10 customers before disconnecting them?  
11 A. No.  
12 (Exhibit 33 was marked.)  
13 BY MS. SIMS (CONT.):  
14 Q. I'm going to hand to you a document that we're  
15 going to mark as Exhibit 33. And for the record,  
16 Exhibit 33 is a document bearing the Bates numbers WIN  
17 476 through 477.  
18 Mr. Langston, do you recognize Exhibit 33?  
19 A. I do.  
20 Q. And what -- what is Exhibit 33?  
21 A. It is a notice of disconnect for nonpayment from  
22 Spectrum dated March 22nd and then the corresponding  
23 E-mails, and then the disconnect notice was sent to the  
24 Windstream team to let them know about this, and then  
25 there's a -- the last E-mail is from Jeanne Dale, who's

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1 in your access team, one of our leaders in our access  
2 team, to Spectrum and that -- indicating that they could  
3 not disconnect for those pre-petition balances because of  
4 the bankruptcy code.  
5 Q. And do you know, does this pertain to the  
6 disconnect on March 15th or is this something else?  
7 A. This appears to be in addition to the 15th, about  
8 additional disconnects that were going to occur.  
9 It says they will be disconnected on March 8th,  
10 and, actually, given the fact that the letter was sent on  
11 March 22nd, and this is March 8, that would be nine -- 17  
12 days, that would be 13 days short of the contractual  
13 notification period if they were even allowed to do this  
14 underneath the bankruptcy code.  
15 Q. And to your knowledge, what is the contractual  
16 notification period for disconnecting Windstream  
17 customers from Charter?  
18 A. 30 days notice.  
19 (Exhibit 34 was marked.)  
20 BY MS. SIMS (CONT.):  
21 Q. I'm going to hand to you a document that we'll mark  
22 as Exhibit 34, and Exhibit 34 is a document bearing the  
23 Bates numbers WIN 482 to 495.  
24 Mr. Langston, do you recognize Exhibit 34?  
25 A. Yes.

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1 Q. And what is it?  
2 A. It's a series of communications once again amongst  
3 the Windstream access team that manages the connections  
4 with -- last mile services with Charter about sites that  
5 have been disconnected, that Charter disconnected.  
6 Q. And does this relate to the March 15th disconnect?  
7 A. Yes, which would indicate that it extended on  
8 past the -- past the 18th, that Monday. It looks like it  
9 was extending all the way into, oh, 10 days -- 10 days  
10 later, which was actually later than I thought. It  
11 actually lists some of the customers that are impacted as  
12 well.  
13 Q. And what page are you referring to?  
14 A. Page WIN 484.  
15 Q. And what customers were those?  
16 A. These are just -- can you have these six circuits  
17 checked immediately. MB2 Dental Solutions, New York  
18 State Land Title Association, Crohn's & Colitis  
19 Foundation of America, La Maison Du Chocolat, Corbett --  
20 Corbett International, Bloomingdale Family Program.  
21 Additionally, next E-mail on the 19th, which would  
22 have been the Tuesday after the disconnect, indicates  
23 that 41 sites down over the weekend. All restored. This  
24 is on Tuesday. 50 additional sites down Monday. Total  
25 number of sites suspended so far are 91.

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1 So it's more of a chronological list kind of going  
2 through the process of what happened.  
3 MR. KINGSTON: Just for completeness, I'll  
4 read in the two bullet points that were omitted  
5 from that reading. Under the 41 sites down  
6 over the weekend, all restored. Under the 50  
7 additional sites down on Monday, all restored.  
8 MS. SIMS: Counsel, if you have any  
9 further clarifications, would you please just  
10 restrict it to your --  
11 MR. KINGSTON: It wasn't a clarification.  
12 It was an objection invoking the rule of  
13 completeness. So what happened is the witness  
14 read a piece of that document, and to make sure  
15 that the portions that the witness chose to  
16 read wasn't misleading, I read the balance of  
17 it.  
18 (Exhibit 35 was marked.)  
19 BY MS. SIMS (CONT.):  
20 Q. I'm going to hand to you a document we're going to  
21 mark as Exhibit 35. And Exhibit 35 bears the Bates  
22 numbers WIN 502 to WIN 508.  
23 Do you recognize this document?  
24 A. Yes, I do.  
25 Q. And what is it?

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1 A. It is an E-mail from Curt Allen, who's over our  
2 channel partner group, to Elizabeth Orth, who's the  
3 customer care leader for enterprise -- for the enterprise  
4 business unit.  
5 Q. And so did you say a customer care channel?  
6 A. Yes. Elizabeth Orth runs our customer care group  
7 for the enterprise business unit. Curt Allen is in  
8 charge of our channel partner group.  
9 Q. And what's a channel partner?  
10 A. That would be a third party that sells Windstream  
11 services.  
12 Q. And what did the E-mail chain pertain to?  
13 A. It refers to three specific sites that went down on  
14 Friday, March 15th. It says about -- anyway, it just  
15 talks about those -- those three sites being down and  
16 then why another six were down. It gives the trouble  
17 ticket numbers. So it's an escalation of an outage for  
18 customer sites.  
19 Q. And were these outages part of the March 15  
20 disconnect that we've been discussing?  
21 MR. KINGSTON: Objection, lack of  
22 foundation.  
23 MR. LANGSTON: Yes, they are.  
24 BY MS. SIMS (CONT.):  
25 Q. You can set that aside.

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1 MS. SIMS: I'm going to take a short break  
2 here, and when we come back, I'll finish up my  
3 portion.  
4 MR. SIMS: We're going off the record.  
5 The time is approximately 2:57 p.m.  
6 (The deposition recessed at 2:57 p.m. and  
7 reconvened at 3:16 p.m.)  
8 MR. SIMS: We are back on the record. The  
9 time is approximately 3:16 p.m.  
10 (Exhibit 36 was marked.)  
11 BY MS. SIMS (CONT.):  
12 Q. Mr. Langston, I'm going to hand you a document  
13 we're going to mark as Exhibit 36. And Exhibit 36 -- the  
14 first page of Exhibit 36 bears the Bates number 1725 and  
15 the second page is Bates number 1749 and the last page is  
16 1770.  
17 And, Mr. Langston, do you recognize Exhibit 36?  
18 A. I do. It's a transcription of recorded phone calls  
19 from customers into Windstream.  
20 Q. And if you look at the first page of Exhibit 36, do  
21 you see it says audio files transcribed and then there's  
22 a list of numbers?  
23 A. Yes.  
24 Q. What are those numbers if you know?  
25 A. Those are the account numbers -- the account

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1 numbers of the customers that called in. So the account  
2 number associated with each of the calls.  
3 Q. If you can turn to the second page of Exhibit 36,  
4 on line 11, can you -- can you read what the number is on  
5 line 11?  
6 A. 091815868.  
7 Q. And what does that number represent?  
8 A. That's the account number for the following call.  
9 Q. And if you could please refer to -- I'm going to  
10 give you the Bates numbers. If you can read page 1751 to  
11 1753, please, of this document.  
12 A. 17 -- starting at 1751.  
13 Q. To 1753. You can just read it silently to yourself  
14 first.  
15 A. Okay.  
16 Q. And let me know when you're finished.  
17 A. Okay.  
18 Q. To your knowledge, based off of the information you  
19 read, what was the customer calling in with regards to?  
20 A. They received the -- they received a letter from  
21 Spectrum saying that Windstream was going away.  
22 Q. You can set that aside.  
23 (Exhibit 37 was marked.)  
24 BY MS. SIMS (CONT.):  
25 Q. I'm going to hand to you an exhibit that we're

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1 going to mark as Exhibit 37. And the first page of  
2 Exhibit 37 is Bates numbered WIN 862.  
3 And, Mr. Langston, do you recognize this document?  
4 A. Yes. It's another transcription of recorded  
5 customer phone calls into Windstream.  
6 Q. If you can refer to the second page of Exhibit 37,  
7 on line five, can you please read that number?  
8 A. 002820725.  
9 Q. And what does that number represent?  
10 A. That's the account number of the customer on the  
11 following recording.  
12 Q. And if you can, please read to yourself the pages  
13 Bates numbered 902 to 904.  
14 A. Okay.  
15 Q. And what issue was this Windstream customer calling  
16 in about?  
17 A. Calling regarding Spectrum once again sending out a  
18 letter saying that Windstream was going away and they  
19 were going to lose their Internet and TV services.  
20 (Exhibit 38 was marked.)  
21 BY MS. SIMS (CONT.):  
22 Q. I'm going to hand to you a document I'm going to  
23 mark as Exhibit 38. Exhibit 38 on that first page bears  
24 the Bates number WIN 1780.  
25 A. Okay.

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1 Q. And, Mr. Langston, do you recognize this document?  
2 A. I do. It's another transcription of recorded phone  
3 calls from customers into Windstream.  
4 Q. And if you can refer to the second page of  
5 Exhibit 38.  
6 A. Okay.  
7 Q. Line six, can you please read that number?  
8 A. 060896163.  
9 Q. And what is that number?  
10 A. That's the account number for the customer on the  
11 transcription of the call below.  
12 Q. Okay. And if you can, please, read 17 -- the Bates  
13 number 1790 to 1792 to yourself.  
14 A. Okay.  
15 Q. And what issue was this Windstream customer calling  
16 in about?  
17 MR. KINGSTON: Objection, foundation.  
18 MR. LANGSTON: They received a letter from  
19 Spectrum as well stating that Windstream was  
20 going away, that they were -- it was going  
21 away, and they were going to lose their  
22 services, and, additionally, they were  
23 apparently scared, said it was a scary  
24 notification, and they -- they weren't sure who  
25 it was from, but they saw the Windstream name

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1 on it and that's why they opened it.  
2 BY MS. SIMS (CONT.):  
3 Q. You can set that aside.  
4 (Exhibit 39 was marked.)  
5 BY MS. SIMS (CONT.):  
6 Q. I'm going to hand you a document that I'm marking  
7 as Exhibit 39, and the first page of Exhibit 9 bears the  
8 Bates number WIN 993.  
9 MR. KINGSTON: That's the first page of  
10 Exhibit 39?  
11 MS. SIMS: Correct.  
12 MR. LANGSTON: Okay.  
13 BY MS. SIMS (CONT.):  
14 Q. Mr. Langston, do you recognize this document?  
15 A. I do. It's another transcript of phone calls from  
16 customers into Windstream.  
17 Q. And if you can refer to the second page of  
18 Exhibit 39 on line one, if you'll please read that  
19 number.  
20 A. 061811169.  
21 Q. And what is that number?  
22 A. That's the account number for the customer's call  
23 that's recorded below.  
24 Q. If you can read this -- this page WIN 994 to  
25 yourself, please.

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1 A. Okay.  
2 Q. And what issue was this customer calling in about?  
3 A. They received a letter in the mail from Spectrum  
4 saying Windstream customers don't risk losing your TV and  
5 Internet service. So once again generated for -- because  
6 of the Spectrum letter calling in about their concern  
7 they're going to lose their service from Windstream.  
8 Q. You can set that aside.  
9 (Exhibit 40 was marked.)  
10 BY MS. SIMS (CONT.):  
11 Q. I'm going to hand to you a document that I'm  
12 marking as Exhibit 40. The first page of Exhibit 40  
13 bears the Bates number WIN 1443.  
14 MR. KINGSTON: Thank you.  
15 MR. LANGSTON: Okay.  
16 BY MS. SIMS (CONT.):  
17 Q. Mr. Langston, do you recognize this document?  
18 A. Another transcription of phone calls from customers  
19 into Windstream.  
20 Q. And if you can please refer to the second page of  
21 Exhibit 40, line four, can you please read that number?  
22 A. 062223720.  
23 Q. And what is that number?  
24 A. That is the account number for the customers that  
25 called in and the recording below.

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1 Q. And if you can please read to yourself the pages  
2 that are Bates numbered WIN 1470 to 1471.  
3 A. Okay.  
4 Q. And what issue was this Windstream customer calling  
5 in about?  
6 MR. KINGSTON: Objection, lack of  
7 foundation. You can answer.  
8 MR. LANGSTON: This customer received a --  
9 they reference a flyer from Spectrum indicating  
10 that Windstream was going to be cutting their  
11 customers off or going out of business, and the  
12 customer also indicates that the letter or  
13 flyer looks like their bill, and so they were  
14 confused by that.  
15 BY MS. SIMS (CONT.):  
16 Q. You can set that aside.  
17 (Exhibit 41 was marked.)  
18 BY MS. SIMS (CONT.):  
19 Q. And I'm going to hand you a document I'm marking as  
20 Exhibit 41. Exhibit 41, the first page of it, bears the  
21 Bates number one -- WIN 1491.  
22 Mr. Langston, do you recognize this document?  
23 A. Yes, it's another recorded or transcription of  
24 phone calls from customers into Windstream.  
25 Q. And if you can please refer to the second page of

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1 Exhibit 41, line 23, can you please read that number?  
2 A. 062864311.  
3 Q. And what is that?  
4 A. It's the account number of the customer calling in  
5 for the transcription.  
6 Q. And if you can please read the pages bearing the  
7 Bates numbers WIN 1509 to 1510 to yourself, please.  
8 A. Okay. Through 15 what?  
9 Q. 1510.  
10 A. 1510. Okay.  
11 Okay.  
12 Q. And what issue was this Windstream customer calling  
13 in about?  
14 MR. KINGSTON: Objection, foundation.  
15 MR. LANGSTON: They received a -- a letter  
16 from Spectrum once again stating that  
17 Windstream was going through Chapter 11 through  
18 bankruptcy and that their services could be  
19 interrupted.  
20 And then they proceeded to say that they  
21 understood they could get a better deal from  
22 Spectrum and what could Windstream do to help  
23 with that.  
24 BY MS. SIMS (CONT.):  
25 Q. You can set that aside.

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1 (Exhibit 42 was marked.)  
2 BY MS. SIMS (CONT.):  
3 Q. I'm going to hand you a document we're marking as  
4 Exhibit 42. Exhibit 42 -- the front page of Exhibit 42  
5 bears the Bates number WIN 1909.  
6 A. Okay.  
7 Q. Mr. Langston, do you recognize Exhibit 42?  
8 A. I do.  
9 Q. And what is it?  
10 A. Another transcription of the phone calls of  
11 customers into Windstream.  
12 Q. I'm going to refer you to the second page of  
13 Exhibit 42, line 10. If you could please read that  
14 number.  
15 A. 162834261.  
16 Q. And what number is -- what does that number  
17 reflect?  
18 A. It's the account number of the customer's  
19 conversation that's transcribed below.  
20 Q. If you can please read the pages that bear the  
21 Bates number WIN 1932 to 1933 to yourself.  
22 A. Okay.  
23 Q. And what issue was this Windstream customer calling  
24 in about?  
25 MR. KINGSTON: Objection, lack of

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1 foundation.  
2 MR. LANGSTON: They're calling in because  
3 they received a communication from Spectrum  
4 that indicated Windstream is going through  
5 bankruptcy and that they were potentially going  
6 to lose their services. The customer went on  
7 to state that they didn't think it was  
8 appropriate for Spectrum to be doing that or  
9 sending that out or saying those things.  
10 BY MS. SIMS (CONT.):  
11 Q. And you can set that aside.  
12 (Exhibit 43 was marked.)  
13 BY MS. SIMS (CONT.):  
14 Q. I'm going to hand to you a document that I've  
15 marked as Exhibit 43. On the cover page of exhibit --  
16 first page of Exhibit 43 bears the Bates number WIN 381.  
17 Mr. Langston, do you recognize this document?  
18 A. I do.  
19 Q. And what is it?  
20 A. It's another transcription of customer phone calls  
21 into Windstream.  
22 Q. And please refer to the second page of Exhibit 43.  
23 It bears the Bates number 389. Can you please read the  
24 number on line one?  
25 A. 001032957.

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1 Q. And what does that number reflect?  
2 A. That is the account number for the customer calling  
3 in whose conversation is transcribed below.  
4 Q. If you could please refer to the page that is Bates  
5 numbered WIN 391 to yourself.  
6 Sorry. Let me -- let me correct that.  
7 Please read the pages bearing the Bates number  
8 WIN 390 through 391 to yourself.  
9 A. Okay.  
10 Q. And what issue was this Windstream customer calling  
11 in about?  
12 MR. KINGSTON: Objection, lack of  
13 foundation.  
14 MR. LANGSTON: This customer called in  
15 because once again they received a notification  
16 or a letter from Spectrum, and the customer  
17 wanted to know if Windstream was staying in  
18 business and going to continue to operate.  
19 They went on to say that they were confused  
20 because the -- actually, the envelope said  
21 attention Windstream customer. So they thought  
22 it was from Windstream. And then they went on  
23 to say that it's actually from Spectrum.  
24 MS. SIMS: No further questions at the  
25 moment. I'll pass the witness.

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1 MR. KINGSTON: I think that we may be done  
2 with those I'm hoping.  
3 BY MR. KINGSTON:  
4 Q. Can you pull out one of the -- you can just pick  
5 one, sir, one of the screenshot exhibits that we were  
6 looking at earlier in your examination?  
7 A. Feel free to forage.  
8 Q. Thanks a lot.  
9 A. Well, it was either you or me.  
10 Q. I know. I'm happy to do it.  
11 MS. SIMS: Do you want to take a break or  
12 are you good?  
13 MR. KINGSTON: No, no, no, no. I think  
14 we're fine.  
15 BY MR. KINGSTON (CONT.):  
16 Q. I'm handing you, sir, Exhibit 3, and you see in the  
17 screenshot there is a line that says EL, slash, ACCT,  
18 telephone account number.  
19 A. Oh, where?  
20 Q. I think you're looking at it.  
21 A. Where? Right here?  
22 Q. Yes, sir.  
23 A. The one that's redacted?  
24 Q. It is redacted.  
25 A. Okay.

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1 Q. Why did you redact the account number out of the  
2 screenshot and then plug it in somewhere else?  
3 A. The telephone number's been redacted. So that is  
4 CP&I regulated. The account number is not necessarily,  
5 but if you associate the two, then it's a violation.  
6 Q. I apologize for my confusion. I thought the  
7 account number was redacted out, and I couldn't tell  
8 which ones they matched up to?  
9 A. The account --  
10 Q. Thank you for that clarification --  
11 A. Yeah, the account is in the top right corner.  
12 Q. -- during the deposition.  
13 All right. Can you take a look at Exhibit 34?  
14 A. Sure.  
15 Okay.  
16 Q. Do you recall going over Exhibit 34 with counsel?  
17 A. Yes.  
18 Q. Take a look at page 484 of Exhibit 34.  
19 A. Yes.  
20 Q. Do you recall reading into the record the  
21 correspondence between Cary Taylor, Jeanne Dale and  
22 Stacey Manzano?  
23 A. Yes.  
24 Q. Do you recall reading into the record issue began  
25 3:30 p.m. eastern time Friday?

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<p>1 A. Yes.</p> <p>2 Q. And then you read 41 sites down over the weekend;</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. And then you declined to read all restored.</p> <p>6 MS. SIMS: Objection, argumentative.</p> <p>7 BY MR. KINGSTON (CONT.):</p> <p>8 Q. Right? Did you read in all restored?</p> <p>9 A. Yes. I thought I did. I may not have. I don't --</p> <p>10 I don't recall.</p> <p>11 Q. So if you didn't read in all restored, why did you</p> <p>12 decline to read in all restored?</p> <p>13 A. I don't know necessarily that I didn't decline to.</p> <p>14 I just say I don't recall if I did or not.</p> <p>15 Q. You may have -- you may have read it, you may not</p> <p>16 have. You can't remember?</p> <p>17 A. Right, but this -- that E-mail is dated Tuesday,</p> <p>18 March 19th. So I don't know exactly when they were</p> <p>19 restored after the weekend.</p> <p>20 Q. You recall reading just moments ago with Miss Sims</p> <p>21 41 sites down over the weekend, 50 additional sites down</p> <p>22 Monday, total sites suspended for non-pay 91. Do you</p> <p>23 recall reading it just in that fashion, sir?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And when you read that, you didn't read</p>	<p>1 all restored even though it's right below 41 sites down;</p> <p>2 isn't that right?</p> <p>3 A. I don't recall that I did or didn't.</p> <p>4 Q. And you didn't read all restored just under 50</p> <p>5 additional sites down; isn't that right?</p> <p>6 A. I don't recall that, that I did or didn't.</p> <p>7 Q. Right.</p> <p>8 A. I may not have. I don't know.</p> <p>9 Q. If you didn't, would it be fair to suggest that you</p> <p>10 didn't read that on purpose?</p> <p>11 MS. SIMS: Objection, argumentative. It</p> <p>12 mischaracterizes his testimony.</p> <p>13 MS. GREER: Join in the objection.</p> <p>14 MR. LANGSTON: I don't know that I</p> <p>15 knowingly did not do it, so I can't say there</p> <p>16 was any intention.</p> <p>17 BY MR. KINGSTON (CONT.):</p> <p>18 Q. Okay. You understand that Charter's service center</p> <p>19 is in Denver, Colorado, or one of them is?</p> <p>20 A. No, I didn't know that, but --</p> <p>21 Q. Do you have any reason to disbelieve that?</p> <p>22 A. No.</p> <p>23 Q. And you understand that Colorado is two hours</p> <p>24 behind Eastern time?</p> <p>25 A. Yes.</p>
Page 184	Page 185
<p>1 Q. Mountain time is two hours behind Eastern time?</p> <p>2 A. Yes, I understand that.</p> <p>3 Q. And take a look at the first page of Exhibit 34 if</p> <p>4 you would.</p> <p>5 A. Okay.</p> <p>6 Q. Do you see Stacey Manzano from Windstream at 4:21</p> <p>7 Eastern E-mailed Shauna, we have another disconnect due</p> <p>8 to nonpayment. Do you see that, sir?</p> <p>9 A. Yes.</p> <p>10 Q. At the bottom of the page.</p> <p>11 A. The one dated March 26th?</p> <p>12 Q. Yes, sir.</p> <p>13 A. Yes.</p> <p>14 Q. So on March 26th at 4:21 p.m., Stacey Manzano</p> <p>15 E-mailed Shauna, we have another disconnect due to</p> <p>16 nonpayment. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. All right. And then Shauna Brauchler,</p> <p>19 B-R-A-U-C-H-L-E-R, do you see that reference, sir?</p> <p>20 A. I do.</p> <p>21 Q. And when does Miss Brauchler respond to</p> <p>22 Miss Manzano?</p> <p>23 A. 2:24 p.m.</p> <p>24 Q. And can we agree with each other that</p> <p>25 Miss Brauchler probably doesn't have a time machine?</p>	<p>1 A. That would be -- that time on that E-mail would be</p> <p>2 her local time according to her E-mail. So if she was</p> <p>3 mountain time, that would be three minute after the 4:21</p> <p>4 p.m.</p> <p>5 Q. Okay. So the Charter person responds to the</p> <p>6 Windstream person three minutes after the E-mail and</p> <p>7 confirms that she gets the right account; isn't that</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. All right. And then four minutes after that the</p> <p>11 Windstream person says, this is the correct address; is</p> <p>12 that right?</p> <p>13 A. That is correct.</p> <p>14 Q. And then one minute after that the Charter</p> <p>15 representative says, thank you. I understand this is</p> <p>16 back up and working. Can you confirm? Isn't that right?</p> <p>17 A. That is correct.</p> <p>18 Q. And then what does the Windstream person say?</p> <p>19 A. Yes, they are back up. And then can you confirm</p> <p>20 that no other services on this billing account were</p> <p>21 impacted?</p> <p>22 Q. And we don't know what the response to that is, do</p> <p>23 we, sir?</p> <p>24 A. No, we don't.</p> <p>25 Q. And this is a document that was produced by</p>

<p style="text-align: right;">Page 186</p> <p>1 Windstream; isn't that right, sir?</p> <p>2 A. I believe so, yes.</p> <p>3 Q. And so whatever the response is that would be</p> <p>4 something that Windstream would have?</p> <p>5 A. I -- I'd have to assume.</p> <p>6 Q. Okay.</p> <p>7 May I direct your attention to Exhibit 33?</p> <p>8 Actually, I don't think I need that one. I'm</p> <p>9 sorry.</p> <p>10 A. Okay.</p> <p>11 Q. You testified that Windstream had 3,000 customer</p> <p>12 care associates?</p> <p>13 A. Approximately.</p> <p>14 Q. And are those full time or part time?</p> <p>15 A. Both.</p> <p>16 Q. So 3,000, how many full time?</p> <p>17 A. I have no idea.</p> <p>18 We have people on flex time. We have people, you</p> <p>19 know, based upon working mothers, different times of day,</p> <p>20 you know, whatever, so I don't know how many.</p> <p>21 Q. So 3,000, some part time, some full time?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know how many calls per day those 3,000</p> <p>24 customer care associates field?</p> <p>25 A. No, I don't.</p>	<p style="text-align: right;">Page 187</p> <p>1 Q. Any estimate at all?</p> <p>2 A. No.</p> <p>3 Q. Who would be able to find that out for us?</p> <p>4 A. Paul Strickland.</p> <p>5 Q. Do you know the average time of a phone call</p> <p>6 handled by one of those 3,000 customer care associates?</p> <p>7 A. I don't know the current average handle time.</p> <p>8 Q. Would that be something Mr. Strickland would know</p> <p>9 as well?</p> <p>10 A. Absolutely.</p> <p>11 Q. Mr. Strickland could tell us the average time of a</p> <p>12 phone call, couldn't he?</p> <p>13 A. Yes.</p> <p>14 Q. He could tell us how many of those 3,000 customer</p> <p>15 care associates are part time and how many are full time?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have Exhibit 21 in front of you, sir?</p> <p>18 A. I'm sure I do.</p> <p>19 Fish it out of the pile.</p> <p>20 Q. It looks like this without the chicken scratch on</p> <p>21 it.</p> <p>22 A. Is that a technical term?</p> <p>23 Q. Yeah.</p> <p>24 A. 21. Okay.</p> <p>25 Yes.</p>
<p style="text-align: right;">Page 188</p> <p>1 Q. You see there that there were 215 calls handled by</p> <p>2 some of those 3,000 customer care associates?</p> <p>3 A. Yes.</p> <p>4 Q. And can you tell which among those 215 calls</p> <p>5 involved realtime coaching via instant messaging?</p> <p>6 A. No, you can't tell that from this.</p> <p>7 Q. And can you tell which of those 215 calls involved</p> <p>8 realtime coaching with somebody sort of standing over</p> <p>9 their shoulder as you described to me earlier today?</p> <p>10 A. No.</p> <p>11 Q. Take a look at Exhibit 27 if you would, sir.</p> <p>12 A. Okay.</p> <p>13 Q. You see on page WIN 75 in the bottom right-hand</p> <p>14 corner?</p> <p>15 A. Did you say Exhibit 27?</p> <p>16 MS. SIMS: 27? Maybe we have a double 27.</p> <p>17 MR. PRITSCH: I think you've got double</p> <p>18 27.</p> <p>19 MS. SIMS: Oh-oh. We have a double 27.</p> <p>20 We may have to mark a 27A/B.</p> <p>21 MR. KINGSTON: You want me to do that</p> <p>22 right now?</p> <p>23 MS. SIMS: Hold on. Let's just confirm.</p> <p>24 Can we take a second?</p> <p>25 MR. KINGSTON: Sure.</p>	<p style="text-align: right;">Page 189</p> <p>1 MS. SIMS: Take a quick break. Let's just</p> <p>2 confirm.</p> <p>3 MR. LANGSTON: Okay.</p> <p>4 MS. SIMS: Let's confirm there's actually</p> <p>5 two 27s.</p> <p>6 MR. LANGSTON: I've got a 27 and then I</p> <p>7 skip to a 29. No, there's 28.</p> <p>8 MS. SIMS: Oh, 28. Yeah. I think it's --</p> <p>9 let me see.</p> <p>10 MR. LANGSTON: So I go 27, 28.</p> <p>11 MS. SIMS: 27.</p> <p>12 MR. LANGSTON: 26 I've got as this.</p> <p>13 MS. SIMS: 28, 29.</p> <p>14 MR. LANGSTON: Voluminous.</p> <p>15 MS. SIMS: Which -- which exhibit are you</p> <p>16 referring to?</p> <p>17 MR. KINGSTON: This one.</p> <p>18 MS. SIMS: That looks like it's 29.</p> <p>19 MR. LANGSTON: 29.</p> <p>20 MR. KINGSTON: Oh, perfect. Even better.</p> <p>21 You want to take another run at that?</p> <p>22 MS. SIMS: Yeah, absolute. Yeah.</p> <p>23 MR. LANGSTON: I'll give it a go.</p> <p>24 MS. SIMS: You can go back on.</p> <p>25 MR. KINGSTON: You're probably still on.</p>



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1 I just keep talking to myself.  
2 MS. SIMS: That was a fake off the record.  
3 MR. LANGSTON: Okay. What document do you  
4 want to look at?  
5 BY MR. KINGSTON (CONT.):  
6 Q. Let's take a look at Exhibit 29, sir. Can we do  
7 that?  
8 A. Sure.  
9 Q. I direct your attention to page WIN 75.  
10 A. Okay.  
11 Q. You see a reference to Windstream customer  
12 notifications?  
13 A. Yes.  
14 Q. I see that communication was sent out beginning  
15 March 15th of 2019; is that right?  
16 A. That is correct.  
17 Q. And so Windstream notified its customers of -- that  
18 it was going into bankruptcy on March 15th of 2019?  
19 A. Yes.  
20 Q. And I see that customers should have received these  
21 notifications the week of March 18 and March 25th?  
22 A. Yes.  
23 Q. So Windstream customers would have received a  
24 notice of bankruptcy the week of March -- March 18th and  
25 March 25th; isn't that right?

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1 A. Yes.  
2 Q. And do you see that there's -- this is --  
3 Exhibit 29 is a reproduction of a Web site or looks to  
4 be?  
5 A. On where? Where are you talking? At the bottom?  
6 Q. The entirety of Exhibit 29 looks to be a  
7 reproduction of some sort of a Web site where information  
8 is on some sort of a Web site?  
9 A. Most likely, yeah. It would be an internal support  
10 site.  
11 Q. I infer from the fact that cover letter and notice  
12 of bankruptcy are bolded that those are probably  
13 hyperlinks that one could click on and actually get the  
14 document itself?  
15 A. I would -- I would surmise that, yes.  
16 MR. KINGSTON: All right. I don't think  
17 we received a copy of the cover letter and --  
18 or the notice of bankruptcy, counsel, and I  
19 would like one or I guess I would like one of  
20 each.  
21 MS. SIMS: I believe we can do that.  
22 MR. KINGSTON: Thank you.  
23 MS. SIMS: And sorry. Just for the  
24 record, I think you said Exhibit 29 again, but  
25 you're referring to Exhibit 27; right?

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1 MR. KINGSTON: No, I think I'm referring  
2 to Exhibit 29 this time.  
3 MS. SIMS: Okay.  
4 MR. LANGSTON: This is 29.  
5 MR. KINGSTON: Yes.  
6 MS. SIMS: Okay. It's Exhibit 27. I have  
7 it written down wrong.  
8 MR. KINGSTON: I think that I cribbed off  
9 of you and that's why I got the exhibit number  
10 wrong.  
11 MS. SIMS: My apologies.  
12 MR. KINGSTON: That's all right. All  
13 right.  
14 MR. LANGSTON: Where do you want to go  
15 now?  
16 BY MR. KINGSTON (CONT.):  
17 Q. Dog gone it. I'm going to ask, which one is this?  
18 A. Oh, my.  
19 Q. This was the one bearing the Bates label 1771 in  
20 the bottom right-hand corner.  
21 A. Is this in the ones that you provided or the  
22 ones --  
23 Q. I think it was a black and white, and it was double  
24 sided.  
25 MS. SIMS: So --

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1 MR. KINGSTON: Oh, no, single sided, but  
2 it was black and white.  
3 MR. LANGSTON: Right here. Exhibit 25.  
4 BY MR. KINGSTON (CONT.):  
5 Q. All right. Sir, can I direct your attention to  
6 Exhibit 25?  
7 A. Okay.  
8 Q. I see the second page, 1772.  
9 A. Yes.  
10 Q. It looks like the customer, what was that, call in  
11 to report AT&T and Spectrum false advertising?  
12 A. It reads that way, yes.  
13 Q. And then is there a reference to Spectrum on page  
14 1773?  
15 A. No, there is not.  
16 Q. But this is one where knowing as we do now that the  
17 account number is in that upper right-hand corner, is  
18 that the transcript might reflect a reference to  
19 Spectrum?  
20 A. Yes.  
21 Q. Okay.  
22 A. I do have a clarification for you from earlier.  
23 Q. Sure.  
24 A. The terminology CAMP on there appears to be a stamp  
25 of the source system for the data. So when they type --



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1 when they -- it's a system stamp about what the source of  
2 the data is. So when they -- when they type in -- into  
3 this WindCare platform, the care platform that you're  
4 seeing the screenshot of --  
5 Q. Okay.  
6 A. -- it gets cross-referenced from CAMP. So it's  
7 just a system stamp. It doesn't mean anything about the  
8 call.  
9 Q. Thank you. A lot of people got very excited about  
10 CAMP every time they got off the call, but --  
11 A. Yeah, I know, and what is the exclamation points on  
12 it.  
13 Q. Exhibit 20.  
14 A. Okay.  
15 Q. I don't see a reference to a door hanger in the  
16 text of Exhibit 20 on page WIN 70. Can you direct me to  
17 that?  
18 A. It doesn't speak towards the door hanger. It talks  
19 about the Spectrum sales individual knocking on their  
20 door.  
21 Q. Okay. So if earlier you had testified that there  
22 was a reference to a door hanger in this portion of the  
23 transcript, that testimony would have been incorrect?  
24 A. That would be incorrect.  
25 Q. And does the -- does the voice mail message from

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1 the customer indicate that the letter about Windstream  
2 saying they're in bankruptcy came from Windstream or  
3 Charter or AT&T or somebody else?  
4 A. It says I got those letters about Windstream saying  
5 they're in bankruptcy. Well, today the Spectrum guy  
6 comes knocking on the door to tell me in two months I  
7 won't have any -- I won't have no service.  
8 Q. So the person as I read to say, what I was calling  
9 about, I got those letters about Windstream saying  
10 they're in bankruptcy. Have I read that correctly?  
11 A. Yes.  
12 Q. And can you tell from that sentence whether those  
13 letters about Windstream saying they're in bankruptcy  
14 came from Windstream, Charter or AT&T?  
15 A. You can't tell who they came from.  
16 Q. Okay.  
17 Does Windstream ever utilize direct mail without  
18 the Windstream name on the outside of the envelope?  
19 A. I don't know.  
20 Q. Is that something that Windstream might do?  
21 A. I don't know that they would do. I don't think so.  
22 Q. You don't believe that Windstream ever uses direct  
23 mail without Windstream's name on the outside envelope?  
24 A. I don't believe so, but I don't -- like I said,  
25 I'll go back to my original answer. I don't know.

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1 Q. What about Windstream's logo? Does Windstream ever  
2 use direct mail without its logo on the outside envelope?  
3 A. I don't know.  
4 Q. How did Windstream go about identifying -- let me  
5 back up, sir.  
6 Windstream records all of its calls with customers  
7 on the customer service lines?  
8 A. I don't know that it's a hundred percent, but it's  
9 an extensive amount of our calls recorded. I mean, we  
10 try to do a lot of them through there because at times  
11 there might be a customer inquiry back on one of those  
12 calls, and we have to look at the call report and  
13 potentially provide our representative coaching.  
14 Q. So how did Windstream -- how did Windstream go  
15 about identifying the Spectrum related calls that are  
16 referenced in Exhibit 21?  
17 A. So two different -- two different ways of doing it.  
18 One, we went back through the call notes associated with  
19 the customers, ran data analysis against the system to  
20 see who called in about Spectrum. Secondly, we actually  
21 manually went through recordings for customers as well to  
22 discern which ones were referencing Spectrum. So we  
23 could do a search on the data within the call recordings  
24 as well.  
25 Q. So you could search by key words. You searched for

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1 Spectrum or bankruptcy?  
2 A. I believe that's the technique that they use.  
3 That's what I was indicated.  
4 Q. Somebody didn't sit and listen to gajillions of  
5 hours of telephone calls?  
6 A. No. No. You couldn't. No.  
7 Q. But so -- and we can -- we can infer, can't we,  
8 sir, that the call notes wouldn't have been the only way  
9 to identify customer calls related to Spectrum because we  
10 went through a bunch of customer calls that didn't say  
11 anything about Spectrum, and then we went through the  
12 transcripts and they said stuff about Spectrum; right?  
13 A. Right.  
14 Q. So --  
15 A. But we don't know -- are you talking referencing  
16 the screenshots --  
17 Q. Yes, sir.  
18 A. -- as exhibits?  
19 So those screenshots are just shorthand  
20 transcription. It doesn't necessarily mean that it's  
21 fully inclusive of the conversation.  
22 Q. No, I --  
23 A. You'd have to look at the recording to understand  
24 that.  
25 Q. I think your lawyer demonstrated that point.

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<p>1 A. Okay.</p> <p>2 Q. So my question was just as far as identifying those</p> <p>3 portions of the transcript --</p> <p>4 A. Oh, gotcha.</p> <p>5 Q. -- we wouldn't have been able to identify them from</p> <p>6 this -- the call notes because some of them didn't say</p> <p>7 Spectrum; right?</p> <p>8 A. No, I mean, you'd have to go back -- you'd have to</p> <p>9 go back and look at the recording and see that it says</p> <p>10 Spectrum and then go back and look at the account notes.</p> <p>11 Q. So it's searchable. In some fashion, it's</p> <p>12 searchable?</p> <p>13 A. In some form or fashion, it's searchable.</p> <p>14 Q. Okay.</p> <p>15 A. You're not going to sit down and comb through a</p> <p>16 hundred thousand calls.</p> <p>17 Q. Nobody sat -- the way this was produced wasn't by</p> <p>18 just listening. It was by doing some form of a search?</p> <p>19 A. Right.</p> <p>20 Q. Okay.</p> <p>21 MR. KINGSTON: I think I pass the witness.</p> <p>22 I know I pass the witness.</p> <p>23 MS. SIMS: Okay. I don't believe I have</p> <p>24 any questions.</p> <p>25 I do want to take a short break just to</p>	<p>1 confirm that all the numbers are correct in</p> <p>2 here just to be sure.</p> <p>3 MR. KINGSTON: That's fine.</p> <p>4 MR. LANGSTON: I'm not touching the pile.</p> <p>5 MR. SIMS: We're going off the record.</p> <p>6 The time is approximately 3:54 p.m.</p> <p>7 (The deposition recessed at 3:54 p.m. and</p> <p>8 reconvened at 3:59 p.m.)</p> <p>9 MR. SIMS: We are back on the record. The</p> <p>10 time is approximately 3:59 p.m.</p> <p>11 MS. SIMS: I'm just going to go back on</p> <p>12 the record to clarify a couple of exhibit</p> <p>13 numbers to the extent there was an inadvertent</p> <p>14 misreference to the exhibit numbers.</p> <p>15 Exhibit 27 bears the Bates numbers WIN 54</p> <p>16 through 55, and it is -- it was Exhibit 9 to</p> <p>17 Mr. Langston's declaration. It's the customer</p> <p>18 tweet.</p> <p>19 Exhibit 28 bears the Bates numbers WIN 77</p> <p>20 through WIN 84 and that was the document</p> <p>21 consisting of the corrective advertisements.</p> <p>22 And Exhibit Number 29 bears the Bates</p> <p>23 numbers WIN 74 through 76 and that document</p> <p>24 consisted of a call script.</p> <p>25 And with that, I believe both parties are</p>
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<p>1 done.</p> <p>2 MR. KINGSTON: Yes, ma'am.</p> <p>3 MS. SIMS: You can go off the record.</p> <p>4 MR. SIMS: Okay. This concludes the</p> <p>5 deposition. We're going off the record. The</p> <p>6 time is approximately 4 p.m.</p> <p>7 (The taking of the above-styled deposition</p> <p>8 concluded at 4:00 p.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 CERTIFICATE</p> <p>2 STATE OF ARKANSAS*</p> <p>3 * ss</p> <p>4 COUNTY OF GARLAND*</p> <p>5 I, GAROLD W. PRITSCH, Certified Court Reporter, a</p> <p>6 Notary Public in and for the aforesaid county and state,</p> <p>7 do hereby certify that the witness, LEWIS LANGSTON, was</p> <p>8 duly sworn by me prior to the taking of testimony as to</p> <p>9 the truth of the matters attested to and contained</p> <p>10 therein; that the testimony of said witness was taken by</p> <p>11 me in machine shorthand notes and was thereafter reduced</p> <p>12 to typewritten form by me or under my direction and</p> <p>13 supervision; that the foregoing transcript is a true and</p> <p>14 accurate record of the testimony given to the best of my</p> <p>15 understanding and ability.</p> <p>16 In accordance with Rule 30(e) of the Rules of Civil</p> <p>17 Procedure, review of the transcript was requested by the</p> <p>18 deponent or a party thereto.</p> <p>19 I FURTHER CERTIFY that I am neither counsel for,</p> <p>20 related to, nor employed by any of the parties to the</p> <p>21 action in which this proceeding was taken; and, further,</p> <p>22 that I am not a relative or employee of any attorney or</p> <p>23 counsel employed by the parties hereto, nor financially</p> <p>24 interested, or otherwise, in the outcome of this action;</p> <p>25 and that I have no contract with the parties, attorneys,</p> <p>or persons with an interest in the action that affects or</p> <p>has a substantial tendency to affect impartiality, that</p> <p>requires me to relinquish control of an original</p> <p>deposition transcript or copies of the transcript before</p> <p>it is certified and delivered to the custodial attorney,</p> <p>or that requires me to provide any service not made</p> <p>available to all parties to the action.</p> <p>GIVEN UNDER MY HAND and SEAL OF OFFICE on this</p> <p>3rd day of May, 2019.</p> <p>Garold W. Pritsch, CCR, LS No. 329, Notary</p> <p>Public in and for Garland County, Arkansas</p> <p>My Commission expires February 27, 2020.</p>

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1 ERRATA SHEET OF LEWIS LANGSTON  
2 PAGE # | LINE # | ERROR | CORRECTION & REASON  
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1 WITNESS SIGNATURE PAGE  
2  
3 I, LEWIS LANGSTON, the witness, hereby certify that  
4 I have thoroughly read the transcript of my deposition  
5 taken on the 1st day of May, 2019, and have made any  
6 necessary changes or corrections to make the transcript a  
7 true and accurate accounting of my testimony given on  
8 that day.  
9  
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11 Signature  
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13 Date  
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1 REPORTER'S CERTIFICATION OF CERTIFIED COPY  
2  
3 I, GAROLD W. PRITSCH, LS No. 329, Certified Court  
4 Reporter in the State of Arkansas, certify that the  
5 foregoing pages 1 through 203 constitute a true and  
6 correct copy of the original deposition of LEWIS LANGSTON  
7 taken on May 1st, 2019.  
8 I declare under penalty of perjury under the laws  
9 of the State of Arkansas that the foregoing is true and  
10 correct.  
11 Dated this 3rd day of May, 2019.  
12  
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25

STATE OF \_\_\_\_\_ \*  
\* ss.  
COUNTY OF \_\_\_\_\_ \*

SUBSCRIBED AND SWORN TO before me, a Notary Public  
in and for \_\_\_\_\_ County \_\_\_\_\_.  
Given under my hand and seal of office on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

My commission expires \_\_\_\_\_.

DRAFT COPY



**Debtor**



**Defendants**

Page 1	Page 2
<p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>In re: WINDSTREAM HOLDINGS, INC., et al., Debtors. Chapter 11 Case No. 19-22312(RDD) WINDSTREAM HOLDINGS, INC., et al., Plaintiffs, vs. CHARTER COMMUNICATIONS, INC. and CHARTER COMMUNICATIONS OPERATING, LLC, Defendants. -----X ** CONFIDENTIAL - ATTORNEYS' EYES ONLY **</p> <p>DEPOSITION OF KELLY ATKINSON Stamford, Connecticut Wednesday, May 1, 2019</p> <p>REPORTER: Angela M. Shaw-Crockett, CCR, RMR, CSR License No. SHR.0000519</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 May 1, 2019 13 11:59 a.m. 14 15 DEPOSITION of KELLY ATKINSON, taken by the 16 Plaintiff, held at Wiggin and Dana, Two Tresser 17 Boulevard, Two Stamford Plaza, Stamford, 18 Connecticut, before Angela M. Shaw-Crockett, a 19 Certified Court Reporter, Certified Shorthand 20 Reporter, Registered Merit Reporter and Notary 21 Public of the States of New York, New Jersey and 22 Connecticut. 23 24 25</p>
Page 3	Page 4
<p>1 APPEARANCES: 2 3 KATTEN MUCHIN ROSENMAN LLP 4 Attorneys for The Plaintiff 5 2029 Century Park East 6 Suite 2600 7 Los Angeles, California 90067-3012 8 9 BY: RYAN J. LARSEN, ESQ. 10 ryan.larsen@kattenlaw.com 11 12 THOMPSON COBURN LLP 13 Attorneys for The Defendant 14 One US Bank Plaza 15 St. Louis, Missouri 63101 16 BY: MICHAEL L. NEPPLE, ESQ. 17 BRIAN HOCKETT, ESQ. 18 mnepple@thompsoncoburn.com 19 bhockett@thompsoncoburn.com 20 21 MORRISON &amp; FOERSTER 22 Attorneys for The Committee of 23 Unsecured Creditors 24 125 Broad Street 25 New York, New York 10004 BY: STEVE RAPPOPORT, ESQ. ALSO PRESENT: Kristin Zarnetske, The Videographer ** ** *</p>	<p>1 INDEX 2 EXAMINATION BY PAGE 3 MR. LARSEN 7 4 CONFIDENTIAL EXHIBITS 5 ATTORNEYS' EYES ONLY 6 7 FOR ID DESCRIPTION PAGE 8 Exhibit 1 Notice 29 9 Exhibit 2 Document Bates Charter_000540 through 39 10 Charter_000543 11 Exhibit 3 Email Bates-stamped Charter 626 to 627 45 12 Exhibit 4 Email Bates-stamped Charter 652 through 654 52 13 Exhibit 5 Email thread, Bates-stamped Charter 677 55 14 through 678 15 Exhibit 6 Email string, Bates-stamped Charter 682 64 16 through 685 17 Exhibit 7 Email exchange Bates-stamped Charter 936 69 18 through 941 19 Exhibit 8 Working document between the team and RAPP 80 20 Exhibit 9 Email Bates-stamped Charter 964 81 21 Exhibit 10 Email string Bates-stamped Charter 1002 82 22 Exhibit 11 Email string Bates-stamped Charter 1005 83 23 Exhibit 12 Document Bates-stamped Charter 965 86 24 Exhibit 13 Email string Bates-stamped Charter 1217 91 25 through 1220</p>

Page 5			Page 6		
1	CONFIDENTIAL EXHIBITS (CONT'D)		1	THE VIDEOGRAPHER: Good morning. We are	
2	ATTORNEYS' EYES ONLY		2	now going on the record at 9:04 a.m. on May 1,	
3			3	2019.	
4	FOR ID	DESCRIPTION PAGE	4	Please note that the microphones are	
5	Exhibit 14	Email Bates-stamped Charter 9885 94	5	sensitive and may pick up whispers and private	
6	Exhibit 15	Email Bates-stamped Charter 1421 97	6	conversations and cellular interference.	
7	Exhibit 16	Document Bates-stamped Charter 1422, 1423 99	7	Please turn off all cell phones or place them	
8	Exhibit 17	Email Bates-stamped Charter 6088 102	8	away from the microphones as they can interfere	
9	Exhibit 18	Email string Bates-stamped Charter 9899 104	9	with the deposition audio. Audio and video	
		through 9904	10	recording will continue to take place unless	
10			11	all parties agree to go off the record.	
11	Exhibit 19	Some documents Bates-stamped WIN 56 106	12	This is Media Unit No. 1 of the videotaped	
		through 61	13	deposition of Kelly Atkinson taken by plaintiff	
12			14	in the matter of Windstream Holdings, Inc., et	
13	Exhibit 20	Email string Bates-stamped Charter 6254 114	15	al., debtors, and Windstream Holdings, Inc., et	
		to 6255	16	al., plaintiffs, versus Charter Communications,	
14			17	Inc., Charter Communications Operating, LLC,	
15	Exhibit 21	Email string Bates-stamped Charter 6319 116	18	defendants, Case No. 19-22312(RDD) in the	
		to 6325	19	United States Bankruptcy Court for the Southern	
16			20	District of New York.	
17	Exhibit 22	Email Bates-stamped Charter 8116 118	21	This deposition is being held at the firm	
18	Exhibit 23	Email Bates-stamped Charter 8573 123	22	of Wiggin and Dana at 281 Tresser Boulevard,	
19			23	Stamford, Connecticut. My name is Kristin	
20			24	Zarnetske. I'm the videographer, representing	
21			25	Veritext. The court reporter, also in	
22					
23					
24					
25					

Page 7			Page 8		
1	association with Veritext, is Angie Shaw.		1	I'm sure you've had the opportunity to discuss the	
2	Will counsel present please introduce		2	procedures today with your attorneys, but I want to	
3	themselves for the record.		3	take just a few minutes to go over the procedures to	
4	MR. LARSEN: Good morning. Ryan Larsen on		4	make sure we're all on the same page. Okay?	
5	behalf of Windstream.		5	Point No. 1, you just nodded your head at	
6	MR. NEPPLE: Michael Nepple from Thompson		6	me. If you could do your best to give audible	
7	Coburn on behalf of Charter.		7	responses like yeses or noes, because --	
8	MR. HOCKETT: Brian Hockett of Thompson		8	A. Yes.	
9	Coburn on behalf of Charter.		9	Q. -- the court reporter is taking down the	
10	MR. RAPPOPORT: Steve Rappoport, Morrison		10	transcript and sometimes a nod or a shake can be	
11	& Foerster, on behalf of the committee of		11	misunderstood later.	
12	unsecured creditors.		12	Do you understand?	
13	THE VIDEOGRAPHER: Thank you. Would the		13	A. I do.	
14	court reporter please swear in the witness.		14	Q. Okay. I'd like to remind you or tell you	
15	KELLY ATKINSON,		15	that that oath you took is the same oath that you	
16	called as a witness, having first been		16	would take if you were testifying in court.	
17	duly sworn, was examined and testified as		17	Do you understand that?	
18	follows:		18	A. Yes, I do.	
19	EXAMINATION		19	Q. Okay. So the same penalty for perjury	
20	BY MR. LARSEN:		20	would attach in the informal setting of this	
21	Q. Ms. Atkinson, good morning.		21	courtroom as -- in this conference room as we would	
22	A. Good morning.		22	have in a courtroom.	
23	Q. My name is Ryan Larsen. I'm one of the		23	Do you understand?	
24	attorneys for Windstream in this matter.		24	A. Yes, I do.	
25	Before we get started on the substance,		25	Q. Okay. So the parties to this matter can	

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<p>1 use this testimony at the trial in this matter or</p> <p>2 any other subsequent proceeding in this matter.</p> <p>3 Do you understand that?</p> <p>4 A. Yes, I do.</p> <p>5 Q. How this is going to work today is I'm</p> <p>6 going to be asking questions, you're going to be</p> <p>7 answering, the court reporter here is going to be</p> <p>8 taking down everything everybody says.</p> <p>9 Do you understand?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And for that reason, in addition to</p> <p>12 giving verbal answers, it's important that we don't</p> <p>13 talk over one another.</p> <p>14 Do you understand?</p> <p>15 A. Yes.</p> <p>16 Q. So -- and it's a little difficult, because</p> <p>17 that's not how people talk in real life. Usually if</p> <p>18 I'm asking the question, you can see where I'm going</p> <p>19 and you'd jump in with a yes or no. I'm going to</p> <p>20 caution you to try not to do that today, just</p> <p>21 because it's difficult for the court reporter to</p> <p>22 take down two people talking at one time.</p> <p>23 Do you understand?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Likewise, I'm going to do my very</p>	<p>1 best to make sure you're completely done with your</p> <p>2 answer before I jump in with the next question. And</p> <p>3 if I make a mistake, I apologize. I will stop. I</p> <p>4 want to make sure you get all of your answer in</p> <p>5 before we go to the next question.</p> <p>6 Do you understand?</p> <p>7 A. Yes.</p> <p>8 MR. NEPPLE: And just before we begin, we</p> <p>9 had a conversation off the record that we're</p> <p>10 designating the entire transcript and all</p> <p>11 exhibits as attorneys' eyes only for purposes</p> <p>12 of this deposition. Parties will discuss, down</p> <p>13 the road, de-designating or forwarding</p> <p>14 designation. But right now, since the</p> <p>15 committee is in the room, a designation for</p> <p>16 all -- the transcript and all exhibits.</p> <p>17 BY MR. LARSEN:</p> <p>18 Q. So when we're done today, you're going to</p> <p>19 be given a booklet to review that has everything</p> <p>20 that was stated on the record today.</p> <p>21 A. Okay.</p> <p>22 Q. Okay?</p> <p>23 And you will have the right to review it</p> <p>24 and make any changes if necessary.</p> <p>25 Do you understand?</p>
Page 11	Page 12
<p>1 A. Yes.</p> <p>2 Q. I just want to caution you, though. If</p> <p>3 you make any substantive changes, you know, turning</p> <p>4 a "yes" into a "no" or changing the substance of</p> <p>5 your answer, myself or any of the other attorneys in</p> <p>6 this matter have the right to comment on that change</p> <p>7 at trial or any other proceeding.</p> <p>8 Do you understand?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So, for that reason, it's important</p> <p>11 to do your best to give your best testimony today.</p> <p>12 Do you understand?</p> <p>13 A. Yes.</p> <p>14 Q. Your attorneys and -- have the right to</p> <p>15 make objections to certain questions today. So if I</p> <p>16 ask a question and they think it's improper for some</p> <p>17 reason, they have the right to jump in for an</p> <p>18 objection. However, unless they specifically</p> <p>19 instruct you not to answer, you still have to answer</p> <p>20 the question, even though there's an objection</p> <p>21 pending.</p> <p>22 Do you understand?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. If you do not hear me or if I'm not</p> <p>25 speaking clearly, which is likely, please ask me to</p>	<p>1 rephrase the question or repeat it. I want to make</p> <p>2 sure you understand all the questions today.</p> <p>3 Do you understand?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. This is not a test of endurance</p> <p>6 today. We will be taking, you know, many breaks.</p> <p>7 Probably every hour or so, we'll step out for five</p> <p>8 minutes. But if you need a break before then, go to</p> <p>9 the bathroom, grab a drink of water, anything, just</p> <p>10 let me know and we'll take a break. Okay?</p> <p>11 A. Okay. Thank you.</p> <p>12 Q. So sometimes it's difficult to remember</p> <p>13 exactly what happened in a matter, especially -- I</p> <p>14 may be asking you about conversations that occurred</p> <p>15 weeks or months ago. I want to caution you. I</p> <p>16 don't want you to guess. I don't want you to guess</p> <p>17 what you think may have happened. Rather I just</p> <p>18 want the best of your recollection, the best that</p> <p>19 you remember.</p> <p>20 Do you understand the difference?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And just a dumb example that people</p> <p>23 like to give is if I ask you how long this table is,</p> <p>24 you could look at it and guess it's maybe 20 feet or</p> <p>25 something like that. But if I asked you how long</p>

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<p>1 the conference table in my office is, that would</p> <p>2 just be a pure guess, because I assume you haven't</p> <p>3 been to my office. Right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So that's the distinction.</p> <p>6 Do you have any questions about the</p> <p>7 procedure before we get started today?</p> <p>8 A. No.</p> <p>9 Q. Okay. Have you ever been deposed before</p> <p>10 today?</p> <p>11 A. No.</p> <p>12 Q. Have you ever testified under oath in any</p> <p>13 other kind of proceeding before today?</p> <p>14 A. No.</p> <p>15 Q. Have you taken any medications or anything</p> <p>16 that might affect your ability to recall events to</p> <p>17 the best of your ability today?</p> <p>18 A. No.</p> <p>19 Q. Have you -- have you reviewed any</p> <p>20 documents to prepare for your testimony today?</p> <p>21 A. There were a few emails that we went</p> <p>22 through that reference my name or a statement that I</p> <p>23 had made.</p> <p>24 Q. And is it your understanding that those</p> <p>25 emails are part of the emails that have been</p>	<p>1 produced in this case?</p> <p>2 A. Yes.</p> <p>3 Q. Have you reviewed any documents that have</p> <p>4 not been produced in this case?</p> <p>5 A. No.</p> <p>6 Q. Have you spoken to anybody to help prepare</p> <p>7 you for the deposition today?</p> <p>8 A. My attorneys.</p> <p>9 Q. Have you spoken to anybody other than your</p> <p>10 attorneys to help prepare you for the deposition</p> <p>11 today?</p> <p>12 A. No.</p> <p>13 Q. When did you speak -- I'm not going to ask</p> <p>14 you about the substance of what you spoke to your</p> <p>15 attorneys with.</p> <p>16 A. Right.</p> <p>17 Q. When did you speak with your attorneys to</p> <p>18 prepare for the deposition today?</p> <p>19 A. It would have been this week or this</p> <p>20 morning.</p> <p>21 Q. Did you speak to them before this morning?</p> <p>22 A. Yes, this week, earlier this week, Monday.</p> <p>23 Q. So are those the only two meetings, on</p> <p>24 Monday and then this morning, with your attorneys to</p> <p>25 help prepare for this deposition?</p>
Page 15	Page 16
<p>1 A. There was one last week. I'm just not</p> <p>2 recalling the day.</p> <p>3 Q. Ms. Atkinson, do you have a college</p> <p>4 degree?</p> <p>5 A. Yes.</p> <p>6 Q. And where is that from?</p> <p>7 A. Villanova University.</p> <p>8 Q. And when did you obtain that degree?</p> <p>9 A. 1988 was graduation.</p> <p>10 Q. What was your degree in?</p> <p>11 A. It was in communications and business, a</p> <p>12 dual degree.</p> <p>13 Q. And did you go do any graduate school or</p> <p>14 anything further than Villanova?</p> <p>15 A. Only through Time Warner Cable. I</p> <p>16 participated in some business graduate school at</p> <p>17 Harvard and one at Stamford.</p> <p>18 Q. When did you do that?</p> <p>19 A. Stamford was in March and Harvard -- I'm</p> <p>20 trying to remember the date. I think it was 2010.</p> <p>21 Q. So Stamford was in March of this year?</p> <p>22 A. Yes.</p> <p>23 Q. And did you obtain a degree from Harvard</p> <p>24 or Stamford?</p> <p>25 A. It was just a business course degree, so</p>	<p>1 it was an abbreviated. I'm not exactly sure how</p> <p>2 they characterize that. Continuing education.</p> <p>3 Q. And what was the nature of the class or</p> <p>4 classes you took?</p> <p>5 A. It was through Women in Communications,</p> <p>6 WICT association. And it's in conjunction with the</p> <p>7 cable industry.</p> <p>8 Q. Other than what we've just discussed, do</p> <p>9 you have any other education or training about the</p> <p>10 cable industry?</p> <p>11 A. No.</p> <p>12 Q. What was your first job after graduating</p> <p>13 from Villanova?</p> <p>14 A. My first job was working as an assistant</p> <p>15 to an assistant at a public relations company.</p> <p>16 Q. How long did you do that?</p> <p>17 A. About six months. In Philadelphia.</p> <p>18 Q. And what was your next job after that?</p> <p>19 A. My next job was working at a radio station</p> <p>20 selling radio space or radio time in Altoona,</p> <p>21 Pennsylvania.</p> <p>22 Q. And what was your position there?</p> <p>23 A. Salesperson.</p> <p>24 Q. And how long did you do that?</p> <p>25 A. Approximately a year and a half.</p>



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1 Q. What was your next job after that?  
2 A. My next job was working for Discover Card  
3 in Chicago.  
4 Q. And what was your title there?  
5 A. Marketing specialist.  
6 Q. And how long did you have that position?  
7 A. I was at the company for nine years, but I  
8 had increasing positions during that time.  
9 Q. What was your general job duties as the  
10 marketing specialist at Discover?  
11 A. I worked in -- my first role was as a --  
12 working on the merchant marketing side, dealing with  
13 external merchants who would accept or accepted the  
14 Discover Card, and we did marketing programs.  
15 Q. How long did you do that?  
16 A. For probably -- in various roles, but it  
17 was probably about four and a half years.  
18 Q. Did you then have another title at  
19 Discover?  
20 A. Yes. I -- the next title -- I'm trying to  
21 remember the name of it. It was marketing manager  
22 and then marketing director. So when I left, I was  
23 a director.  
24 Q. And what were your general duties and  
25 responsibilities as marketing director?

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1 A. I went on to work on the account  
2 acquisition side, so we acquired new cardholders for  
3 Discover Card.  
4 Q. And how would you acquire new cardholders?  
5 A. Through outbound telemarketing or direct  
6 mail.  
7 Q. Did you have a staff of people working for  
8 you in that position?  
9 A. I did. It was -- it was several folks.  
10 Q. You said you worked there for  
11 approximately nine years; is that correct?  
12 A. Yes.  
13 Q. What was your next job after that?  
14 A. I went to work at -- it was a division of  
15 Citi, Citibank. It was called Diners Club  
16 International.  
17 Q. How long were you there?  
18 A. I was there for just over ten years.  
19 Q. And what was your first title at Citibank?  
20 A. It was a director of national accounts.  
21 Q. And what were your general duties and  
22 responsibilities in that role?  
23 A. They were similar to Discover Card in that  
24 I worked with major merchant accounts who took or  
25 accepted the Diners Club card as a T&E product.

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1 Q. Did that job also involve mass mailing?  
2 A. Later on at Citibank, yes, but not in that  
3 particular job.  
4 Q. Did you have the same title the whole time  
5 you were at Discover?  
6 A. At Discover, no.  
7 Q. I apologize. At Citibank?  
8 A. No.  
9 Q. What was your next role after director of  
10 national accounts?  
11 A. I was moved to vice president and managed  
12 the same type of role, national accounts.  
13 Q. How long did you have that role?  
14 A. It was probably about three years. I'm  
15 just trying to think of the chronological timing on  
16 that.  
17 Q. And was that the last position you had at  
18 Citibank?  
19 A. No. I went on to work for CitiFinancial  
20 Services, which was on the banking side.  
21 Q. And what did you do for CitiFinancial  
22 Services?  
23 A. I worked with large retail accounts in a  
24 similar fashion where we managed their extended  
25 financing products.

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1 Q. Was this a marketing role or something  
2 different?  
3 A. It was a marketing role. It was in  
4 marketing, but it was dealing with major accounts.  
5 Q. And how did you market to those major  
6 accounts?  
7 A. These were more meetings and I'll call  
8 them enterprise conversations, so it was direct  
9 conversation.  
10 Q. Did you have any other roles at Citibank?  
11 A. My final role was in Citi cross-sell as a  
12 senior vice president.  
13 Q. And what were your duties and  
14 responsibilities in that role?  
15 A. I worked with various divisions of  
16 Citibank on financial products, royalty programs for  
17 major accounts.  
18 Q. And how long did you have that position?  
19 A. That would probably be two and a half  
20 years.  
21 Q. Any other positions at Citibank that we  
22 haven't discussed so far?  
23 A. Special projects that came up, but, no,  
24 those were -- those were the major roles.  
25 Q. And what was your next job after Citibank?

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1 A. After Citibank, I left and came to Time  
2 Warner Cable -- went to Time Warner Cable.  
3 Q. And when did that was that?  
4 A. It was in the summer of 2009, June or  
5 July. I'm trying to remember the exact date.  
6 Q. And what was your first role with Time  
7 Warner?  
8 A. Vice president of marketing in New York  
9 City.  
10 Q. How long did you have that role?  
11 A. Just over a year.  
12 Q. And what were your general duties and  
13 responsibilities in that role?  
14 A. Acquiring and retaining new customers for  
15 Time Warner Cable.  
16 Q. Was that also a marketing job?  
17 A. Yes.  
18 Q. Did that job entail working with direct  
19 mail advertisement?  
20 A. Yes.  
21 Q. And what was your next position after  
22 that?  
23 A. It was as regional vice president of the  
24 west division, at Time Warner Cable.  
25 Q. And how long did you have that?

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1 A. That was probably just a year and then I  
2 was promoted.  
3 Q. Okay. What were your duties and  
4 responsibilities as regional vice president of the  
5 west division?  
6 A. Very similar to New York, the same  
7 acquisition and retention of customers, just for the  
8 west region, so it was a larger area.  
9 Q. And you said you then got promoted again?  
10 A. Yes, to chief marketing and sales officer.  
11 Q. And when was that, approximately?  
12 A. I believe it was the summer of 2011.  
13 Q. And how did your duties change in that  
14 role?  
15 A. I added the sales divisions to my job.  
16 Q. Can you tell me a little bit what that  
17 means? What are the sales divisions?  
18 A. Inbound call centers, direct field sales,  
19 outbound telemarketing.  
20 Q. And how long were you in that position?  
21 A. I should have brought my résumé.  
22 About three years.  
23 Q. And what was your next role after that?  
24 A. Head of new customer acquisition for Time  
25 Warner Cable. It was a senior vice president job.

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1 Q. And approximately when did that start?  
2 A. That started 2013/'14. It was at the end  
3 of the year.  
4 Q. And how did your duties change in that  
5 position?  
6 A. I no longer managed the sales organization  
7 and I was responsible for all new customer  
8 acquisition.  
9 Q. And did you subsequently get a different  
10 title after that?  
11 A. Senior vice president of acquisition  
12 marketing.  
13 Q. And when did that occur?  
14 A. That was the 2013/'14.  
15 Q. I apologize. Bad question by me.  
16 A. Sure.  
17 Q. After the senior VP role, did you then  
18 move on to another role?  
19 A. No. I left Time Warner Cable.  
20 Q. And when did you leave?  
21 A. I left April of 2015.  
22 Q. And what was your next job after that?  
23 A. I worked for Rogers Communications as the  
24 EVP of cable.  
25 Q. And what were your general job duties in

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1 that role?  
2 A. I oversaw the product team for the  
3 company, all new products and existing products.  
4 And I ran the cable operations for Rogers.  
5 Q. How long did you have that position?  
6 A. About three and a half years.  
7 Q. And then what was your next role after  
8 that?  
9 A. I came to Charter.  
10 Q. Do you remember the date, approximately,  
11 when you came to Charter?  
12 A. September 28 of 2018.  
13 Q. And what was your title when you came to  
14 Charter?  
15 A. Head of consumer marketing and SMB,  
16 small/medium business.  
17 Q. Is that the position you hold today?  
18 A. Yes.  
19 Q. And what are your general duties and  
20 responsibilities at Charter?  
21 A. So I'm responsible for brand creative, the  
22 digital marketing group, and marketing operations.  
23 Q. And who do you -- you do you directly  
24 report to?  
25 A. Jon -- Jonathan Hargis.

Page 25

1 Q. And who's Mr. Hargis?  
2 A. He is the chief marketing officer and EVP  
3 of Charter.  
4 Q. Is there anybody else you report to?  
5 A. Well, I mean, his leaders, technically.  
6 Q. And do you have a staff of people working  
7 for you?  
8 A. Yes.  
9 Q. How many people, approximately?  
10 A. Approximately 230.  
11 Q. And are those 230 people split between  
12 digital marketing and direct mail marketing?  
13 A. Digital marketing, marketing operations,  
14 and brand creative.  
15 Q. Break that down little bit.  
16 What exactly does "digital marketing" mean  
17 at Charter?  
18 A. Digital marketing is the acquisition by  
19 flow and existing customer by flow where consumers  
20 can purchase products and services.  
21 Q. So by "digital," does that mean online?  
22 A. Yes.  
23 Q. And what does "marketing operations" mean?  
24 A. Marketing operations manages the tactics  
25 that Charter employs to acquire or communicate to

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1 existing customers.  
2 Q. And how is that communication generally  
3 done?  
4 A. Direct mail, emails.  
5 Q. Do you know how many people work in the --  
6 work under you in the marketing operations division?  
7 A. I would say it's approximately 80. I  
8 don't actually have the exact numbers.  
9 Q. And I think you also mentioned brand  
10 creative; is that correct?  
11 A. Correct.  
12 Q. What does "brand creative" refer to?  
13 A. Anything that -- any television ads,  
14 radio, direct mail, email, brand guidelines.  
15 Q. Does Charter use outside consultants for  
16 any marketing?  
17 A. No.  
18 Q. So Charter doesn't ever use any ad  
19 agencies?  
20 A. We use ad agencies. When you said  
21 "consultants," I was --  
22 Q. Yep. Yeah.  
23 A. -- thinking of the category.  
24 Q. Exactly.  
25 So Charter does sometimes use ad agencies;

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1 is that correct?  
2 A. Yes.  
3 Q. What ad agencies does Charter use?  
4 A. We have about eight different ones. I  
5 don't actually have all of the names of the  
6 agencies. Deloitte is -- or I'm sorry. Deutsch,  
7 RAPP. I'm trying to think, because I don't have the  
8 list.  
9 Q. Understood.  
10 And when Charter does utilize ad agencies,  
11 what part of marketing do they -- strike that. Bad  
12 question.  
13 We talked about digital, marketing  
14 operations, and brand creation, right?  
15 A. Yes.  
16 Q. Is there specific categories amongst those  
17 three that Charter sometimes uses ad agencies for?  
18 A. Yes. The agencies we employ typically  
19 will have a specialty: Television, advertising,  
20 radio. We tend to do our own radio internal. We  
21 have an internal creative team as well.  
22 Q. Does Charter ever employee ad agencies to  
23 work on direct mailers?  
24 A. Yes.  
25 Q. Do you recall which ad agencies Charter

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1 uses for that or is it all of them?  
2 A. Typically it's RAPP, but we do use others.  
3 Q. Sorry. What's RAPP? Can you spell that?  
4 A. R-A-P-P, RAPP.  
5 Q. Are there some instances where Charter  
6 will do the mailing all in-house and not use an  
7 outside agency?  
8 A. Not to my knowledge.  
9 Q. I'm going to show you a document -- I  
10 neglected to say that earlier. I'm going to show  
11 you a bunch of documents today.  
12 A. Okay.  
13 Q. They're going to be marked and attached at  
14 the transcript at the end.  
15 A. Okay.  
16 Q. So you'll get a chance to review them at  
17 the end.  
18 Many times -- these are fairly short  
19 documents, because they're going to be emails. But  
20 sometimes they're going to be longer. I want you to  
21 take all the time you need to review them before you  
22 answer the question, if you'd like to. That said,  
23 there will be some times when, even though it's a  
24 longer document, I just want to point you to one  
25 specific line and ask you about it, to move things

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<p>1 along. But nonetheless, if you ever want to review</p> <p>2 the whole document before answering your question,</p> <p>3 please feel free to do so. Okay?</p> <p>4 A. Thank you.</p> <p>5 MR. LARSEN: Let's mark this as, I guess,</p> <p>6 Exhibit No. 1.</p> <p>7 (Charter Exhibit 1 was received and marked</p> <p>8 for identification, as of this date.)</p> <p>9 BY MR. LARSEN:</p> <p>10 Q. Ms. Atkinson, have you seen this document</p> <p>11 marked as Exhibit No. 1 before?</p> <p>12 A. (Witness reviews document.) Yes.</p> <p>13 Q. When did you first see this document?</p> <p>14 A. Monday of this week.</p> <p>15 Q. Have you discussed this document with</p> <p>16 anyone other than your attorneys?</p> <p>17 A. No.</p> <p>18 Q. So is it your understanding that you have</p> <p>19 been designated to be the person who is responsible</p> <p>20 for answering questions on the categories set forth</p> <p>21 in this document?</p> <p>22 A. Yes.</p> <p>23 Q. Is it your understanding that also someone</p> <p>24 else is going to testify as to some of these</p> <p>25 categories?</p>	<p>1 A. Yes.</p> <p>2 Q. Let's look at Category No. 1. I'm on --</p> <p>3 I'm on page 3 of this document.</p> <p>4 A. Uh-huh. (Witness complies.)</p> <p>5 Q. By the bottom, it says "Subject areas of</p> <p>6 testimony."</p> <p>7 A. Yes.</p> <p>8 Q. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. So No. 1 says "the decision by Charter to</p> <p>11 launch the advertisements."</p> <p>12 Adre you the witness who's designated to</p> <p>13 answer questions on Topic No. 1 today?</p> <p>14 A. Yes.</p> <p>15 Q. Same question on No. 2, are you the</p> <p>16 witness designated to answer questions on No. 2</p> <p>17 today?</p> <p>18 A. Yes.</p> <p>19 Q. Turn to the next page, please.</p> <p>20 A. (Witness complies.)</p> <p>21 Q. Category No. 3, are you the witness</p> <p>22 designated to respond to questions on Category No. 3</p> <p>23 today?</p> <p>24 A. No.</p> <p>25 MR. NEPPLE: Counsel, she may have some</p>
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<p>1 knowledge, so I would make sure to ask</p> <p>2 questions.</p> <p>3 MR. LARSEN: Okay.</p> <p>4 MR. NEPPLE: But we also have another</p> <p>5 witness, so she has partial knowledge.</p> <p>6 BY MR. LARSEN:</p> <p>7 Q. Okay. Let's look at the next one,</p> <p>8 Category No. 4. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Are you the witness designated to answer</p> <p>11 questions on Category No. 4 today?</p> <p>12 A. Probably the same as the last one, partial</p> <p>13 knowledge.</p> <p>14 Q. What about Category No. 5?</p> <p>15 A. Yes.</p> <p>16 Q. Category No. 6?</p> <p>17 A. I'm not sure of the question. "Charter's</p> <p>18 internal communications referring to Windstream."</p> <p>19 Yes.</p> <p>20 Q. And what about Category No. 7?</p> <p>21 A. I would have partial knowledge.</p> <p>22 Q. What about Category No. 8?</p> <p>23 A. I would have partial knowledge.</p> <p>24 Q. What about Category No. 9?</p> <p>25 A. I would be able to answer, yes.</p>	<p>1 Q. And what about Category No. 10?</p> <p>2 A. Yes.</p> <p>3 MR. NEPPLE: Counsel, just to save you</p> <p>4 time, the other witness will handle 11 and 12.</p> <p>5 MR. LARSEN: Okay. Thank you.</p> <p>6 MR. NEPPLE: Sure.</p> <p>7 THE COURT REPORTER: You said "the other</p> <p>8 witness"?</p> <p>9 MR. NEPPLE: The other witness.</p> <p>10 THE COURT REPORTER: Okay.</p> <p>11 BY MR. LARSEN:</p> <p>12 Q. I'm going to refer you back to Category</p> <p>13 No. 1 --</p> <p>14 A. Yes.</p> <p>15 Q. -- which is the --</p> <p>16 MR. LARSEN: Bless you.</p> <p>17 BY MR. LARSEN:</p> <p>18 Q. -- which is the decision by Charter to</p> <p>19 launch the advertisements.</p> <p>20 A. Yes.</p> <p>21 Q. Do you see that?</p> <p>22 Was there a specific person who made the</p> <p>23 ultimate decision to launch the advertisements at</p> <p>24 issue in this case?</p> <p>25 A. Yes. That would have been me.</p>

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1 Q. And do you recall when that decision was  
2 made?  
3 A. Late February or early March. I don't  
4 have the exact date.  
5 Q. And that's in 2019?  
6 A. Yes.  
7 Q. Did someone above you have to sign off on  
8 that decision before it was done?  
9 A. No.  
10 Q. And what were the circumstances that led  
11 you to launch the advertisements?  
12 A. Well, we have mailed -- in our footprint,  
13 we do mailings constantly for competitive switch  
14 messaging. So it wasn't any particular trigger  
15 other than a competitive switch message.  
16 Q. And can you explain to me what you mean by  
17 "competitive switch message"?  
18 A. The homes that we pass with the capability  
19 to have our services, we market -- we call those  
20 "prospects." And we do about 60 million pieces of  
21 mail a month to those homes that do not have a  
22 relationship with us, those customers.  
23 Q. Is that an ongoing thing that happens  
24 every month?  
25 A. Yes.

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1 Q. And do you have a standard mailer that you  
2 use or does that change often?  
3 A. We have standardized templates that we've  
4 optimized for pricing and production. And we also  
5 have custom templates that we will put into market  
6 to try out performance, test performance against  
7 control packages.  
8 Q. And was this campaign that was directed  
9 towards Windstream customers, was that one of the  
10 standardized templates or a custom template?  
11 A. It was actually a standardized template.  
12 We've used it against Allo and Google. I can't  
13 really speak to any time before, because I started  
14 in September, so...  
15 Q. Do you recall the reason why you decided  
16 to do this particular ad campaign?  
17 A. We always look for competitive advantages,  
18 and anytime there's an opportunity to have a new  
19 message, we will do a mail campaign.  
20 Q. And was there a particular opportunity you  
21 recall in this case?  
22 A. In this case, there is the uncertainty of  
23 a bankruptcy.  
24 Q. Do you recall when you learned about the  
25 uncertainty of a bankruptcy?

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1 A. I think it was again late February or  
2 early March. I don't have the exact date. I can't  
3 recall.  
4 Q. Do you recall how you learned about this?  
5 A. I think it was in a competitive update  
6 meeting that we had.  
7 Q. What's a competitive update meeting?  
8 A. It's just a meeting that we discuss  
9 package changing, pricing changing, channels being  
10 dropped, contracts being added. It basically is a  
11 internal review of our entire footprint and all  
12 competitors in the footprint.  
13 Q. How often do you have these meetings?  
14 A. Once a month.  
15 Q. So is it your recollection that in one of  
16 these competitive update meetings, that's where you  
17 first learned about Windstream's bankruptcy?  
18 A. I believe that is where I learned, yes.  
19 Q. And what do you recall learning in this  
20 meeting?  
21 A. That there was uncertainty because they  
22 have gone into bankruptcy.  
23 Q. Who led the meeting?  
24 A. It's done by one of my brand creative  
25 folks in the brand team that I manage.

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1 Q. And who attends these meetings?  
2 A. The creative teams, marketing operations  
3 team, pretty much my organization, as well as the  
4 pricing group that sits outside of my team.  
5 Q. So approximately how many people were at  
6 this meeting?  
7 A. About 30.  
8 Q. Is this a face-to-face in-person meeting  
9 or is it done online?  
10 A. It's face to face.  
11 Q. Can you remember specifically what was  
12 said about Windstream's bankruptcy in this meeting?  
13 A. Just that they had declared bankruptcy.  
14 Q. I think you mentioned word "uncertainty."  
15 Did somebody use that word in this  
16 meeting?  
17 A. I don't recall.  
18 Q. Other than this meeting, did you do any  
19 independent research about what was going on with  
20 the bankruptcy?  
21 A. No.  
22 Q. Did you ever ask anybody to do that  
23 research on your behalf and report back to you?  
24 A. No.  
25 Q. Have you ever at any time read

1 Windstream's 10-K that was put out this year?  
2 A. No.  
3 Q. Again, did you ever ask anyone to read  
4 that and report back to you?  
5 A. No.  
6 Q. Have you ever read any of the documents  
7 that have been filed in Windstream's bankruptcy  
8 case?  
9 A. Outside of this one, no.  
10 Q. Again, did you ever ask anyone to read any  
11 of those documents and report back to you?  
12 A. No.  
13 Q. Prior to these advertisements that we're  
14 talking about today, do you recall any other  
15 targeted mail campaign that specifically discussed  
16 Windstream?  
17 A. Well, going back to the 60 million pieces  
18 of mail, they would have been part of all of those  
19 overall discussions for the segments that we target.  
20 Anybody who has another service outside of Charter  
21 Spectrum would have been part of that effort. So  
22 there are ongoing efforts in terms of our monthly  
23 mail campaign, 60 million pieces of mail. We hit  
24 consumers' house- -- so we mail to consumers'  
25 households about every two weeks.

1 Q. And do those -- again, prior to these  
2 ones, do those advertisements say the word  
3 "Windstream" in them?  
4 A. I don't actually know.  
5 Q. Do you know who would know?  
6 A. One of my creative directors.  
7 Q. And who would that be?  
8 A. Her name is Allison Novasel.  
9 Q. Does your department keep copies of all  
10 the previous mailers that it sent out before?  
11 A. Yes.  
12 Q. Other than Windstream, are you aware: Of  
13 those previous mailers, do they name competitors  
14 specifically or are they more general just about  
15 Charter?  
16 A. We do both. We do both.  
17 Q. And what are the circumstances where you  
18 would choose to name a competitor directly in your  
19 ads?  
20 A. When we have a competitive advantage,  
21 contracts or no contracts. We have no contracts.  
22 We would call them out by name, AT&T, Verizon, Allo,  
23 others.  
24 Q. Have you ever worked on a marketing  
25 campaign prior to this one that referred to a

1 competitor who was in bankruptcy?  
2 A. Not that I recall.  
3 Q. Do you know if Charter has ever done a  
4 campaign prior to you being there that refers to  
5 another -- that refers to a competitor who was in  
6 bankruptcy?  
7 A. Not that I know of.  
8 Q. The campaign at issue here, did you  
9 hire -- did Charter hire an outside advertising  
10 agency to work on it?  
11 A. Yes, it was our agency RAPP.  
12 Q. And what was RAPP's role in this campaign?  
13 A. They work on just the creative copy, the  
14 design within the templates that we utilize, and  
15 they present that to my team with options.  
16 Q. And is there somebody on your team that  
17 directly works with RAPP or is that you? How does  
18 that work?  
19 A. Allison Novasel, that I mentioned --  
20 Q. Uh-huh.  
21 A. -- and her staff specifically manage  
22 direct mail and switch campaigns.  
23 MR. LARSEN: All right. Let's mark this  
24 as Exhibit No. 2.  
25 (Charter Exhibit 2 was received and marked

1 for identification, as of this date.)  
2 MR. NEPPLE: Madam Court Reporter, could  
3 you make sure to mark this attorneys' eyes  
4 only, please?  
5 BY MR. LARSEN:  
6 Q. All right. Exhibit No. 2 is a document  
7 Bates-stamped Charter 540 through 543.  
8 Ms. Atkinson, have you seen this document  
9 before today?  
10 A. (Witness reviews document.)  
11 Yes, I just didn't recall the forwarded  
12 email. I have seen the part that involves my  
13 message, or my note.  
14 Q. Can you point me to what -- so you've  
15 seen -- if you turn to page 541, the second page?  
16 A. The February 22.  
17 Q. So you've seen from there down, but not  
18 from there up; is that correct?  
19 A. No, from there -- yes.  
20 Q. Okay. Look at the very first email, all  
21 the way to the back. Emails go back to front. The  
22 first email is from someone named Brian Libretti.  
23 Do you see that?  
24 A. Yes.  
25 Q. Who is Brian Libretti?



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<p>1 A. The manager of market intelligence.</p> <p>2 Q. And do you work with him directly?</p> <p>3 A. No.</p> <p>4 Q. Do you know what his job duties entail?</p> <p>5 A. He works in our competitive intelligence</p> <p>6 team.</p> <p>7 Q. Do you have any understanding of what he</p> <p>8 does in that role?</p> <p>9 A. He observes any -- in this particular</p> <p>10 case, he's specific about Windstream, but I don't</p> <p>11 know how broad his accountabilities are for other</p> <p>12 competitors.</p> <p>13 Q. And if you look at the next email in the</p> <p>14 thread reading up, it's from David Andreski to</p> <p>15 Jonathan Hargis.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know who David Andreski is?</p> <p>19 A. Yes. He's head of our pricing and</p> <p>20 competitive intelligence team.</p> <p>21 Q. And you previously mentioned Mr. Hargis.</p> <p>22 That's who you report to; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And what's his role?</p> <p>25 A. EV- -- or he's chief marketing office- --</p>	<p>1 marketing and sales officer and EVP.</p> <p>2 Q. And then the next email up on</p> <p>3 February 22 --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- at 1:18, you're one of the recipients</p> <p>6 of that email; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. And then your response says, "Okay, folks.</p> <p>9 Let's look at these markets and how we can push on</p> <p>10 switch messaging in these areas similar to Google</p> <p>11 efforts. Thanks."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What are you -- what are you referring to</p> <p>15 with your reference to "switch messaging"?</p> <p>16 A. Meaning switch to Spectrum today and take</p> <p>17 action. And we had just dropped Google mail for a</p> <p>18 similar situation. And prior to that, Allo, the</p> <p>19 other telecom provider, had done switch messaging</p> <p>20 with them.</p> <p>21 Q. So what were the circumstances from the --</p> <p>22 in the Google matter?</p> <p>23 A. Google had pulled out of Louisville and</p> <p>24 basically said they were shutting down services.</p> <p>25 And so we put mail into the market that said you are</p>
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<p>1 losing Google service as of April 15 and switch</p> <p>2 today.</p> <p>3 Q. And what about Allo?</p> <p>4 A. Allo is the same type of switch message,</p> <p>5 but it was in a more general just switch today to</p> <p>6 Spectrum.</p> <p>7 Q. So had Google specifically said, you know,</p> <p>8 we're leaving the area, we're no longer providing</p> <p>9 the service?</p> <p>10 A. Yes.</p> <p>11 Q. And had Allo specifically said that?</p> <p>12 A. No, Allo was just a competitive switch</p> <p>13 message. It was a similar template.</p> <p>14 Q. Were there different templates in the</p> <p>15 Google and Allo matters that reflected each specific</p> <p>16 circumstance?</p> <p>17 A. There would have been some copy that was</p> <p>18 referencing them by name to switch.</p> <p>19 Q. Can you explain? What does that mean?</p> <p>20 A. It would say, Allo customer, switch to</p> <p>21 Spectrum. Or, Google customer, switch to Spectrum.</p> <p>22 In that case, your services are going to be</p> <p>23 discontinued, and they gave a specific date.</p> <p>24 Q. So would the Google one have more specific</p> <p>25 information than the Allo one?</p>	<p>1 A. Yes. It would have said specifically</p> <p>2 Google is leaving the market and shutting down</p> <p>3 services and switch before April 15. That was the</p> <p>4 date that they gave.</p> <p>5 Q. So on February 22, when you sent this</p> <p>6 email and you said "similar to Google efforts" --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- in your mind, did you think Windstream</p> <p>9 was leaving like Google left?</p> <p>10 A. No, it was regarding the template.</p> <p>11 Q. Just so I understand, when you say</p> <p>12 "similar to Google efforts," that "similar" means</p> <p>13 the template of the advertisement?</p> <p>14 A. Yes, the creative template.</p> <p>15 Q. Can you explain to me: What exactly do</p> <p>16 you mean by "creative template," for somebody who's</p> <p>17 not a marketing person?</p> <p>18 A. We'll have standard templates which allow</p> <p>19 us to get to market faster than designing a custom</p> <p>20 template.</p> <p>21 Q. So by using a standard template, you can</p> <p>22 get the mailers out --</p> <p>23 A. Quicker.</p> <p>24 Q. -- quicker?</p> <p>25 A. Yes.</p>

1 MR. LARSEN: Mark this Exhibit No. 3.  
2 (Charter Exhibit 3 was received and marked  
3 for identification, as of this date.)  
4 MR. NEPPLE: Madam Court Reporter, same  
5 instruction: Mark attorneys' eyes only,  
6 please.  
7 BY MR. LARSEN:  
8 Q. All right. Exhibit No. 3 is another email  
9 produced. Bates-stamped on this is Charter 626 to  
10 627.  
11 A. (Witness reviews document.)  
12 Q. Ms. Atkinson, have you seen this document  
13 before today?  
14 A. I saw it with my attorneys on Monday.  
15 Q. And had you not seen it before then?  
16 A. I had not.  
17 Q. Look at the first email in the thread.  
18 Do you know the name of the person that  
19 sent that email?  
20 A. No.  
21 Q. Okay. Do you know any of the people on  
22 the To or CC list?  
23 A. I know Amy Kim, Jennifer Ingram. And I do  
24 not know the others. Amy and Jennifer report to me.  
25 Q. And what is -- what is Amy's position?

1 A. Amy is either a director or senior  
2 director who reports to Jennifer Ingram, who is the  
3 vice president of SMB marketing, small/medium  
4 business.  
5 Q. If you look at the second email on the  
6 thread on -- from Jennifer Ingram, on February 25 --  
7 do you see that?  
8 A. Uh-huh, yes.  
9 Q. It says, "Hi, Chris. I understand that  
10 you and Amy connected earlier today. Kelly Atkinson  
11 has asked the marketing team to develop a plan to  
12 leverage the situation." And it goes on.  
13 Is that accurate, that you asked the  
14 marketing team to develop a plan to leverage the  
15 situation?  
16 A. Yes. It's the Exhibit 2 where I state  
17 let's look at these markets and see how we can push  
18 on switch messaging similar to Google. Yes, that  
19 was my ask.  
20 Q. Okay. Did you ask in any other way in  
21 addition to the email that was Exhibit No. 2?  
22 A. No.  
23 Q. So there wasn't a phone call or an  
24 in-person meeting?  
25 A. No.

1 Q. If you read further, it says, "Kelly  
2 Atkinson has asked the marketing team to develop a  
3 plan to leverage the situation, so we started  
4 thinking about this in partnership with the  
5 residential team."  
6 Do you know what "the residential team"  
7 refers to?  
8 A. Yes. It is the general market efforts  
9 versus small- and medium-sized business, which is  
10 business owners that take Charter services.  
11 Q. So in your role, do you -- are you  
12 responsible for the residential side as well as the  
13 larger --  
14 A. Yes.  
15 Q. -- customer side?  
16 A. Yes.  
17 Q. So third sentence here says, "In addition,  
18 we're exploring SMB-specific messages."  
19 Do you know what "SMB" refers to?  
20 A. Small/medium business. Small and medium  
21 business.  
22 Q. And that's also something that you're  
23 responsible for?  
24 A. Yes.  
25 Q. So it says, "In addition, we're exploring

1 SMB-specific messages (e.g., talking points for  
2 sales teams.)"  
3 Do you know what "sales teams" refers to  
4 there?  
5 A. It would be any agent that deals directly  
6 with a customer.  
7 Q. And when would an agent deal directly with  
8 a customer?  
9 A. When a customer is signing up for services  
10 or disconnecting services or they need technical  
11 assistance.  
12 Q. So is this an agent on the phone when a  
13 customer calls in?  
14 A. It could be, yes.  
15 Q. What else could it be?  
16 A. It could be our direct sales team,  
17 outbound telemarketing, so again on the phone, but a  
18 call out versus a call in.  
19 Q. So part of your marketing -- part of  
20 Charter's marketing efforts includes phone calls  
21 directly to potential customers?  
22 A. Yes, outbound telemarketing.  
23 Q. And was that subsequently utilized in this  
24 case?  
25 A. I don't recall.



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1 Q. Do you know who would recall or who could  
2 check and see if that happened in this case?  
3 A. It would be our head of call centers.  
4 Q. And who would that be?  
5 A. Christian Riaz [sic].  
6 Q. And I think you mentioned -- are there  
7 some in-person people that are also part of the  
8 sales team?  
9 A. The direct field sales team.  
10 Q. Can you explain to me what the direct  
11 field sales team does?  
12 A. They do door knocking -- we call it door  
13 knocking -- with customers or prospects, prospective  
14 customers.  
15 Q. And was that strategy utilized in this  
16 advertising campaign?  
17 A. It wasn't at my direction, but as I  
18 understand it, yes.  
19 Q. You say it wasn't at your direction.  
20 Do you know who is responsible for that  
21 part of this?  
22 A. Keith Dardis.  
23 Q. Did you coordinate with Mr. Dardis on the  
24 messaging that would be used by the direct field  
25 sales team?

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1 A. No, I was unaware of this.  
2 Q. In general, when you do an advertising  
3 campaign -- I'm saying in general, not this specific  
4 one -- do you normally coordinate with the direct  
5 field sales team?  
6 A. No.  
7 Q. Has there been a time where that's ever  
8 occurred, coordination between those two?  
9 MR. NEPPLE: Object to form.  
10 Go ahead.  
11 A. The one that I do recall or I do know of  
12 is Google, because they were leaving the market.  
13 BY MR. LARSEN:  
14 Q. And in that Google matter, did you work  
15 with Mr. Dardis' team directly on what the -- what  
16 the messaging would be?  
17 A. No.  
18 Q. In that Google matter, did you ever  
19 subsequently learn what the messaging on the direct  
20 field sales team was?  
21 A. Just that they were leaving the market.  
22 That was pretty common knowledge. We have field  
23 sales reps, thousands, out in the market all the  
24 time, so...  
25 Q. Do you know: Do they take fliers with

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1 them?  
2 A. They have, but I don't know if they took  
3 it in this case -- or in the Google case.  
4 Q. And the Google case, did you ever review  
5 those flyers as part of working on that campaign?  
6 A. No.  
7 Q. Do you know who creates the fliers for the  
8 direct field sales team?  
9 A. It would have been someone in my team that  
10 created fliers, because, again, the brand or  
11 anything that's tangible that would be in front of a  
12 customer would come from my team.  
13 Q. And there's never any need to coordinate  
14 the direct sales part with the mailing part to make  
15 sure you're not going crossways or saying two  
16 different things?  
17 A. We don't coordinate with them directly,  
18 but if there is a creative mail that's done, it  
19 would typically be leveraged for any fliers that  
20 would be provided.  
21 Q. Can you explain that? What do you mean  
22 it's "leveraged"?  
23 A. The copy. When the copy is written, it  
24 would be used so that, again, you have a standard  
25 template and it's consistent.

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1 Q. So your -- okay. You said "copy."  
2 So your understanding, the words on the  
3 flier are similar to the words on the direct mail  
4 advertisements?  
5 A. They could be. They could be.  
6 Q. And sometimes they're not.  
7 Is that your understanding?  
8 A. Correct.  
9 MR. LARSEN: Want to take five minutes off  
10 the record?  
11 THE VIDEOGRAPHER: Stand by. The time is  
12 10:06 a.m. on May 1, 2019. This is the end of  
13 Tape No. 1.  
14 (Recess was taken.)  
15 THE VIDEOGRAPHER: The time is 10:15 a.m.  
16 on May 1, 2019. This is Media Unit No. 2.  
17 Back on the record.  
18 MR. LARSEN: Let's mark this next document  
19 as Exhibit No. 4.  
20 (Charter Exhibit 4 was received and marked  
21 for identification, as of this date.)  
22 BY MR. LARSEN:  
23 Q. All right.  
24 MR. NEPPLE: Sorry.  
25 AEO again, Madam Court Reporter, please.

1 BY MR. LARSEN:  
2 Q. Exhibit 4 is an email Bates-stamped  
3 Charter 652 through 654.  
4 A. (Witness reviews document.)  
5 Q. Ms. Atkinson, have you seen this document  
6 before?  
7 A. I have not.  
8 Q. Look at the first email in the thread.  
9 It's from someone named Christopher Dalton.  
10 Do you see that?  
11 A. On February 25?  
12 Q. Yes.  
13 A. Yes, I see that.  
14 Q. Do you know who Christopher Dalton is?  
15 A. I do not. I know that he works for the  
16 company. I've seen his name, but I do not know him.  
17 Q. You don't work with him directly?  
18 A. No.  
19 Q. The next email in the thread, on  
20 February 26, at 5:41 from Jason Bordeaux?  
21 A. Yes, I would say the same thing. I know  
22 that he works for the company, but I do not know  
23 him.  
24 Q. Do you see on this page, in Mr. Bordeaux's  
25 email and in the response, the acronym "BAU"?

1 A. Uh-huh. Yes.  
2 Q. Does that have any meaning to you?  
3 A. "Business as usual."  
4 Q. Did you have an understanding at this time  
5 that Windstream would be operating business as  
6 usual?  
7 A. No.  
8 Q. Is that something that was ever discussed  
9 when putting together the advertising that's at  
10 issue in this case?  
11 A. No.  
12 Q. So the last email on this thread from  
13 someone named Lisa Mitchell, on the first page.  
14 A. Yes.  
15 Q. Do you know who Lisa Mitchell is?  
16 A. I do not. I know she works for the  
17 company, but I do not know her.  
18 Q. Looks like, in her signature block, it  
19 says "director of sales planning operations."  
20 Do you know what "sales planning  
21 operations" refers to?  
22 A. I don't.  
23 Q. That's not part of your team that you work  
24 with?  
25 A. No.

1 Q. Look at the last email, again on the first  
2 page here, from Lisa Mitchell to -- looks like three  
3 people.  
4 Jacquelyn Dobrich, do you know who that  
5 is?  
6 A. I do not. Same statement: She works for  
7 the company, but I don't know her.  
8 Q. How about Keven Clifton?  
9 A. I do not know him either.  
10 Q. And the CC line says "Scott Grotz."  
11 Do you know him?  
12 A. No, I do not.  
13 MR. LARSEN: Let's mark this Exhibit  
14 No. 5.  
15 (Charter Exhibit 5 was received and marked  
16 for identification, as of this date.)  
17 BY MR. LARSEN:  
18 Q. Exhibit No. 5 is another email thread,  
19 Bates-stamped Charter 677 through 678.  
20 MR. NEPPLE: Mark that AEO, Counsel,  
21 please.  
22 BY MR. LARSEN:  
23 Q. Ms. Atkinson, have you seen this document  
24 before?  
25 A. (Witness reviews document.) I have not.

1 Q. Do you know who Amy Kantrowitz is?  
2 A. Yes. She works for -- in my team, for my  
3 head of creative, brand creative.  
4 Q. If you look at Amy's first email. Look at  
5 the second page of this exhibit, 678. It says,  
6 "Creative: Messaging points? Anything approved?"  
7 Do you know what that refers to, whether  
8 something was approved?  
9 MR. NEPPLE: Object to form.  
10 Go ahead.  
11 A. She's looking to see if there was a  
12 template or copy that had been created so that she  
13 could be consistent. That's how I would read that.  
14 And she references "Please send DM or other pieces  
15 created."  
16 BY MR. LARSEN:  
17 Q. Do you have an understanding of what "DM"  
18 refers to in this context?  
19 A. Direct mail.  
20 Q. Do you know who would be the person that  
21 would approve these things?  
22 A. Would approve all of these things or  
23 direct mail?  
24 Q. Good clarification. Let's start with  
25 direct mail.

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1 Who would approve that?  
2 A. Direct mail would be Allison Novasel, that  
3 I mentioned.  
4 Q. Uh-huh.  
5 A. She heads up the creative for direct mail.  
6 Q. Then, once Allison approves, do you have  
7 to approve it before it finally goes out?  
8 A. Not necessarily, because we use very  
9 similar templates, as I mentioned. So I can't  
10 possibly approve 60 million pieces of mail, and we  
11 have hundreds of variations.  
12 Q. In this particular case, on the  
13 advertisements referencing Windstream and the  
14 bankruptcy, did you approve it?  
15 A. I saw the creative when they were  
16 designing it, because it referenced this and they  
17 wanted to show it to me.  
18 Q. When do you recall when that happened?  
19 A. Late February, beginning -- I think it was  
20 beginning of March. It was that last week or two in  
21 February.  
22 Q. And when it was shown to you, did you make  
23 any changes to it?  
24 A. No.  
25 Q. Did you ask any questions about it?

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1 A. No. It's our normal cadence. The only  
2 reason that it was shown to me was because it was  
3 the Google template and Allo. We had used that same  
4 template before.  
5 Q. Were there specific references to the  
6 bankruptcy that would not have been in the Google or  
7 Allo templates?  
8 A. Yes.  
9 Q. And you didn't make any changes to that?  
10 A. No.  
11 Q. Was there anybody else besides you who  
12 would have seen it before it finally went out?  
13 A. Joe Leonard, who is my senior vice  
14 president of brand creative. Allison works for him.  
15 Q. So would Allison have shown it to Joe and  
16 then Joe shown it to you? Is that how it would  
17 work?  
18 A. Yes.  
19 Q. And you did not have any obligation to  
20 show it to anybody that you report to; is that  
21 correct?  
22 A. Correct. Again, we do 60 million pieces  
23 of mail a month with hundreds of variations.  
24 Q. If you look at Ms. Novasel's response on  
25 February 28, middle of the first page here.

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1 Do you see that?  
2 A. Yes.  
3 Q. She's got some bullet points. I'm looking  
4 at the third bullet, which says, "The only input re:  
5 messaging is that, while in tone it should be like  
6 Google, we can't say things like 'abandoned' or  
7 'going away.' Just because they declared Chapter 11  
8 doesn't mean they won't re-org and stay in  
9 business."  
10 Do you see that?  
11 A. Yes.  
12 Q. Did you ever have any discussions with  
13 Allison about this topic?  
14 A. No.  
15 Q. Do you have any idea where she got that  
16 information?  
17 MR. NEPPLE: To the extent that she may  
18 have gotten it from legal, do not include that  
19 in your answer, if you can answer without  
20 legal -- disclosing legal advice.  
21 A. I really do not know where she came up  
22 with the phrasing.  
23 BY MR. LARSEN:  
24 Q. Have you worked on any other campaigns  
25 where you got a message like that, that you can't

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1 use certain words or certain phrases?  
2 A. We always operate in a factual way, with  
3 clarity. And when we can say a competitor's name,  
4 we do, to show an advantage that we may have, again,  
5 contracts/no contracts.  
6 Q. Have you ever worked on an advertising  
7 campaign where something was prepared and before it  
8 went out, somebody made a change that says, oh, hey,  
9 we can't say that, that's not factually correct?  
10 A. Yes.  
11 Q. And have you personally been the person  
12 that has ever said, hey, we can't say that, we need  
13 to change this?  
14 A. No.  
15 Q. What is an instance where you recall that  
16 something was changed because it wasn't factually  
17 correct?  
18 A. I actually don't -- I don't deal with the  
19 attorneys.  
20 MR. NEPPLE: Well, object. To the extent  
21 it deals with anything coming from legal, do  
22 not disclose that. If you have any other  
23 responsive information, go ahead.  
24 BY MR. LARSEN:  
25 Q. Let me -- let me caution you there too. I

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1 don't want any attorney/client communications.  
2 A. Uh-huh.  
3 Q. But nonetheless, I do think I'm entitled  
4 to -- if you talked to an attorney, I think I'm  
5 entitled to that information. What you said may be  
6 privileged, but if you spoke to an attorney, I think  
7 I'm entitled to that.  
8 A. I hadn't -- I did not.  
9 Q. Okay.  
10 A. Since I've been at Charter, I have not.  
11 Q. Do you recall anytime when just the  
12 business side people decided, hey, we can't say  
13 that?  
14 A. Yes.  
15 Q. Okay. And do you recall a specific  
16 instance where that occurred?  
17 A. No. It would -- it would come about  
18 between the agency and the creative team where they  
19 would make decisions on copy that would be included.  
20 Q. So if I understand, the agency might --  
21 the outside agency might propose something and then  
22 your internal team would say, hey, we can't say  
23 that, we need to make a change?  
24 A. They would be able to make edits.  
25 Q. And you recall times when that has

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1 happened, but you can't recall any specifics?  
2 A. Correct.  
3 Q. Do I have that right? Okay.  
4 A. I don't deal with the agency directly.  
5 Q. And who would -- who is the person or  
6 persons who would deal with the agency directly?  
7 A. Allison Novasel and her team that does the  
8 direct mail. And obviously there are other folks  
9 that do radio and television, so they would deal  
10 with them as well, with agencies.  
11 Q. I'm back to this third bullet on Allison's  
12 email of February 28. After the dash, where it says  
13 "just because they declared Chapter 11 doesn't mean  
14 they won't re-org and stay in business."  
15 Do you see that?  
16 A. Yes.  
17 Q. Did you ever have any discussions with  
18 Allison about this topic?  
19 A. No.  
20 Q. Did you ever have any discussions with  
21 anybody about that topic?  
22 A. Not about restructure, no.  
23 Q. Did you ever have any discussions with  
24 anyone about the fact that Windstream may stay in  
25 business?

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1 A. No.  
2 Q. Look at the next bullet. Starts with "so  
3 the goal is to create doubt."  
4 See that?  
5 A. Yes.  
6 Q. Did you ever have any discussions with  
7 Allison about that topic, that the goal of these  
8 advertisements was to create doubt?  
9 A. No.  
10 Q. Did you ever have any discussions with  
11 anybody about that topic?  
12 A. When Joe brought the copy to me, he may  
13 have said that, but my conversations were not with  
14 Allison or the agency.  
15 Q. When would you have had this conversation  
16 with Joe about that?  
17 A. Prior to the mail being printed.  
18 Q. Do you recall: Was it face to face or on  
19 the phone?  
20 A. It was face to face.  
21 Q. Do you recall any more details, like any  
22 specific date when that conversation may have been  
23 occurred?  
24 A. It would have been after the February 28,  
25 so probably the first week of March.

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1 Q. Do you recall how that came about? Did  
2 you take it to him or did he say, I want to talk to  
3 you about this?  
4 A. It was a random conversation passing in  
5 the hallway. He knew that I had asked for a  
6 competitive switch mail, and so his team was working  
7 on it.  
8 Q. And can you let me know what, if anything,  
9 you recall about him saying in that conversation  
10 about creating doubt?  
11 A. I can't recall.  
12 Q. Do you recall what you -- what you may  
13 have said in that conversation about creating doubt?  
14 A. I said nothing.  
15 Q. Other than this conversation with Joe in  
16 the hallway, do you recall any other conversations  
17 with anyone about the goal of this mailing to be  
18 creating doubt?  
19 A. No.  
20 MR. LARSEN: Let's mark this as Exhibit  
21 No. 6.  
22 MR. NEPPLE: Same instruction, AEO,  
23 Ms. Court Reporter.  
24 (Charter Exhibit 6 was received and marked  
25 for identification, as of this date.)

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<p>1 BY MR. LARSEN:</p> <p>2 Q. Exhibit 6 is another email string,</p> <p>3 Bates-stamped Charter 682 through 685.</p> <p>4 A. (Witness reviews document.)</p> <p>5 Q. Ms. Atkinson, have you seen this email</p> <p>6 string before?</p> <p>7 A. I saw the -- from the part that David</p> <p>8 Andreski sent to me. And, yes, I saw it in one of</p> <p>9 the other strings. But I did not see the messages</p> <p>10 that are the most recent from Keith or Scott. Where</p> <p>11 my name is indicated, I saw that.</p> <p>12 Q. You see Mr. Andreski's email to you and</p> <p>13 some other people on February 22? It's on the</p> <p>14 second page, 683.</p> <p>15 A. Yes.</p> <p>16 Q. The second line in this email says, "We</p> <p>17 have seen them upgrading with fiber to many</p> <p>18 competitive areas. The bankruptcy issue would slow</p> <p>19 their expansion down."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Did you have any discussions with</p> <p>23 Mr. Andreski about this assertion that the</p> <p>24 bankruptcy issue would slow their expansion down?</p> <p>25 A. Nothing more than this email.</p>	<p>1 Q. Did you have discussions with anybody</p> <p>2 about that --</p> <p>3 A. No.</p> <p>4 Q. -- statement?</p> <p>5 A. No.</p> <p>6 Q. Do you have personal -- do you have any</p> <p>7 personal knowledge on whether the bankruptcy would</p> <p>8 slow their expansion down?</p> <p>9 A. No.</p> <p>10 Q. And if you look to your response to that</p> <p>11 email. It's next in the thread. It starts with,</p> <p>12 "Very good. We will put together the plans."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. What does "put together the plans" refer</p> <p>16 to?</p> <p>17 A. The direct mail marketing plan. And it</p> <p>18 was very similar to the Google activities that we</p> <p>19 had just done.</p> <p>20 Q. And if you look at Mr. Andreski's response</p> <p>21 to your email on February 25 at 7:09 a.m.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you understand what this chart in his</p> <p>25 email refers to?</p>
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<p>1 A. This chart shows where we have homes</p> <p>2 passed in each of the markets where we would have</p> <p>3 competitive overlap.</p> <p>4 Q. And can you explain to me what "homes</p> <p>5 passed" mean?</p> <p>6 A. The homes that we have built services to</p> <p>7 in our footprint.</p> <p>8 Q. So does this chart refer to Windstream</p> <p>9 customers that are in your potential area where they</p> <p>10 could become your customers?</p> <p>11 A. Yes.</p> <p>12 Q. If you look at the next response in this</p> <p>13 thread from Dardis, Keith Dardis to Scott Niles.</p> <p>14 And I understand you're not copied here, but I'm</p> <p>15 going to ask you a question about it.</p> <p>16 In his kind of second line here,</p> <p>17 Mr. Dardis says, "Want to address this with Jon</p> <p>18 tomorrow along with mobile approach."</p> <p>19 Do you know what "mobile approach" refers</p> <p>20 to in this context?</p> <p>21 MR. NEPPLE: Object to form.</p> <p>22 Go ahead.</p> <p>23 A. I do not.</p> <p>24 BY MR. LARSEN:</p> <p>25 Q. Have you ever heard the term "mobile</p>	<p>1 approach" while working at Charter?</p> <p>2 A. We just launched mobile, so the term</p> <p>3 "mobile approach" in general discussions about how</p> <p>4 we would approach going to market. But I don't -- I</p> <p>5 don't know what he is referencing here. His team</p> <p>6 isn't selling mobile. To my knowledge, I should</p> <p>7 say.</p> <p>8 Q. Then, in that same sentence, it says,</p> <p>9 "Want to address this with Jon tomorrow along with</p> <p>10 mobile approach (FL), MTS selling Stream/Choice,</p> <p>11 et cetera."</p> <p>12 Do you know what "MTS" refers to here?</p> <p>13 A. I don't.</p> <p>14 Q. Do you know what "Stream/Choice" refers</p> <p>15 to?</p> <p>16 A. Yes. It is a -- the name of our video --</p> <p>17 a video package that we sell. Two video packages:</p> <p>18 Stream and Choice.</p> <p>19 Q. Is that something that your marketing</p> <p>20 efforts also works with?</p> <p>21 A. Yes.</p> <p>22 Q. Were there any advertisements in this case</p> <p>23 relating to Windstream that had to do with the</p> <p>24 Stream/Choice service?</p> <p>25 A. I don't actually recall the offer that we</p>

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1 featured.  
2 MR. LARSEN: Let's mark this as Exhibit 7.  
3 MR. NEPPLE: Please mark it AEO, Ms. Court  
4 Reporter.  
5 (Charter Exhibit 7 was received and marked  
6 for identification, as of this date.)  
7 A. (Witness reviews document.)  
8 BY MR. LARSEN:  
9 Q. All right. Exhibit No. 7 is an email  
10 exchange Bates-stamped Charter 936 through 941.  
11 Ms. Atkinson, once you've had a chance to  
12 look at this, can you tell me if you've seen this  
13 document before?  
14 A. I saw a portion of this, but not this  
15 string. And this was with my attorney review.  
16 Q. So did you only see this in preparing for  
17 this deposition today, not months ago when it was  
18 sent?  
19 A. I never saw it before the -- before this  
20 preparation.  
21 Q. Thank you.  
22 Look at the first email in the string --  
23 it's on page 939 -- from Jennifer Smith.  
24 Do you know who Jennifer Smith is?  
25 A. Yes. She's on my team. She works for

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1 Allison Novasel.  
2 Q. She's sending it to someone named Erin  
3 Mullane.  
4 Do you know Erin Mullane?  
5 A. I don't know her personally. She works  
6 for RAPP, the creative agency.  
7 Q. Does Peter Maguire also work for RAPP?  
8 A. Yes. I don't know him either.  
9 Q. People on the CC line, looks like they  
10 work for Charter; is that correct?  
11 A. Correct.  
12 Q. Do you know any of those people?  
13 A. Not personally, but they are in my team.  
14 Q. Jennifer says, "Hi, Erin and Pete. Below  
15 are details for Windstream versions in the 4/22 mail  
16 drop."  
17 Do you see that?  
18 A. Yes.  
19 Q. Does the term "mail drop" mean anything to  
20 you in this context?  
21 A. It means the date of April 22 where mail  
22 would be expected to be in home.  
23 Q. And "mail," are we talking about the  
24 advertisements referring to Windstream?  
25 A. Yes.

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1 Q. Do you see where -- about four lines down,  
2 where Jennifer Smith says, "Windstream has declared  
3 Chapter 11, but doesn't mean they won't re-org to  
4 stay in business"?  
5 A. Yes.  
6 Q. Did you have discussions with anybody on  
7 your team about this concept?  
8 A. No. Other than the bankruptcy  
9 mentioned -- that I mentioned.  
10 Q. If you turn to page 937. It's the second  
11 page of this exhibit.  
12 A. (Witness complies.)  
13 Q. In the fifth bullet down, there's a  
14 reference to "OE" and then the colon.  
15 A. Yes.  
16 Q. Do you see that?  
17 Does O- -- the letters "OE" mean something  
18 to you in this context?  
19 A. Outer envelope.  
20 Q. And then you can see the next bullet says,  
21 "Look and feel of the OE has been aligned with the  
22 Windstream website and current mail and market per  
23 Compremedia."  
24 A. Yes.  
25 Q. Did you have any discussions with anybody

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1 on your team about what the outer envelope was going  
2 to look like?  
3 A. No.  
4 Q. Did you have any discussions with anybody  
5 at RAPP on what the outer envelope was going to look  
6 like?  
7 A. No.  
8 I should clarify when I say I have never  
9 had any conversations. This is -- I would call it a  
10 standard marketing practice, when you have  
11 comparable services, to have them take on a look and  
12 feel that's similar to increase the response rates  
13 from customers or prospects.  
14 Q. And why do you believe that would increase  
15 the response rates?  
16 A. It's similar to not putting a brand on the  
17 outer envelope. It's -- people will open it to see  
18 what's inside.  
19 Q. Is it your understanding that people would  
20 open it because they believed it was from  
21 Windstream?  
22 MR. NEPPLE: Object to form.  
23 Go ahead.  
24 A. Perhaps.  
25

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1 BY MR. LARSEN:

2 Q. Are there any other reasons why you would  
3 think people would open it if the outer envelope had  
4 that information on it?

5 MR. NEPPLE: Object to form.  
6 Go ahead.

7 A. It's something that's been employed for a  
8 long time and I actually have seen samples of  
9 Windstream doing the same.

10 BY MR. LARSEN:

11 Q. In your experience working in the industry  
12 for 20-plus years, have you ever had someone explain  
13 to you, you know, this -- why this is the way we do  
14 it, why we make the outer envelope, you know, look  
15 like customers -- or look like competitors? Excuse  
16 me.

17 A. It's -- again, when you have like  
18 products, it's very similar to marketing in a  
19 drugstore. Advil will be sitting beside a generic  
20 brand which has similar colors and look and feel.  
21 It's the same tactic that's employed for packaged  
22 goods industry, credit cards, cable. So in my  
23 credit card experience, we would have examples where  
24 we would have our logo off of the outer envelope to  
25 increase the likelihood that customers would look at

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1 it, prospective customers.

2 Q. And you referred to your logo, that -- as  
3 in the company that you're working for; is that  
4 correct?

5 A. Yes.

6 Q. And here, this "OE" is not referring to  
7 Charter's logo, but referring to Windstream's logo;  
8 is that correct?

9 MR. NEPPLE: Object to form.

10 A. It's stated that.

11 BY MR. LARSEN:

12 Q. And so you discussed why you would put  
13 your own logo on the outer envelope.

14 Why would you put a competitor's logo on  
15 the outer envelope?

16 MR. NEPPLE: Object to form.

17 A. This wasn't a conversation that I had with  
18 the team. And I see that they're providing multiple  
19 options, which is typically what an agency does.

20 BY MR. LARSEN:

21 Q. Prior to this advertising campaign -- you  
22 talked about, what, 60 million pieces of mail a  
23 month? What does the outer envelope look like  
24 generally on those pieces of mail?

25 A. It can vary across the hundred different

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1 competitors we have in the markets. If it -- we  
2 typically will say things using a competitor's name.  
3 I could say that's employed. It's not all the time.  
4 "Important account information" or statements that  
5 would encourage a customer to open it and be able to  
6 see the offer that we're presenting from Spectrum.

7 Q. And in those other situations, do you  
8 typically use specific logos or colors from your  
9 competitors?

10 A. I don't have background on that for  
11 Charter.

12 Q. Well, you are aware of the 60 million  
13 pieces of mail that go out every month since you've  
14 been working at Charter, correct?

15 A. Yes.

16 Q. And you've reviewed some of those mailings  
17 before they've gone out, I assume?

18 A. Yes, in a limited fashion.

19 Q. And in those ones that you have reviewed,  
20 do they typically have color streams of your  
21 competitors on the outside envelopes?

22 A. They may. I'm trying to recall the Allo  
23 mailing, which used a very similar template:  
24 Important information if you are an Allo customer;  
25 important information if you're a Google customer.

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1 So, again, we used a similar template to encourage  
2 them to open it.

3 Q. Based on your experience, do you know why  
4 that would encourage them to open it?

5 A. Personal reference. If they believe that  
6 it is something that is the service provider that  
7 they are engaging with, they may open it, have a  
8 higher likelihood to open.

9 Q. In the Google campaign we've been  
10 discussing, did you use -- not you -- did Charter  
11 use Google's colors?

12 A. I don't actually know.

13 Q. In your time at Charter, can you  
14 remember -- can you recall a specific campaign that  
15 used a specific competitor's colors on the outer  
16 envelope?

17 A. No.

18 Q. I'm still on page 937 here. About the  
19 eighth bullet down, it says, "We have tried to align  
20 the font as close as possible to the font on the  
21 website and the DM."

22 Do you know what that refers to?

23 A. I saw this reviewing with my attorneys.

24 MR. NEPPLE: Go ahead.

25 A. It appears that they were trying to do a



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1 creative that used a similar creative approach.  
2 BY MR. LARSEN:  
3 Q. A similar creative approach to what?  
4 A. To Windstream.  
5 Q. Again, do you know why they would want to  
6 use the same font as Windstream uses?  
7 MR. NEPPLE: Object to form.  
8 Go ahead.  
9 A. Again, trying to have a better opportunity  
10 for the customer to open it.  
11 BY MR. LARSEN:  
12 Q. In the previous direct mail campaigns  
13 you've worked on in Charter, do you recall a time  
14 when Charter used the same font as a competitor?  
15 A. I don't.  
16 Q. Two more bullets down, it says,  
17 "Disclaimer: Please confirm that [sic] there needs  
18 to be a footnote with corresponding disclaimer copy  
19 around digs around Windstream."  
20 Do you see that?  
21 MR. NEPPLE: Object to form. You misread  
22 that, Counsel.  
23 MR. LARSEN: Okay. I apologize. Let me  
24 read it again.  
25 MR. NEPPLE: That's okay. No --

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1 Q. But in general, is that your understanding  
2 of what a disclaimer means in this context?  
3 A. Yes.  
4 Q. You see where it says "around digs around  
5 Windstream"?  
6 A. Uh-huh.  
7 Q. Do you know what that refers to in this  
8 context?  
9 A. I don't.  
10 Q. Have you otherwise ever heard anybody  
11 mention "digs" in the context of a mailing?  
12 A. We do millions of competitive mailings and  
13 TV spots, and it could be a slang term used for  
14 competitive statements.  
15 Q. Is that your understanding or are you just  
16 speculating?  
17 A. I'm speculating on that. I have not used  
18 that term.  
19 MR. NEPPLE: Okay. Counsel, can we --  
20 THE COURT REPORTER: You don't --  
21 MR. NEPPLE: -- just have a running  
22 stipulation? I don't want to have to --  
23 MR. LARSEN: Yes.  
24 MR. NEPPLE: -- interrupt you. Thank you.  
25 Everything will be marked AEO. Great.

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1 MR. LARSEN: I got it. Let me read it  
2 again.  
3 BY MR. LARSEN:  
4 Q. "Disclaimer: Please confirm if there  
5 needs to be a footnote with corresponding disclaimer  
6 copy around digs around Windstream."  
7 Do you see that?  
8 A. Yes.  
9 Q. Do you know what that refers to?  
10 A. I don't actually know, other than any  
11 reference they are probably saying do we need to  
12 disclaim this at all.  
13 Q. What does that mean, to disclaim  
14 something?  
15 A. It would mean just providing additional  
16 copy to clarify a statement that might be made. In  
17 packaging or pricing, we often have a disclaimer.  
18 Q. And what does that disclaimer often say?  
19 A. What the package includes or the tier of  
20 service.  
21 Q. So does the -- does the disclaimer refer  
22 to the offer Charter is making on what it would cost  
23 to switch to Charter?  
24 A. I actually don't know what it's  
25 referencing here.

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1 (Charter Exhibit 8 was received and marked  
2 for identification, as of this date.)  
3 BY MR. LARSEN:  
4 Q. Ms. Atkinson, have you seen this document  
5 before?  
6 A. (Witness reviews document.)  
7 I have not seen this particular doc -- or  
8 this document in this format from RAPP. This is a  
9 working document between the team and RAPP, hence  
10 all the copies on here. But I have not seen this,  
11 no.  
12 Q. So I take it you don't know whose  
13 handwriting this is on the document?  
14 A. I do not.  
15 Q. Typically when Charter works with RAPP,  
16 does Charter mark up documents like this by hand and  
17 then send them back to RAPP to make changes?  
18 A. I actually don't know. Seems kind of old  
19 school.  
20 Q. Perhaps.  
21 Is it your understanding that this  
22 handwriting is somebody at Charter?  
23 A. I don't know. It could have been the  
24 agency.  
25 Q. Do you know who would know?



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1 A. Allison Novasel or Jennifer Smith that  
2 managed the direct mail -- or the relationship with  
3 RAPP.  
4 MR. LARSEN: Let's mark this Exhibit  
5 No. 9.  
6 (Charter Exhibit 9 was received and marked  
7 for identification, as of this date.)  
8 MR. NEPPLE: Thanks.  
9 BY MR. LARSEN:  
10 Q. All right. Exhibit 9 is an email  
11 Bates-stamped Charter 964.  
12 Have you seen this document before?  
13 A. I believe I saw this as part of a larger  
14 document --  
15 Q. Okay.  
16 A. -- on creative. I did not -- I have not  
17 seen this specific document in this format.  
18 Q. Were you ever involved in any discussion  
19 about the cost or the expense it might incur to put  
20 certain colors on the outside of the envelope?  
21 A. No.  
22 Q. Was that something -- so that was that --  
23 was that something you only learned of after the  
24 fact?  
25 A. When I was preparing for this.

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1 Q. Okay.  
2 MR. LARSEN: Let's mark this as Exhibit  
3 No. 10.  
4 (Charter Exhibit 10 was received and  
5 marked for identification, as of this date.)  
6 BY MR. LARSEN:  
7 Q. Exhibit No. 10 is an email string  
8 Bates-stamped Charter 1002.  
9 Ms. Atkinson, have you seen this document  
10 before today?  
11 A. (Witness reviews document.)  
12 I can't recall. It's -- it may have been  
13 part of a larger string. But I did not see it prior  
14 to preparing for this case.  
15 Q. Okay. If you look at Jennifer Smith's  
16 email to Allison Novasel on March 5, second  
17 paragraph says, "The OE utilizes Windstream's  
18 kinetic color palette, similar to Google."  
19 Do you know what "kinetic color palette"  
20 refers to?  
21 A. No. I didn't until after I was prepping  
22 for this.  
23 Q. Do you know what it refers to now?  
24 A. Similar to the way we looked at Google,  
25 there could be creative integration. And similar to

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1 what we've done with Allo, it's a creative tactic  
2 that could be employed by the ad agency when they  
3 give us different options.  
4 Q. And is the idea of the creative  
5 integration to make it look like a Windstream  
6 envelope?  
7 MR. NEPPLE: Object to form.  
8 A. That would seem to be the intent.  
9 BY MR. LARSEN:  
10 Q. When it says "kinetic color palette," do  
11 you have an understanding that refers to a specific  
12 campaign that Windstream had done?  
13 A. I actually -- until I came back from  
14 Canada, I was not familiar with Windstream. And,  
15 again, we have hundreds of competitors.  
16 Q. As you sit here today, do you know what  
17 the word "kinetic" means in this context?  
18 A. I think it's referring to the Windstream  
19 product. I'm not as clear on that.  
20 MR. LARSEN: Exhibit No. 11.  
21 (Charter Exhibit 11 was received and  
22 marked for identification, as of this date.)  
23 BY MR. LARSEN:  
24 Q. Exhibit No. 11 is an email string  
25 Bates-stamped Charter 1005.

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1 Have you seen these emails before today?  
2 A. No.  
3 Q. Do you see, in the middle of the page, Joe  
4 Leonard's email on March 5, 2019?  
5 A. Yes.  
6 Q. It says, "These look good. I would like  
7 to get a few more opinions on the way we are  
8 positioning Windstream's situation, but I can't  
9 think of a better way to do it. 'Uncertainty' feels  
10 most right, I suppose."  
11 Did you ever have any discussions with Joe  
12 about that topic?  
13 A. No, other than doing Windstream mail.  
14 Q. Did you ever have discussions with anyone  
15 else on your team about what Joe is talking about  
16 here?  
17 A. Not that I recall. Again, we do millions  
18 of pieces of mail.  
19 Q. And in the second paragraph of Joe's  
20 email, it says, "I don't think we need their colors  
21 on the envelope. Not sure we even really want them  
22 (for 10K)."  
23 Did you ever have any discussions with Joe  
24 about the colors on the envelope for this mailing?  
25 A. No.

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1 Q. Did you have discussions with anyone on  
2 your team about the colors on the envelope for this  
3 mailing?  
4 A. No.  
5 Again, it looks like there were many  
6 options that were put together, a green outer  
7 envelope. And, again, these are creative approaches  
8 where we get options, so it's standard practice.  
9 Q. Are you aware of what the -- the final  
10 decision was on the colors on the envelope?  
11 A. I was not. Until I saw it.  
12 Q. Do you have an understanding today  
13 about --  
14 A. Yes.  
15 Q. -- what the colors were?  
16 A. Yes.  
17 Q. And were the colors the ones discussed  
18 here that matched Windstream's colors?  
19 MR. NEPPLE: Object to form.  
20 A. I would say they were similar.  
21 BY MR. LARSEN:  
22 Q. We talked about options here.  
23 Is it your understanding that ultimately  
24 the option that was chosen was the one with the  
25 Windstream colors?

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1 MR. NEPPLE: Object to form.  
2 A. I was not part of that decision in terms  
3 of outer envelope creative.  
4 BY MR. LARSEN:  
5 Q. Whether or not you were a part of the  
6 decision, do you have an understanding of what the  
7 ultimate resolution on this issue was?  
8 A. Yes, when I was presented the samples of  
9 the mail.  
10 Q. And what is your understanding?  
11 A. There was a similar color palette to what  
12 Windstream may utilize.  
13 MR. LARSEN: Let's mark this Exhibit  
14 No. 12.  
15 (Charter Exhibit 12 was received and  
16 marked for identification, as of this date.)  
17 A. (Witness reviews document.)  
18 BY MR. LARSEN:  
19 Q. Exhibit No. 12 is a document Bates-stamped  
20 Charter 965.  
21 Ms. Atkinson, have you seen this document  
22 before today?  
23 A. In preparation for this hearing -- this  
24 deposition.  
25 Q. And was that the first time that you've

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1 seen it?  
2 A. I may have seen the important information.  
3 But, again, this is a tactic that's employed  
4 frequently. And, again, I use Allo and Google. I  
5 think it's the exact statement we used for both of  
6 those, because that was the template we used.  
7 Q. Is this a document that came from RAPP?  
8 A. Anything that would come from the agency  
9 typically has a stamp like this. So, yes, I would  
10 assume so.  
11 Q. And just for the record, you're referring  
12 to the stamp near the bottom of the page that says  
13 "RAPP, Windstream" --  
14 A. Yes.  
15 Q. -- dash, "OE," et cetera?  
16 A. Correct.  
17 Q. And is that typically what RAPP would do,  
18 they would give you a copy of the envelope before it  
19 would go out?  
20 A. They would -- they would give us a copy of  
21 any creative component before it's produced and  
22 released to a printer.  
23 Q. Look at the return address in the  
24 left-hand corner of this screenshot, or whatever it  
25 is.

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1 Do you see that?  
2 A. Yes.  
3 Q. Do you know what that address refers to?  
4 A. St. Louis, Missouri.  
5 Q. Do you know what's located at that  
6 dress -- at that address?  
7 A. Windstream headquarters, I suppose. I  
8 don't actually know.  
9 Q. Okay. Were any of the mailings sent from  
10 that address?  
11 A. I don't know.  
12 Q. Do you have any reason to believe any  
13 mailings were sent from that address?  
14 A. I actually don't know. I know we  
15 drop-ship mail across the entire United States to  
16 improve the delivery times.  
17 Q. Would it be unusual to send mail from  
18 Windstream's address to Windstream customers, for  
19 Charter to do that?  
20 MR. NEPPLE: Object to form.  
21 Go ahead.  
22 A. I wouldn't have seen this particular  
23 approach before, nor was I part of any conversations  
24 on it.  
25

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<p>1 BY MR. LARSEN:</p> <p>2 Q. So you said you haven't seen this</p> <p>3 particular approach before.</p> <p>4 In previous mailings that you've been a</p> <p>5 part of, have they utilized return addresses when</p> <p>6 that's not where the documents are actually sent</p> <p>7 from?</p> <p>8 A. I don't know.</p> <p>9 Q. Can you recall a specific instance that --</p> <p>10 where that occurred?</p> <p>11 A. Not that I was involved in, no.</p> <p>12 Q. Do you have an understanding of why an --</p> <p>13 a return address would be used that's not from where</p> <p>14 the mailing was sent?</p> <p>15 A. No, I actually don't.</p> <p>16 Q. Do you think it's likely that that was</p> <p>17 used so that the customer would think that this</p> <p>18 document came from Windstream?</p> <p>19 MR. NEPPLE: Object to form.</p> <p>20 A. That may have been what the intent was,</p> <p>21 but I was not part of those conversations.</p> <p>22 BY MR. LARSEN:</p> <p>23 Q. Do you know who would have been part of</p> <p>24 that decision-making process on the return address?</p> <p>25 A. I'm assuming Allison and Jen that were</p>	<p>1 referenced in the other communication.</p> <p>2 Q. Okay.</p> <p>3 A. And RAPP.</p> <p>4 Q. Did you have any discussions with Allison</p> <p>5 and Jen to prepare for this deposition today?</p> <p>6 A. No. I say no. Other than the use of the</p> <p>7 creative historical where we've used this template</p> <p>8 again with Google and Allo and others.</p> <p>9 Q. And when did you have those discussions?</p> <p>10 A. Would have been probably a week ago.</p> <p>11 Q. Who was present for those discussions?</p> <p>12 A. I think I just asked for the samples --</p> <p>13 Q. Why --</p> <p>14 A. -- previous samples.</p> <p>15 Q. Sorry. Didn't mean to talk over you.</p> <p>16 Can you finish your answer?</p> <p>17 A. Okay. I just -- I just asked for copies</p> <p>18 of the mailings, because we had done other</p> <p>19 Windstream mailings. And they gave me Windstream</p> <p>20 mailings as well as other competitors that we've had</p> <p>21 since the beginning of the year.</p> <p>22 Q. And why did you ask for those documents?</p> <p>23 A. To familiarize myself on practices that</p> <p>24 Charter employed that I was not familiar with.</p> <p>25 Q. Did they give you any other documents in</p>
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<p>1 this meeting?</p> <p>2 A. Allison and Jen?</p> <p>3 Q. Yes.</p> <p>4 A. No.</p> <p>5 Q. Did you ask them for any other documents</p> <p>6 in this meeting?</p> <p>7 A. No, just creative samples.</p> <p>8 Q. Other than the creative samples, did you</p> <p>9 discuss anything with them in this meeting?</p> <p>10 A. No.</p> <p>11 Q. So you didn't ask them about the colors</p> <p>12 we've been discussing today?</p> <p>13 A. No.</p> <p>14 Q. You didn't ask them about the return</p> <p>15 address?</p> <p>16 A. No.</p> <p>17 Q. And you didn't ask them about any specific</p> <p>18 language that was in the mailings?</p> <p>19 A. The only thing that I was aware of was</p> <p>20 "important information enclosed for Windstream</p> <p>21 customers," because the template was what was used</p> <p>22 for Google and Allo and others prior to that.</p> <p>23 MR. LARSEN: Let's mark this Exhibit</p> <p>24 No. 13.</p> <p>25 (Charter Exhibit 13 was received and</p>	<p>1 marked for identification, as of this date.)</p> <p>2 A. (Witness reviews document.)</p> <p>3 BY MR. LARSEN:</p> <p>4 Q. Exhibit No. 13 is an email string</p> <p>5 Bates-stamped Charter 1217 through 1220.</p> <p>6 Ms. Atkinson, have you seen these emails</p> <p>7 before today?</p> <p>8 A. I remember the communication with Jennifer</p> <p>9 when she was talking about the monthly marketing</p> <p>10 review for small-/medium-sized business and</p> <p>11 establishing that meeting, which was similar to the</p> <p>12 residential business.</p> <p>13 Q. So what is the SMB marketing team?</p> <p>14 A. Jennifer Ingram leads a team that is</p> <p>15 focused on small- and medium-sized business. So it</p> <p>16 would be for -- it's powering Charter services for a</p> <p>17 business, bar, restaurant, nail salon, et cetera,</p> <p>18 not for personal use.</p> <p>19 Q. And is that something under your purview?</p> <p>20 A. Yes.</p> <p>21 Q. So I'm looking at Jennifer's first email</p> <p>22 to you on Charter 1218 where she refers to a SMB</p> <p>23 monthly marketing review call.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

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<p>1 Q. Is that a call that you participate in?</p> <p>2 A. I have, but I don't typically sit in on</p> <p>3 those meetings. And that's what she is referencing,</p> <p>4 that she was letting me know they do this.</p> <p>5 Q. If you look at your response on the bottom</p> <p>6 of the first page. First line says, "Very nice. I</p> <p>7 also believe that this information is extremely</p> <p>8 helpful for sales teams."</p> <p>9 What are you referring to there?</p> <p>10 A. It allows the sales -- or it enables our</p> <p>11 sales organizations to be aware of marketing efforts</p> <p>12 and campaigns that we put into markets. So it's an</p> <p>13 opportunity for us to have that conversation and</p> <p>14 awareness of different initiatives that we may be</p> <p>15 doing. And I reference that I'd like to do that for</p> <p>16 general market and multicultural segments.</p> <p>17 Q. So how is the SMB team different than the</p> <p>18 sales team?</p> <p>19 A. Well, the SMB team that's referenced here</p> <p>20 is the marketing team that specifically does</p> <p>21 marketing effort -- or marketing communications to</p> <p>22 the small- and medium-sized business owner.</p> <p>23 MR. LARSEN: All right. Let's go off the</p> <p>24 record.</p> <p>25 THE VIDEOGRAPHER: Stand by, please. The</p>	<p>1 time is 11:16 a.m. We're going off the record.</p> <p>2 (Recess was taken.)</p> <p>3 THE VIDEOGRAPHER: The time is 11:23 a.m.</p> <p>4 We're back on the record.</p> <p>5 MR. LARSEN: Let's mark this as Exhibit</p> <p>6 No. 14.</p> <p>7 (Charter Exhibit 14 was received and</p> <p>8 marked for identification, as of this date.)</p> <p>9 BY MR. LARSEN:</p> <p>10 Q. So No. 14 is an email Bates-stamped</p> <p>11 Charter 9885.</p> <p>12 Have you seen this document before?</p> <p>13 A. (Witness reviews document.) I have not.</p> <p>14 Q. Do you know who Sarah Blechner is?</p> <p>15 A. She works on my team.</p> <p>16 Q. And do you know who Lauren McGarry is?</p> <p>17 A. I do not.</p> <p>18 Q. I see her email address is at</p> <p>19 @wearlift.com.</p> <p>20 Do you know what "wearlift" means?</p> <p>21 A. I believe it's one of our agencies, but I</p> <p>22 am not familiar with them personally.</p> <p>23 Q. Same thing with Jon Fast, jon@wearlift, do</p> <p>24 you know who that is?</p> <p>25 A. No.</p>
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<p>1 Q. You see a reference here to April emails?</p> <p>2 A. Yes.</p> <p>3 Q. Are you aware of an email advertising</p> <p>4 campaign in April?</p> <p>5 A. I was not personally aware of that.</p> <p>6 Q. Are you aware of it now?</p> <p>7 A. As I'm reading this, yes.</p> <p>8 Q. Okay.</p> <p>9 THE COURT REPORTER: I'm sorry. What was</p> <p>10 the answer?</p> <p>11 THE WITNESS: As I'm reading this, yes.</p> <p>12 BY MR. LARSEN:</p> <p>13 Q. So are you aware of whether emails were</p> <p>14 sent in April referring to Windstream customers?</p> <p>15 A. I do not have personal knowledge of that.</p> <p>16 Q. Do you know who would?</p> <p>17 A. Jennifer Smith, who heads up the</p> <p>18 small/medium business team. And Sarah.</p> <p>19 Q. Sarah who?</p> <p>20 A. Blechner, who is on the email.</p> <p>21 Q. Got it.</p> <p>22 I assume Charter keeps a record of all</p> <p>23 email advertisements that were sent out.</p> <p>24 Is that correct?</p> <p>25 A. I would assume so.</p>	<p>1 Q. Do you know if those documents have been</p> <p>2 produced in this case?</p> <p>3 A. I do not.</p> <p>4 Q. Did you have discussions with anyone on</p> <p>5 your team about sending out emails referencing</p> <p>6 Windstream's bankruptcy?</p> <p>7 A. No.</p> <p>8 Q. Is that something that would normally be</p> <p>9 within your purview?</p> <p>10 A. It's worked on from the team that reports</p> <p>11 to me, but I'm not engaged in all of the tactical</p> <p>12 discussions that they do.</p> <p>13 Q. Typically would you be informed after the</p> <p>14 fact that emails had gone out?</p> <p>15 A. Not necessarily. Email campaigns are a</p> <p>16 tactic we employ, but I don't have conversations</p> <p>17 about the creatives or timing or quantities.</p> <p>18 Q. Setting aside the specific content of the</p> <p>19 emails, would you typically have discussions about</p> <p>20 whether to send out emails at all?</p> <p>21 A. No, I wouldn't have discussions if it's a</p> <p>22 tactic that's used standard. It's not an area that</p> <p>23 I typically get involved in.</p> <p>24 Q. And is Jennifer Smith the person who would</p> <p>25 be in charge of any email campaigns?</p>

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<p>1 A. Yes, for small/medium business specific to</p> <p>2 that group.</p> <p>3 Q. Are you aware of whether any emails went</p> <p>4 out concerning Windstream's bankruptcy for groups in</p> <p>5 addition to small/medium business?</p> <p>6 A. I don't have personal knowledge of that.</p> <p>7 Q. Is that typically something you would have</p> <p>8 personal knowledge of?</p> <p>9 A. In general, I know email campaigns are</p> <p>10 done, but I don't know if it would have happened</p> <p>11 specific to Windstream.</p> <p>12 MR. LARSEN: Exhibit No. 15.</p> <p>13 (Charter Exhibit 15 was received and</p> <p>14 marked for identification, as of this date.)</p> <p>15 A. (Witness reviews document.)</p> <p>16 BY MR. LARSEN:</p> <p>17 Q. Exhibit No. 15 is an email Bates-stamped</p> <p>18 Charter 1421.</p> <p>19 Have you seen this document before today?</p> <p>20 A. I have not.</p> <p>21 Q. Look at the initial email in the thread</p> <p>22 from Amy Kim.</p> <p>23 A. Yes.</p> <p>24 Q. Do you know who Amy Kim is?</p> <p>25 A. Yes, she is one of my directors who</p>	<p>1 reports to Jennifer Smith.</p> <p>2 Q. And it says, "Hi, can you share the</p> <p>3 Windstream assets for DM, EM," and it goes on.</p> <p>4 Do you know what "DM" and "EM" refer to</p> <p>5 here?</p> <p>6 A. Direct mail and email marketing.</p> <p>7 Q. And do you know what the reference to</p> <p>8 "Windstream assets" for DM and EM refers to? Does</p> <p>9 that mean just copies of the direct mail and the</p> <p>10 emails that have gone out?</p> <p>11 A. It does.</p> <p>12 Q. Okay. And then second sentence in Amy's</p> <p>13 email says, "Would be great to see" a plan -- strike</p> <p>14 that.</p> <p>15 It says, "Would be great to see as we plan</p> <p>16 the SMB activities."</p> <p>17 So would the SMB folks not have had copies</p> <p>18 of all the advertisements that have been gone out</p> <p>19 unless somebody asked for them?</p> <p>20 MR. NEPPLE: Object to form.</p> <p>21 A. They operate separately from the</p> <p>22 residential business and multicultural.</p> <p>23 BY MR. LARSEN:</p> <p>24 Q. What does the multicultural business refer</p> <p>25 to?</p>
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<p>1 A. The Hispanic and African-American segments</p> <p>2 within our Charter footprints.</p> <p>3 Q. So you said they work separately.</p> <p>4 But are there times when the SMB and the</p> <p>5 residential would want to know what one another are</p> <p>6 doing?</p> <p>7 A. In this case, yes.</p> <p>8 Q. Is that a typical ask, that somebody in</p> <p>9 the SMB would ask for what the other mailings look</p> <p>10 like?</p> <p>11 A. I don't actually know if it's a typical</p> <p>12 ask, because I just saw this and it's -- one is</p> <p>13 targeting a consumer directly and the other is</p> <p>14 targeting a small business, so a different message</p> <p>15 and we have different offers.</p> <p>16 MR. LARSEN: Exhibit No. 16.</p> <p>17 (Charter Exhibit 16 was received and</p> <p>18 marked for identification, as of this date.)</p> <p>19 A. (Witness reviews document.)</p> <p>20 BY MR. LARSEN:</p> <p>21 Q. Exhibit No. 16 is Bates-stamped</p> <p>22 Charter 1422, 1423. I think this was an attachment</p> <p>23 to the last email. That's the way they were</p> <p>24 produced, at least.</p> <p>25 Have you seen these documents before?</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And when was the first time you saw</p> <p>3 these documents?</p> <p>4 A. It would have been in early March when it</p> <p>5 was brought to my attention that there had been a</p> <p>6 interaction with Windstream.</p> <p>7 Q. So did you not see these documents until</p> <p>8 they had already been mailed out?</p> <p>9 A. That is correct.</p> <p>10 And, again, just to be clear, template is</p> <p>11 very standard. I had seen the template before, so I</p> <p>12 just want to --</p> <p>13 Q. Understood.</p> <p>14 A. -- clarify that statement.</p> <p>15 Q. You hadn't seen the specific --</p> <p>16 A. Correct.</p> <p>17 Q. -- language with "Windstream" in it?</p> <p>18 A. Correct.</p> <p>19 Q. And just to follow up, after the -- I'll</p> <p>20 just read the whole thing.</p> <p>21 "Windstream customers, don't risk losing</p> <p>22 your Internet and TV services. Windstream has filed</p> <p>23 for Chapter 11 bankruptcy, which means uncertainty."</p> <p>24 Do you know who, if anyone, at Charter was</p> <p>25 the one that came up with that language?</p>

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1 A. I do not know who specifically came up  
2 with the language, but it would have occurred with  
3 the agency review and discussion with Allison  
4 Novasel and the agency.  
5 Q. And in preparing for today, did you ever  
6 ask Allison or anyone else who came up with that  
7 language?  
8 A. I did not. I'm assuming it's that team,  
9 though, and the agency. I don't know who  
10 specifically would have come up with that language.  
11 Q. The last line in this -- strike that.  
12 So halfway down, there -- two-thirds of  
13 the way down, there's a line. And at the end, it  
14 says "three-year price guarantee."  
15 Do you see that?  
16 A. Actually, I don't.  
17 Q. Just going -- about two-thirds of the way  
18 down, there's a line that goes all the way across  
19 the page. And on the right of that, there's, like,  
20 a little bubble that says "three-year price  
21 guarantee."  
22 A. Ah. Yes. Okay.  
23 Q. Right above that, in bold, it says, "Plus,  
24 we will buy you out of your current contract up to  
25 \$500."

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1 Do you see that?  
2 A. Yes.  
3 Q. Do you have an understanding of what that  
4 refers to?  
5 A. Yes. It is part of our contract buyout  
6 policy, our approach, for any competitor that has a  
7 contract.  
8 Q. And how does that work?  
9 A. In the event that if you canceled your  
10 service with the current provider and incurred any  
11 charge, we would pay up to \$500.  
12 MR. LARSEN: Exhibit No. 17.  
13 (Charter Exhibit 17 was received and  
14 marked for identification, as of this date.)  
15 A. (Witness reviews document.)  
16 BY MR. LARSEN:  
17 Q. This is an email Bates-stamped  
18 Charter 6088.  
19 Ms. Atkinson, have you seen this document  
20 before today?  
21 A. No.  
22 Q. The person that sent it, Adam Sheiner, do  
23 you know who Adam Sheiner is?  
24 A. I do not. I know he works for Charter,  
25 but I don't know him personally.

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1 Q. Okay. Do you know what his position at  
2 Charter is?  
3 A. I actually don't, other than what it says  
4 here, director of national carrier sales. I don't  
5 personally know his role.  
6 Q. I'm looking at the recipients. I see a  
7 Stephen Webster, Mark Holmes, Rick Gunzel, Marybeth  
8 McCarroll.  
9 Do you know any of those people?  
10 A. Not personally, no.  
11 Q. Do you know what their titles or roles are  
12 in the company?  
13 A. I don't, actually.  
14 THE VIDEOGRAPHER: Counsel, five minutes.  
15 MR. LARSEN: The tape?  
16 THE VIDEOGRAPHER: Yeah.  
17 MR. LARSEN: Thank you.  
18 BY MR. LARSEN:  
19 Q. It says, "Folks, I'm sure you're all aware  
20 WIN does have funding to continue its normal  
21 operation [sic] while it restructures."  
22 Did you ever have conversations with  
23 anyone about that topic?  
24 A. No.  
25 Q. Did anyone ever tell you that Windstream

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1 has funding to continue its operations while it  
2 restructures?  
3 A. No.  
4 Q. Are you aware of whether anyone on your  
5 team had knowledge of this?  
6 A. I don't know.  
7 Q. Did you ever do any independent research  
8 on your own to see if Windstream had funding to  
9 continue its normal operations?  
10 A. No.  
11 Q. Did you ever ask anybody to do any  
12 research on -- in that area?  
13 A. No.  
14 THE VIDEOGRAPHER: Counsel, three minutes.  
15 MR. LARSEN: Okay. Exhibit No. 18.  
16 (Charter Exhibit 18 was received and  
17 marked for identification, as of this date.)  
18 MR. LARSEN: Let's just go off the record  
19 and change the tape.  
20 THE VIDEOGRAPHER: Thank you.  
21 The time is 10:40 -- excuse me --  
22 11:40 a.m. on May 1, 2019. This is the end of  
23 Media Unit No. 2.  
24 (Recess was taken.)  
25 THE VIDEOGRAPHER: The time is 11:43 a.m.

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<p>1 on May 1, 2019. This is Media Unit No. 3.</p> <p>2 Back on the record.</p> <p>3 BY MR. LARSEN:</p> <p>4 Q. Okay. Ms. Atkinson, do you have</p> <p>5 Exhibit 18 in front of you?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Okay. This is an email string</p> <p>8 Bates-stamped Charter 9899 through 9904. I don't</p> <p>9 think you're copied on these emails.</p> <p>10 But have you seen this document before</p> <p>11 today?</p> <p>12 A. I have not.</p> <p>13 Q. And there's references to direct sales</p> <p>14 fliers in these emails.</p> <p>15 Do you have any knowledge of what, if any,</p> <p>16 direct sales flyers may have gone out as part of</p> <p>17 this campaign?</p> <p>18 A. I do not.</p> <p>19 Q. Okay. Is it your understanding that</p> <p>20 Mr. Dardis is going to testify to those subjects?</p> <p>21 A. That is my understanding.</p> <p>22 MR. LARSEN: Counsel, is that correct?</p> <p>23 I'll just save everybody time. I'm not going</p> <p>24 to ask her if somebody else is going to testify</p> <p>25 about it.</p>	<p>1 MR. NEPPLE: Yeah, I -- my belief is that</p> <p>2 he's going to talk about direct sales.</p> <p>3 Can I --</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. LARSEN: Do you want to go off the</p> <p>6 record?</p> <p>7 MR. NEPPLE: Yeah, can we go off the</p> <p>8 record?</p> <p>9 MR. LARSEN: Go ahead.</p> <p>10 THE VIDEOGRAPHER: Stand by. The time is</p> <p>11 11:45. We're going off the record.</p> <p>12 (Recess was taken.)</p> <p>13 THE VIDEOGRAPHER: The time is 11:45 a.m.</p> <p>14 We're back on the record.</p> <p>15 BY MR. LARSEN:</p> <p>16 Q. You can set that aside. Thank you. You</p> <p>17 could just keep that in front of you, though. I</p> <p>18 mean, no -- I'm sorry. Yes, set it where you were</p> <p>19 going set it. My apology.</p> <p>20 A. (Witness complies.)</p> <p>21 MR. LARSEN: Exhibit No. 19.</p> <p>22 (Charter Exhibit 19 was received and</p> <p>23 marked for identification, as of this date.)</p> <p>24 A. (Witness reviews document.)</p> <p>25</p>
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<p>1 BY MR. LARSEN:</p> <p>2 Q. Exhibit No. 19 are some documents</p> <p>3 Bates-stamped WIN 56 through 61. And the first --</p> <p>4 the first page says "Exhibit 10" and the second page</p> <p>5 is a letter dated March 21, 2019.</p> <p>6 Ms. Atkinson, have you seen this letter</p> <p>7 dated March 21, 2019?</p> <p>8 A. I recall I saw it, just the letter, but I</p> <p>9 didn't read it in detail. It was brought to me by</p> <p>10 Joe Leonard.</p> <p>11 Q. And when did Mr. Leonard bring this to</p> <p>12 you?</p> <p>13 A. When our attorneys provided it to him and</p> <p>14 said we had received this.</p> <p>15 MR. NEPPLE: Well, do not divulge. Thank</p> <p>16 you.</p> <p>17 Go ahead.</p> <p>18 BY MR. LARSEN:</p> <p>19 Q. Do you remember the approximate date when</p> <p>20 Mr. Leonard brought this letter to your attention?</p> <p>21 A. It was late March. I don't remember the</p> <p>22 exact date.</p> <p>23 Q. And if you turn two more pages, there's an</p> <p>24 attachment to the letter, which looks like an</p> <p>25 advertisement. It's page Bates-stamped 59.</p>	<p>1 Do you see that?</p> <p>2 A. This, yes.</p> <p>3 Q. And to your knowledge, is this a copy of</p> <p>4 an advertisement that was sent out by Charter?</p> <p>5 A. This is a copy of the creative mailing, as</p> <p>6 I understand it.</p> <p>7 Q. When Mr. Leonard brought this letter to</p> <p>8 your attention, what, if anything, did you -- did</p> <p>9 the two of you discuss?</p> <p>10 A. We discussed the statement which says</p> <p>11 "uncertainty" and we just made a revision to the</p> <p>12 letter to just make the simple statement Windstream</p> <p>13 has filed for Chapter 11 bankruptcy.</p> <p>14 Q. Let's take a step back.</p> <p>15 Do you recall where you were when you had</p> <p>16 this discussion with Mr. Leonard?</p> <p>17 A. I don't, actually. It wasn't a formal</p> <p>18 meeting. It was in the -- it was in the Charter</p> <p>19 offices.</p> <p>20 Q. So was it a face-to-face discussion, to</p> <p>21 the best of your recollection?</p> <p>22 A. Yes.</p> <p>23 Q. And can you -- can you recall the gist of</p> <p>24 what he said to you about this letter?</p> <p>25 A. He just said that we were -- we had</p>



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1 mailings that were continual through the whole  
2 month. He said we are taking out any subjective  
3 copy and we're just stating that they filed for  
4 Chapter 11 bankruptcy. And that was the extent of  
5 our conversation.  
6 Q. Did you ask him any questions about it?  
7 A. No. It was a very brief conversation.  
8 Q. Did you keep a copy of the letter when you  
9 left the meeting?  
10 A. No. I did not have this letter.  
11 Q. Did he show it to you in the meeting or  
12 did he just mention that we got a letter?  
13 A. I think he just mentioned we got a letter.  
14 I can't recall.  
15 Q. Was there any subsequent time when you  
16 actually sat down and read this letter?  
17 A. No, not until now.  
18 Q. So did Mr. Leonard give you -- did you  
19 have something you were supposed to do in response  
20 to this letter?  
21 A. No, he was just updating me that the  
22 mailing would have a slight change to the creative  
23 and that it was continuing on as planned.  
24 Q. And was it your responsibility to make  
25 sure that the -- that the new mailings made the

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1 changes that Mr. Leonard discussed with you?  
2 A. It's not my specific responsibility. It  
3 is that of my team, yes.  
4 Q. And did you have any follow-up meetings  
5 with your team after this discussion with  
6 Mr. Leonard?  
7 A. No.  
8 Q. So do you know if the correct persons on  
9 your team were ever notified of what changes needed  
10 to be made?  
11 A. My understanding is that if one of my  
12 leaders says they're making a change, that it  
13 happens. I don't -- I didn't follow up.  
14 Q. I'm just trying to figure out how it got  
15 from Mr. Leonard to one of the leaders on your team.  
16 Did you have a discussion with someone on  
17 your team saying, hey, I spoke to Mr. Leonard and we  
18 need to make these changes to the advertisements?  
19 A. No.  
20 Q. Okay. Are you aware of anyone who spoke  
21 to the people on your team saying, hey, directions  
22 from above, we need to make some changes?  
23 A. Well, Allison works for Joe. So my  
24 assumption is that he would have communicated to her  
25 and she would have talked to the agency.

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1 Q. Did he tell you that's what he was going  
2 to do?  
3 A. No.  
4 Q. Did you ever follow up with Allison and  
5 ask her, Did you talk to Joe about this letter we  
6 got?  
7 A. No.  
8 Q. Did you ever follow up with Allison and  
9 ask, Did we make the changes to the advertisements  
10 that Joe wanted?  
11 A. No.  
12 Q. Did you ever see any of the revised  
13 advertisements that went out?  
14 A. I saw the one piece of the next mailing,  
15 next wave of mailings, which it just says Windstream  
16 had just filed for Chapter 11 bankruptcy.  
17 Q. And when did you see those?  
18 A. It would have been late March, beginning  
19 of April. I don't have the exact date.  
20 Q. Would it have been after the fact, after  
21 they were already sent out?  
22 A. Yes. After this had been sent out, this  
23 version, not the updated version.  
24 Q. Okay. So did you see a copy of the  
25 updated version before it was sent out?

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1 A. I don't know the timing of that. I just  
2 know we had several waves of mail.  
3 Q. Did you ever ask anyone, hey, I understand  
4 we're making some changes to these advertisements,  
5 I'd like to see them before they're sent out?  
6 A. No.  
7 Q. Any reason why not?  
8 A. 60 million pieces of mail a month with  
9 hundreds of different versions.  
10 Q. Do you recall anything else that was said  
11 in this discussion between you and Joe other than  
12 what you've already testified to?  
13 A. Other than it's a factual statement and we  
14 would just be very factual. And that was the only  
15 comment.  
16 Q. And who said that about the factual  
17 statement?  
18 A. Joe.  
19 Q. So he said to you, We need to make sure  
20 the advertisements have factual statements? I don't  
21 want to put words in his mouth. I'm just trying to  
22 understand --  
23 A. No --  
24 Q. -- the best of your recollection.  
25 A. -- he just simply said, We are making a



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<p>1 copy change, it will be very -- it will be factual.</p> <p>2 Q. Do you recall anything else he said other</p> <p>3 than that, I mean other than what you've already</p> <p>4 testified to?</p> <p>5 A. No.</p> <p>6 Q. Was anyone else present at this meeting</p> <p>7 with you and Joe?</p> <p>8 A. No.</p> <p>9 Q. Did you tell anyone else about this</p> <p>10 meeting following the meeting?</p> <p>11 A. No, not to my recollection. It would have</p> <p>12 been a very brief conversation. It was a very brief</p> <p>13 conversation.</p> <p>14 Q. In that same exhibit, if you flip through,</p> <p>15 page WIN 60, there's another letter attached here,</p> <p>16 dated March 26, 2019.</p> <p>17 Have you seen this March 26, 2019, letter</p> <p>18 before?</p> <p>19 A. No.</p> <p>20 Q. So this is the first time you're seeing it</p> <p>21 today?</p> <p>22 A. Yes.</p> <p>23 Q. Did anyone at Charter inform you that a</p> <p>24 subsequent letter was sent by Windstream's counsel?</p> <p>25 A. Not that I recall.</p>	<p>1 Q. Did you ask anyone about this letter to</p> <p>2 prepare for this deposition today?</p> <p>3 A. No.</p> <p>4 Q. If you look at the fourth paragraph of</p> <p>5 this letter, it says, "Most concerning is the fact</p> <p>6 that some of our customers, upon receiving the</p> <p>7 targeted mail-outs, called Spectrum to inquire and</p> <p>8 were told by Spectrum that they 'have a contract</p> <p>9 with Windstream to buy us out.'"</p> <p>10 Were you aware that Windstream was making</p> <p>11 these claims?</p> <p>12 A. No.</p> <p>13 Q. So did you have any discussions with</p> <p>14 anyone at Charter about the fact that Windstream is</p> <p>15 claiming that Spectrum is saying they have a</p> <p>16 contract with Windstream to buy them out?</p> <p>17 A. No.</p> <p>18 MR. LARSEN: Exhibit No. 20.</p> <p>19 (Charter Exhibit 20 was received and</p> <p>20 marked for identification, as of this date.)</p> <p>21 A. (Witness reviews document.)</p> <p>22 BY MR. LARSEN:</p> <p>23 Q. Exhibit No. 20 is an email string</p> <p>24 Bates-stamped Charter 6254 to 6255.</p> <p>25 Have you seen these emails before today?</p>
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<p>1 A. I have not.</p> <p>2 Q. So the first email from Jennifer Smith, it</p> <p>3 says, "Hi, Erin and Pete. We need to update</p> <p>4 Windstream messaging on the 4/22 letter."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Were you involved in updating the</p> <p>8 Windstream messaging on the 4/22 letter?</p> <p>9 A. I was not personally involved, no.</p> <p>10 Q. Were you aware that this was occurring at</p> <p>11 the time?</p> <p>12 A. This would have been to your earlier</p> <p>13 question about Joe, when he -- when he said we were</p> <p>14 changing some of the verbiage. But this is the SMB</p> <p>15 business. We did not talk about that, at that</p> <p>16 conversation.</p> <p>17 Q. How do you know this refers to the SMB</p> <p>18 business?</p> <p>19 A. Jennifer Smith is the -- I'm sorry. I was</p> <p>20 thinking Jennifer Ingram. Jennifer Smith is in the</p> <p>21 general market business. My correction.</p> <p>22 Q. No problem.</p> <p>23 Jennifer Smith reports to you, right?</p> <p>24 A. Reports to Allison Novasel, who reports to</p> <p>25 Joe, who reports to me.</p>	<p>1 Q. And in Jennifer Smith's email, third line</p> <p>2 says "Summary," underlined. Then it says, "We need</p> <p>3 to soften the 'uncertainty' claims for any future</p> <p>4 mailers."</p> <p>5 Are you aware that there was a -- an</p> <p>6 effort to soften the uncertainty claims for any</p> <p>7 future mailers?</p> <p>8 A. It wasn't framed that way to me, but it</p> <p>9 was along the lines of what Joe said to me, we're</p> <p>10 changing the language to make the statement of</p> <p>11 bankruptcy.</p> <p>12 Q. Are you aware of whether anyone at Charter</p> <p>13 informed Windstream of any changes they would make</p> <p>14 to future advertisements?</p> <p>15 A. I'm not personally aware of anyone in my</p> <p>16 team that said anything.</p> <p>17 Q. Have you asked anyone -- to prepare for</p> <p>18 this deposition, have you asked anyone at Charter</p> <p>19 whether they reached out to Windstream to let them</p> <p>20 know of any changes to future advertisements?</p> <p>21 A. No.</p> <p>22 MR. LARSEN: Exhibit No. 21.</p> <p>23 (Charter Exhibit 21 was received and</p> <p>24 marked for identification, as of this date.)</p> <p>25 A. (Witness reviews document.)</p>

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1 BY MR. LARSEN:  
2 Q. Exhibit No. 21 is an email string  
3 Bates-stamped Charter 6319 to 6325.  
4 Ms. Atkinson, have you seen these  
5 documents before today?  
6 A. I believe a portion of it is in with one  
7 of the other exhibits, but this is the first time  
8 I've seen this, before today.  
9 Q. Okay. Yeah, this looks like a follow-up  
10 on that exhibit concerning emails; is that correct?  
11 A. Yes. Yes.  
12 Q. And if I recall your testimony, you never  
13 saw any of these emails before they went out; is  
14 that correct?  
15 A. Correct.  
16 Q. And were you ever aware of any discussions  
17 about changes that needed to be made to any emails  
18 before they went out?  
19 A. I would -- I know there's a creative  
20 process that goes back and forth, so my knowledge is  
21 I'm aware that they go back and forth. But I was  
22 not aware of any of the content of those exchanges.  
23 Q. And in preparation for your testimony  
24 today, did you discuss the email advertisements with  
25 anybody who would have had knowledge about that

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1 topic?  
2 A. No.  
3 MR. LARSEN: Exhibit No. 22.  
4 (Charter Exhibit 22 was received and  
5 marked for identification, as of this date.)  
6 A. (Witness reviews document.)  
7 BY MR. LARSEN:  
8 Q. Exhibit No. 22 is an email Bates-stamped  
9 Charter 881 -- strike that -- Bates-stamped  
10 Charter 8116.  
11 Have you seen this document before today?  
12 A. I had not. I have not.  
13 Q. This email says, "Hi, Geoff. Per our  
14 conversation, print status of the GM 4/22 thick card  
15 Windstream competitive versions is attached."  
16 Do you know what a "thick card" refers to  
17 in this context?  
18 A. It would be a creative template that --  
19 that's nicknamed "thick card."  
20 Q. So it's like -- is it like a draft?  
21 A. It's a version, a template.  
22 Q. Do you know who Robert Bala is?  
23 A. He's one of the senior managers in direct  
24 marketing, the team that reports in to Geoff Boytos  
25 on the email.

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1 Q. So is this something within your purview  
2 or a separate department?  
3 A. This is in my purview. It's part of the  
4 marketing operations team I referenced.  
5 Q. Second sentence says, "Materials are not  
6 scheduled to arrive in homes until 4/22, so we still  
7 have the opportunity to extract palettes containing  
8 Windstream mail."  
9 Were you involved in any discussions about  
10 potentially pulling back mailers?  
11 A. Yes.  
12 Q. Okay. What do you recall about that?  
13 A. That there was a call to discuss the  
14 Windstream mailings that we were doing and this was,  
15 as I recall, after the judge hearing, if that's what  
16 you call it.  
17 Q. Do you recall when this call took place?  
18 A. I didn't participate in this discussion  
19 directly.  
20 Q. So you were not physically a part of the  
21 call?  
22 A. I was not part of this at all, no.  
23 Q. Were you otherwise aware of the call  
24 for -- from some other source?  
25 A. I was aware that this was when Keith

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1 Dardis had been in front of the judge and the ruling  
2 had come out to cease mail.  
3 Q. And were you involved in the efforts, if  
4 any, to cease sending these mailers out?  
5 A. Yes, my team was, because we were the ones  
6 who printed it. It was at the printer and we manage  
7 that relationship.  
8 Q. So when do you first recall learning of  
9 the fact that there was this issue about pulling the  
10 mailers back?  
11 A. It was just after the judge filed the -- I  
12 don't have the exact date. I don't recall the exact  
13 date, but it was the day that the judge put his  
14 filing in to say cease all mail.  
15 Q. And do you know if these mailers were, in  
16 fact, ceased?  
17 A. We know that we destroyed over 8 million  
18 pieces of mail, including general market mail,  
19 multicultural, along with the 800-and-some-thousand  
20 Windstream.  
21 Q. So is your understanding that all of  
22 the -- strike that.  
23 So is your understanding that the -- all  
24 of the Windstream mailings that had not gone out at  
25 the time of the judge's ruling at the hearing, they

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1 were all pulled back and none of them went out? Is  
2 that correct?  
3 A. That is my understanding. Everything that  
4 we were able to destroy was destroyed.  
5 MR. NEPPLE: Sorry.  
6 MR. LARSEN: Bless you.  
7 BY MR. LARSEN:  
8 Q. Do you know what date they were destroyed?  
9 A. Without looking at my calendar, I don't.  
10 I don't know offhand.  
11 Q. Okay.  
12 A. It was that same day, though.  
13 Q. Sure.  
14 And was there an expense incurred in doing  
15 this?  
16 A. Yes.  
17 Q. Do you know what that expense was?  
18 A. It was close to -- I don't have the exact  
19 number, but it was close to 800-, \$900,000 of  
20 production costs.  
21 Q. And what goes into production costs?  
22 A. The purchase of the paper, the services of  
23 the printer to collate and get it ready to be  
24 shipped to the post office.  
25 Q. And was any efforts made to pull out the

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1 Windstream documents or was it easier just to  
2 destroy everything?  
3 A. We went down to palettes which may have  
4 had 10,000 pieces of mail and there could have been  
5 one Windstream. We destroyed it that far.  
6 Q. Was there any effort to try to go in and  
7 see if you could just pull out the Windstream  
8 documents instead of destroying everything?  
9 A. There wasn't any real way to do that. It  
10 was holding up our overall larger mail of about  
11 20 million pieces.  
12 Q. Do you know who -- I assume you weren't  
13 the person talking to the printer directly?  
14 A. I was not.  
15 Q. Okay. Do you know who was in charge of  
16 that?  
17 A. It would be Geoff Boytos.  
18 Q. Okay. Did you ever have any personal  
19 discussions with Mr. Boytos about this?  
20 A. I did. I wanted to -- I needed to find  
21 out where we were in the status and our ability to  
22 identify and pull the mail.  
23 Q. And when did you have that discussion with  
24 him?  
25 A. The day that the judge made the ruling.

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1 Q. And what did he say?  
2 A. He said he would connect with the printer  
3 immediately and look to size it, because it was  
4 hundreds of palettes. So he didn't have an answer  
5 for me at the moment.  
6 Q. And did he subsequently come back to you  
7 and -- when it was finished, and tell you that  
8 the -- everything had been destroyed?  
9 A. No, because he gave me an overview of what  
10 it would entail with the million pieces of mail and  
11 he left. It was in a status, a holding pattern  
12 until we saw the judge's ruling, and then we made  
13 the decision -- I made the decision to destroy all  
14 the mail.  
15 MR. LARSEN: Do one more exhibit and we'll  
16 break for lunch, if it's okay.  
17 MR. NEPPLE: Sure.  
18 MR. LARSEN: Exhibit No. 23.  
19 (Charter Exhibit 23 was received and  
20 marked for identification, as of this date.)  
21 BY MR. LARSEN:  
22 Q. Exhibit No. 23 is an email Bates-stamped  
23 Charter 8573.  
24 Ms. Atkinson, have you seen this document  
25 before today?

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1 A. (Witness reviews document.) I have not.  
2 Q. This says, "Hi, Geoff. Joe Leonard  
3 indicated that it's not necessary to delay 4/22  
4 Windstream mail, per Jon, and we should mail as  
5 originally planned."  
6 Were you aware that Mr. Leonard had said  
7 this to Mr. Bala?  
8 A. I was not.  
9 Q. Okay. Did you have any discussions with  
10 Geoff about this?  
11 A. I don't -- there was no meeting. There  
12 may have been a question that was asked, but I  
13 didn't have any information from anyone telling me  
14 that we had to delay this.  
15 Q. Is it still your understanding that they  
16 were eventually destroyed?  
17 A. Yes. I made that call.  
18 Q. Okay. Did you have any understanding at  
19 the time that there was some discussion about  
20 whether they needed to be pulled back or not?  
21 A. I had not had that conversation. There  
22 was some confusion in the department and primarily,  
23 you know, are we supposed to make any other creative  
24 changes, because we hadn't done a creative change  
25 before. I wasn't part of those conversations, but I

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1 knew there was some confusion in the department.  
2 Q. So Exhibit No. 22, that email is 4/5/2019.  
3 Exhibit No. 23 is 4/8/2019.  
4 Do you recall when you learned that the  
5 documents had actually been destroyed?  
6 A. The mail?  
7 Q. Yes.  
8 A. It was the day the judge made the ruling.  
9 It was within about a few hours.  
10 MR. LARSEN: All right. Off the record.  
11 THE VIDEOGRAPHER: Stand by. The time is  
12 12:15 p.m. We're going off the record.  
13 (At 12:15 p.m. a luncheon recess was  
14 taken.)  
15 (At 1:05 p.m. the deposition resumes.)  
16 \*\*\*\*\*  
17 AFTERNOON SESSION  
18 \*\*\*\*\*  
19 THE VIDEOGRAPHER: The time is -- the time  
20 is 1:05 p.m. We're back on the record.  
21 CONTINUED EXAMINATION  
22 BY MR. LARSEN:  
23 Q. Good afternoon.  
24 A. Good afternoon.  
25 Q. Ms. Atkinson, are you aware of whether

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1 there are currently any mailings going out that  
2 reference Windstream?  
3 A. To my knowledge, no.  
4 Q. Are you aware of whether there are  
5 currently any emails that are going out representing  
6 Windstream?  
7 A. To my knowledge, no.  
8 Q. How about any phone calls going out that  
9 reference Windstream?  
10 A. To my knowledge, no.  
11 Q. Okay. And do you know whether there are  
12 any door-to-door campaigns currently happening that  
13 reference Windstream?  
14 A. To my knowledge, no.  
15 Q. And to all those categories we've just  
16 discussed, are you aware of whether there are any  
17 plans for such campaigns to start up again in the  
18 future?  
19 A. We go after all of our homes passed in  
20 terms of marketing and sales efforts, so at some  
21 point. And it could be part of what is happening  
22 now, that there are activities, but they're not  
23 calling out Windstream, to my knowledge.  
24 Q. Got it.  
25 So mailers may be going out to homes that

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1 are Windstream customers, but those mailers don't  
2 reference the word "Windstream."  
3 Is that your understanding?  
4 A. Correct.  
5 Q. Do you know the geographic area that the  
6 mailings were sent that reference Windstream?  
7 A. I have a general idea, but I don't have  
8 specifics on it.  
9 Q. Can you tell me what you know, please?  
10 A. North Carolina, Florida, Missouri,  
11 St. Louis. I actually don't have a lot more detail.  
12 Q. Do you know who would have that  
13 information?  
14 A. Our competitive intelligence team that  
15 looks at all competition in our footprint.  
16 Q. And did you have any discussions with them  
17 to prepare for your testimony today?  
18 A. No.  
19 Q. Did you have any discussions with anybody  
20 on the topic of the geographic location of where the  
21 mailers were sent?  
22 A. This morning, I looked up, just on a  
23 website, so I could familiarize myself.  
24 Q. And what website did you look at?  
25 A. It just said "Windstream locations of

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1 service." It was a general Google search.  
2 Q. Is it your understanding that the mailers  
3 were sent everywhere that Windstream has a  
4 footprint?  
5 A. I don't actually know the answer to that.  
6 I know that it covered where they were in our  
7 footprint.  
8 Q. Okay.  
9 A. But I can't clarify on that.  
10 Q. So is it your understanding that mailers  
11 were sent everywhere there was an overlap between  
12 Windstream's footprint and your footprint?  
13 A. It's my understanding that that is how we  
14 targeted it.  
15 Q. Is it your understanding that that was  
16 something specific for this particular campaign or  
17 is that something that happens in all campaigns?  
18 A. All campaigns.  
19 Q. Do you know how many advertisements were  
20 sent out that referenced Windstream?  
21 A. Which mailing?  
22 Q. Sure.  
23 How about the first mailing that led to  
24 the letters that were received from Windstream's  
25 counsel?

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1 A. On average, I believe it was a little over  
2 800,000. But I don't have a specific number.  
3 Q. Sure.  
4 And where did you get that 800,000 number?  
5 A. That was part of -- when we had to make  
6 the destruction of mail, I had them pull how much  
7 mail was out there and that's where I got that  
8 number. So that was specific to the decision on  
9 destroying the mail as well. That's where that  
10 number came up.  
11 Q. So the ones that were destroyed, that  
12 was -- that was after an initial round of mailings  
13 had already gone out, correct?  
14 A. Correct.  
15 Q. And is it your understanding that the  
16 second round of mailings that were pulled back, they  
17 were going to the exact same addresses as the first  
18 round?  
19 A. I don't actually know the detailed answer  
20 to that. It would have been the -- a similar pool.  
21 Q. If you had to go back and figure it out,  
22 who would you ask to get that information?  
23 A. In my marketing operations team, I have a  
24 group that pulls data files for all of our  
25 prospective customers, our prospects.

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1 Q. Now, amongst those approximate 800,000 --  
2 and I understand it's approximate -- do you have an  
3 idea of how many of those recipients were actual  
4 Windstream customers other than just being in their  
5 footprint?  
6 A. I don't.  
7 Q. Do you have an estimate?  
8 A. It would have been in the one court -- or  
9 the document where it showed -- one of the  
10 exhibits -- I don't recall which exhibit -- where  
11 there was an overlap of where we had determined that  
12 could be where they were operating. And so that's  
13 where the -- where the file would have gone -- or  
14 come from.  
15 Q. And I understand that that's where they  
16 could be.  
17 But is there a way that you have  
18 internally to know specifically this person at this  
19 address is a Windstream customer and I know that if  
20 I send the mailing there, it's going to go to a  
21 Windstream customer?  
22 A. Not with a hundred percent certainty.  
23 Q. So what kind of certainty do you have?  
24 A. They could have -- the certainty we have  
25 is that they are in an area that's serviced by

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1 Windstream and it doesn't mean that they are a  
2 Windstream customer.  
3 Q. Do you have some sort of industry standard  
4 or rule of thumb of knowing what percentage of  
5 people in that area would be Windstream customers?  
6 A. I don't specifically have that detail, but  
7 it would be part of our competitive intelligence  
8 detail to make certain assumptions on that.  
9 Q. And, again, if you wanted that  
10 information, you'd go back to the competitive  
11 intelligence folks --  
12 A. Yes.  
13 Q. -- and ask them?  
14 A. Yes.  
15 Q. And you didn't talk to any of those  
16 competitive intelligence people to prepare for  
17 responding to questions today?  
18 A. I did not.  
19 Q. And my understanding is that you're not  
20 here today to answer questions about the  
21 door-to-door campaign; is that correct?  
22 A. That is correct. It's my understanding  
23 Keith Dardis will cover that.  
24 Q. Okay. And to clarify too, you're also not  
25 here to answer any questions about the telephone

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1 campaign?  
2 A. The outbound telemarketing?  
3 Q. Yes.  
4 A. That's not my area.  
5 Q. Okay. Okay. I just want to follow up.  
6 I'm reading Topic No. 3, which says --  
7 A. In here?  
8 Q. Yes.  
9 A. Okay.  
10 Q. -- "the use of the advertisements by  
11 Charter, including any door-to-door campaign,  
12 in-person solicitations, or telephone campaign."  
13 And I think your counsel said -- or you and/or your  
14 counsel said at the outset that you had partial  
15 knowledge on that topic.  
16 A. Yes.  
17 Q. What knowledge do you have on Topic No. 3?  
18 A. My knowledge on this was that I became  
19 aware that Jennifer Ingram, in one of the exhibits  
20 that you showed, that they were crafting a piece of  
21 collateral for door-to-door. I was not aware of  
22 that prior to seeing the documents.  
23 Q. Okay. And does that exhaust your  
24 knowledge of Topic No. 3?  
25 A. Other than the point that my team would

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<p>1 try to have similar language in terms of a</p> <p>2 cohesiveness and they would have been involved in --</p> <p>3 in creating that.</p> <p>4 Q. And is there any standard -- strike that.</p> <p>5 In general, when you do a campaign, is</p> <p>6 there a way that you coordinate with the other teams</p> <p>7 to try to have consistent messaging?</p> <p>8 A. Outside of collateral we produce, no.</p> <p>9 Q. And "collateral," does that mean the</p> <p>10 mailer?</p> <p>11 A. Yes.</p> <p>12 Q. And collateral door-to-door, that would</p> <p>13 mean the flier?</p> <p>14 A. Yes.</p> <p>15 Q. Are those things usually identical or are</p> <p>16 they different?</p> <p>17 A. I actually don't know if they're identical</p> <p>18 and I also don't know if they're different. They</p> <p>19 would have, again, typically the price of the offer</p> <p>20 we have, they have contracts, we don't, just</p> <p>21 standard competitive intelligence.</p> <p>22 Q. And, in general, do you -- would you</p> <p>23 review the fliers before they went out to ensure</p> <p>24 that they're, you know, similar to what you're doing</p> <p>25 on the mailing?</p>	<p>1 A. I personally would not.</p> <p>2 Q. Are you aware of whether anyone on your</p> <p>3 team typically does that?</p> <p>4 A. According to the exhibit, yes, they would</p> <p>5 have crafted those in consistency with any mailing,</p> <p>6 which is the request that they asked in the one</p> <p>7 exhibit, to send over any residential.</p> <p>8 Q. Sure. I was talking about just in</p> <p>9 general, not in this case.</p> <p>10 A. Right.</p> <p>11 Q. Is that your understanding too, in</p> <p>12 general, that they would coordinate in that fashion?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And your understanding, in this</p> <p>15 particular case, is there was that same</p> <p>16 coordination?</p> <p>17 A. I would assume so.</p> <p>18 Q. Okay. And turn to Topic No. 4.</p> <p>19 A. Okay.</p> <p>20 Q. Again, this is one I think -- I was told</p> <p>21 you have partial knowledge on.</p> <p>22 A. No. 4 here?</p> <p>23 Q. Yeah.</p> <p>24 A. "Charter's customer service training</p> <p>25 relating to the advertisements and Windstream's</p>
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<p>1 Chapter 11 filing."</p> <p>2 Q. Yes.</p> <p>3 A. Uh-huh.</p> <p>4 Q. Is that accurate, that you have some</p> <p>5 knowledge as to this topic?</p> <p>6 A. I would have some knowledge.</p> <p>7 Q. Okay. Which parts of this topic would you</p> <p>8 have the knowledge of?</p> <p>9 A. I -- I know that our customer service</p> <p>10 training is not specific to any particular</p> <p>11 competitor. It's a general overview of where we</p> <p>12 have advantages and may have detail on just those</p> <p>13 competitive advantages, price points, contracts, no</p> <p>14 contracts.</p> <p>15 Q. And are we talking about people on the</p> <p>16 phone that make the phone calls?</p> <p>17 A. In this case, customer service, I'm</p> <p>18 looking at it as we have a team that's called</p> <p>19 "customer service," which is separate from sales.</p> <p>20 Q. And what does that separate team -- that</p> <p>21 separate customer service team do?</p> <p>22 A. Technical questions, billing, anything</p> <p>23 related to the customer's service of their account.</p> <p>24 Q. And are you aware of whether those</p> <p>25 customer service people had any specific training</p>	<p>1 relating to the Windstream advertisements?</p> <p>2 A. I am not.</p> <p>3 Q. Did you inquire to see if they did?</p> <p>4 A. No.</p> <p>5 Q. If you wanted to find out if they did or</p> <p>6 not, who would you ask?</p> <p>7 A. This would be -- customer service is</p> <p>8 headed by Kip Mayo.</p> <p>9 Q. Kip, how do you spell his last name?</p> <p>10 A. M-A-Y-O. It's a woman.</p> <p>11 Q. Just like it sounds. All right.</p> <p>12 A. It's a woman.</p> <p>13 Q. Okay. And what is Ms. Mayo's position?</p> <p>14 A. Head of -- she's the executive vice</p> <p>15 president of customer service.</p> <p>16 Q. Do you have any knowledge of whether, in</p> <p>17 general -- when a new campaign goes out, whether the</p> <p>18 customer service people are made aware of it?</p> <p>19 A. In general, they know that we mail ongoing</p> <p>20 and across our whole footprint with hundreds of</p> <p>21 competitors. But to my knowledge, there isn't any</p> <p>22 specific training done for those competitors.</p> <p>23 Q. And you don't know if there's any specific</p> <p>24 training done in this specific case related to the</p> <p>25 Windstream advertisements?</p>

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1 A. I do not know that.  
2 Q. If you turn to Category No. 6?  
3 A. (Witness complies.) Here?  
4 Q. Yeah. Same -- I'm turning. You're on the  
5 same page.  
6 A. Okay.  
7 Q. Yeah. I'm looking at No. 6. It says  
8 "Charter's internal communications referring to  
9 Windstream's Chapter 11 filing."  
10 Are you the person with the most knowledge  
11 on that topic?  
12 A. I would -- between Keith and I or in  
13 general?  
14 Q. I'm saying: In general, are you the  
15 witness today that's going to answer questions on  
16 that topic?  
17 A. Yes.  
18 Q. Okay. What did you do to prepare yourself  
19 to answer questions on this topic?  
20 A. I -- actually, I didn't do anything.  
21 Q. So did you -- did you ask anybody at  
22 Charter about what discussions they may have had  
23 relating to the bankruptcy filing?  
24 A. No. Outside of the exhibits where I saw  
25 the bankruptcy filing and it was communicated to me,

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1 MR. NEPPLE: Sure.  
2 BY MR. LARSEN:  
3 Q. Okay. So my understanding is, on Category  
4 No. 7, you didn't -- sounds like you didn't do any  
5 independent research to prepare yourself for that  
6 topic today; is that correct?  
7 A. That's correct.  
8 Q. Okay. Do you have any personal knowledge  
9 as to that topic?  
10 A. I do not have any specifics on that.  
11 Q. Okay. If you wanted to find out the  
12 specifics, where would you go to find out?  
13 A. I'm trying to think, actually. Our  
14 inbound sales organization, who takes the actual  
15 calls, and our competitive intelligence team that I  
16 mentioned, David Andreski, who had the -- who was in  
17 one of the exhibits.  
18 Q. So do you have any knowledge of whether --  
19 when a customer happens to call up to switch,  
20 whether that's something that's noted internally?  
21 Strike -- that was a bad question.  
22 A. Okay.  
23 Q. Let me try to clarify.  
24 A. Okay.  
25 Q. So I would assume that often someone calls

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1 no.  
2 Q. Any reason why you didn't?  
3 A. We have so many competitors. I mean, we  
4 have a broad range: AT&T, Verizon, Cincinnati Bell.  
5 It goes on and on, so...  
6 Q. What does that have to do with preparing  
7 for this topic today?  
8 A. I didn't prepare for that specifically  
9 because those aren't my areas.  
10 Q. I'm looking at Category No. 7. It says,  
11 "All requests from Windstream customers to switch to  
12 Spectrum received by Charter from March 15, 2019, to  
13 the present."  
14 MR. NEPPLE: And so we're clear, we're  
15 going to stand on our objection that we filed  
16 on here. We're not producing a designee on  
17 this because we see this as a damages issue.  
18 But you can inquire from both her and the next  
19 designee what they have personal knowledge of.  
20 But we are not producing a designee on 7.  
21 MR. LARSEN: Okay. Well, we'll mark that  
22 and --  
23 MR. NEPPLE: Sure.  
24 MR. LARSEN: -- make whatever motions need  
25 to be made.

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1 up Charter's customer service and says, I would like  
2 to switch from my current provider to Charter.  
3 A. Yes.  
4 Q. Correct?  
5 A. Correct.  
6 Q. When that happens and if the person  
7 switches from a specific other service like  
8 Windstream, is that notated somewhere in Charter's  
9 file so they know that we took a customer from  
10 Windstream?  
11 A. Not to my knowledge.  
12 Q. And, again, would the inbound sales  
13 organization be the people that would know that for  
14 sure?  
15 A. I don't actually know the answer to that.  
16 Q. Okay. I'm now looking at Category No. 8,  
17 which says, "All communications with present or  
18 potential customers referring to Windstream since  
19 March 15, 2019, including but not limited to,  
20 communications referring to Windstream, Windstream's  
21 Chapter 11 cases, Windstream's future, Windstream's  
22 potentially going out of business or cutting off  
23 services, or the Charter advertisements referring to  
24 Windstream." And I think I also heard at the  
25 beginning that you have partial knowledge as to



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1 that.

2 Is that correct?

3 A. Yes.

4 Q. Okay. Which parts of this do you have

5 knowledge about?

6 A. The direct mail campaign that we sent out,

7 and then, just today, in the exhibits, the details

8 around collateral that may have been developed.

9 Q. Just to be clear -- I think I know what it

10 means. But can you define what "collateral" means?

11 A. Any material that could be used to show a

12 customer comparative offering for our products and

13 services.

14 Q. So a direct mailer and a flier are both

15 collateral?

16 A. Yes, they could be considered that.

17 Q. Is there anything else that would fall

18 under the definition of "collateral"?

19 A. Not in that category. I say that because

20 we do television and radio, but that's not

21 collateral. They're assets.

22 Q. I'm looking at Category No. 9: "The

23 identities of all third parties, agents, or

24 entities, hired or engaged by Charter to create or

25 produce any the [sic] advertisements." This is a

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1 A. Yes, for that team.

2 Q. And are -- did you -- strike that.

3 Are you aware of whether there was any

4 radio campaigns done for the advertisements

5 referring to Windstream?

6 A. To my knowledge, there was not.

7 Q. Okay. And is that something you would

8 likely know about if there was?

9 A. I would likely know about it.

10 Q. All right. Category No. 10 says, "The

11 design of the envelope appended hereto as Exhibit B,

12 including the decision to use the phrase 'important

13 information for Windstream customers,' the color

14 strip blending from dark purple to pink, and the

15 lack of a corporate identification in the return

16 address."

17 You're here on that topic, correct?

18 A. Yes.

19 Q. Okay. And we've discussed a lot about

20 that, I believe.

21 A. Yes.

22 Q. Is there anything you did to prepare

23 yourself to gather information to speak on that

24 topic today?

25 A. Other -- the obtaining of the samples that

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1 typo.

2 We've talked about RAPP, correct?

3 A. Uh-huh. Yes.

4 Q. Is there anyone other than RAPP that would

5 fall under this category?

6 A. The printer, Quad, that's in the exhibit.

7 We have other agencies that do TV, radio, other

8 things, but not pertaining to this.

9 Q. Are you aware of whether there have been

10 any advertisements on TV or radio relating to

11 Windstream specifically?

12 A. I know there is nothing on TV. I'm not

13 sure about the radio.

14 Q. And who would know about the radio?

15 A. It would be within my team, Joe Leonard.

16 Q. And is there a separate team that does --

17 that works on radio?

18 A. There is. It is an in-house creative team

19 for the majority of those campaigns. They would

20 create a script.

21 Q. And you're not involved in that?

22 A. It's in my team --

23 Q. Okay.

24 A. -- but I am not personally involved in it.

25 Q. But you supervise the people that do it?

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1 I mentioned earlier.

2 Q. Did you talk to anybody in your team

3 about, you know, where this information came from or

4 the process of how it was developed?

5 A. No. They assume I understand. It's with

6 the agency.

7 Q. And did you talk to anybody at RAPP about

8 how this came about?

9 A. No.

10 Q. Do you believe this was something that was

11 developed in-house or something that RAPP developed?

12 MR. NEPPLE: Object to form.

13 BY MR. LARSEN:

14 Q. Or do you not know?

15 A. It was RAPP, given the creative emails

16 that were shown today.

17 Q. And what I mean is, is the specific

18 language. Like, you know, "Goodbye, Windstream;

19 Hello, Charter," things like that, is that something

20 that your team comes up with or is that something

21 that RAPP comes up with and then your team signs off

22 on?

23 A. It would be something that the agency

24 presented as an option to us.

25 Q. Is that typically how that works, the



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1 agency comes up with the specific language and then  
2 you approve or change?  
3 A. That's typically how it works, yes, unless  
4 there's a template that is being utilized.  
5 THE COURT REPORTER: That is?  
6 THE WITNESS: Being utilized. We have  
7 templates.  
8 BY MR. LARSEN:  
9 Q. And in this particular case, did you  
10 give -- not you -- did Charter give RAPP the Google  
11 template we've been talking about?  
12 A. It's my understanding the team did use  
13 that and they referenced it in several emails.  
14 Q. In your understanding, did the Google  
15 template have the same type of language, you know,  
16 "Goodbye, Google; Hello, Charter," that type of  
17 thing in it?  
18 A. I can't actually recall the exact language  
19 on that. It does have a switch message.  
20 MR. LARSEN: I don't think I have any  
21 further questions of this witness.  
22 MR. NEPPLE: Okay.  
23 THE VIDEOGRAPHER: Okay. Counsel?  
24 MR. NEPPLE: Oh. Yes. Okay. We'll  
25 obviously read and sign her portion. And we'll

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1 CERTIFICATE  
2 STATE OF CONNECTICUT  
3  
4 I, ANGELA M. SHAW-CROCKETT, Notary Public, duly  
5 commissioned and qualified in and for the States of  
6 New York, New Jersey and Connecticut, before whom the  
7 foregoing deposition was taken, do hereby certify that the  
8 witness whose testimony appears in the foregoing deposition  
9 was duly sworn by me; that the testimony of said witness  
10 was taken by me to the best of my ability and  
11 thereafter reduced to typewriting under my direction;  
12 that I am neither counsel for, related to, nor  
13 employed by any of the parties for the action in  
14 which this deposition was taken, and further that I  
15 am not a relative or employee of any attorney or  
16 counsel employed by the parties thereto, nor  
17 financially or otherwise interested in the outcome of  
18 the action. Witness will read and sign.  
19 IN WITNESS THEREOF, I have hereunto set my  
20 hand this 3rd day of May, 2019.  
21  
22  
23 Angela M. Shaw-Crockett, Notary Public  
24  
25

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1 read and sign Keith's portion.  
2 THE VIDEOGRAPHER: Thank you.  
3 MR. NEPPLE: You can go off the record.  
4 THE VIDEOGRAPHER: The time is 1:30 p.m.  
5 on May 1, 2019. This is the end of Media Unit  
6 No. 3 and this completes the videotaped  
7 deposition of Kelly Atkinson.  
8  
9 (Time noted: 1:30 p.m.)  
10  
11 \_\_\_\_\_  
12 KELLY ATKINSON  
13  
14 Subscribed and sworn to  
15 before me this day  
16 of 2019.  
17 \_\_\_\_\_  
18  
19  
20  
21  
22  
23  
24  
25

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1 ERRATA SHEET  
2 VERITEXT LEGAL SOLUTIONS  
3 330 OLD COUNTRY ROAD  
4 MINEOLA, NEW YORK 11501  
5 516-608-2400  
6 NAME OF CASE: Windstream Holdings, Inc. v.  
7 Charter Communication, LLC  
8 NAME OF DEPONENT: KELLY ATKINSON  
9 DATE OF DEPOSITION: 5/1/2019  
10 PAGE LINE(S) CHANGE REASON  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21 \_\_\_\_\_  
22 KELLY ATKINSON  
23  
24 SUBSCRIBED AND SWORN TO BEFORE ME  
25 THIS\_\_DAY OF \_\_\_\_, 20\_\_.

_____ (NOTARY PUBLIC)	_____ MY COMMISSION EXPIRES:
--------------------------	---------------------------------



**Debtor**



**Defendants' Designations and Counter Designations**



**Debtor Counter Designations**

Page 1	Page 2
<p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>_____</p> <p>In re:</p> <p>WINDSTREAM HOLDINGS, INC., et al., Debtors. Chapter 11</p> <p>_____ Case No. 19-22312(RDD)</p> <p>WINDSTREAM HOLDINGS, INC., et al., Plaintiffs,</p> <p>vs.</p> <p>CHARTER COMMUNICATIONS, INC. and CHARTER COMMUNICATIONS OPERATING, LLC, Defendants.</p> <p>-----X</p> <p>** CONFIDENTIAL - ATTORNEYS' EYES ONLY **</p> <p>DEPOSITION OF KEITH DARDIS Stamford, Connecticut Wednesday, May 1, 2019</p> <p>REPORTER: Angela M. Shaw-Crockett, CCR, RMR, CSR License No. SHR.0000519</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 May 1, 2019</p> <p>13 11:59 a.m.</p> <p>14</p> <p>15</p> <p>16 DEPOSITION of KEITH DARDIS, taken by the</p> <p>17 Plaintiff, held at Wiggin and Dana, Two Tresser</p> <p>18 Boulevard, Two Stamford Plaza, Stamford,</p> <p>19 Connecticut, before Angela M. Shaw-Crockett, a</p> <p>20 Certified Court Reporter, Certified Shorthand</p> <p>21 Reporter, Registered Merit Reporter and Notary</p> <p>22 Public of the States of New York, New Jersey and</p> <p>23 Connecticut.</p> <p>24</p> <p>25</p>
Page 3	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 KATTEN MUCHIN ROSENMAN LLP</p> <p>4 Attorneys for The Plaintiff</p> <p>5 2029 Century Park East</p> <p>6 Suite 2600</p> <p>7 Los Angeles, California 90067-3012</p> <p>8</p> <p>9 BY: RYAN J. LARSEN, ESQ.</p> <p>10 ryan.larsen@kattenlaw.com</p> <p>11</p> <p>12 THOMPSON COBURN LLP</p> <p>13 Attorneys for The Defendant</p> <p>14 One US Bank Plaza</p> <p>15 St. Louis, Missouri 63101</p> <p>16 BY: MICHAEL L. NEPPLE, ESQ.</p> <p>17 BRIAN HOCKETT, ESQ.</p> <p>18 mnepple@thompsoncoburn.com</p> <p>19 bhockett@thompsoncoburn.com</p> <p>20</p> <p>21 MORRISON &amp; FOERSTER</p> <p>22 Attorneys for The Committee of</p> <p>23 Unsecured Creditors</p> <p>24 125 Broad Street</p> <p>25 New York, New York 10004</p> <p>BY: STEVE RAPPOPORT, ESQ.</p> <p>ALSO PRESENT: Kristin Zarnetske, The Videographer</p> <p>** ** *</p>	<p>1 INDEX</p> <p>2 EXAMINATION BY PAGE</p> <p>3 MR. LARSEN 6</p> <p>4 CONFIDENTIAL EXHIBITS</p> <p>5 ATTORNEYS' EYES ONLY</p> <p>6</p> <p>7 FOR ID DESCRIPTION PAGE</p> <p>8 Exhibit 24 Document Bates Charter_000583 through 41</p> <p>9 Charter_000585</p> <p>10 Exhibit 25 Document Bates Charter_001458 through 43</p> <p>11 Charter_001461</p> <p>12</p> <p>13 Exhibit 26 Emails Bates-stamped Charter 1492 to 1496 48</p> <p>14 Exhibit 27 Email string Bates-stamped Charter 9191 53</p> <p>15 to 9192</p> <p>16</p> <p>17 Exhibit 28 An April 11, 2019, email 56</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Page 5	Page 6
<p>1 THE VIDEOGRAPHER: Good afternoon. We are</p> <p>2 now going on the record at 2:02 p.m. on May 1,</p> <p>3 2019. Please note that the microphones are</p> <p>4 sensitive and may pick up whispering, private</p> <p>5 conversations, and cellular interference.</p> <p>6 Please turn off all cell phones and place them</p> <p>7 away from the table as they may interfere with</p> <p>8 the deposition audio. Audio and video</p> <p>9 recording will continue to take place until all</p> <p>10 parties agree to go off the record.</p> <p>11 This is Media Unit No. 1 of the videotaped</p> <p>12 deposition of Mr. Keith Dardis taken by</p> <p>13 plaintiffs in the matter of In re: Windstream</p> <p>14 Holdings, Inc., debtors, versus -- and</p> <p>15 Windstream Holdings, Inc., et al., plaintiffs,</p> <p>16 versus Charter Communications, Inc., and</p> <p>17 Charter Communications Operating, LLC,</p> <p>18 defendants, filed in the United States</p> <p>19 Bankruptcy Court for the Southern District of</p> <p>20 New York, Case No. 19-22312 (RDD).</p> <p>21 My name is Kristin Zarnetske. I'm the</p> <p>22 videographer representing Veritext. The court</p> <p>23 reporter, also in association with Veritext, is</p> <p>24 Angela Grant [sic]. And also I'm not</p> <p>25 authorized to administer an oath and I'm not</p>	<p>1 related to any party in this action, nor am I</p> <p>2 financially interested in the outcome.</p> <p>3 Will counsel present please introduce</p> <p>4 themselves for the record.</p> <p>5 MR. LARSEN: Ryan Larsen on behalf of the</p> <p>6 plaintiff Windstream.</p> <p>7 MR. NEPPLE: Mike Nepple, Thompson Coburn,</p> <p>8 on behalf of the Charter defendants.</p> <p>9 MR. RAPPOPORT: Steve Rappoport, Morrison</p> <p>10 &amp; Foerster, on behalf of the committee of</p> <p>11 unsecured creditors.</p> <p>12 THE VIDEOGRAPHER: Thank you. Would the</p> <p>13 court reporter please swear in the witness.</p> <p>14 K E I T H D A R D I S,</p> <p>15 called as a witness, having first been</p> <p>16 duly sworn, was examined and testified as</p> <p>17 follows:</p> <p>18 EXAMINATION</p> <p>19 BY MR. LARSEN:</p> <p>20 Q. Mr. Dardis, good afternoon.</p> <p>21 A. Hi.</p> <p>22 Q. My name is Ryan Larsen. I'm one of the</p> <p>23 attorneys for the debtor and I'll be taking the</p> <p>24 deposition.</p> <p>25 A. Okay.</p>
Page 7	Page 8
<p>1 Q. I assume you've had a chance to talk to</p> <p>2 your attorneys about the ground rules for the</p> <p>3 deposition, but I'm going to take about five minutes</p> <p>4 just to go over them and make sure we're on the same</p> <p>5 page. Okay?</p> <p>6 A. Okay.</p> <p>7 Q. First thing is: That oath you took,</p> <p>8 that's the same oath you take in a courtroom. It's</p> <p>9 the same penalties of -- penalty of perjury applies</p> <p>10 here in this informal setting as it would in a</p> <p>11 courtroom or any other matter.</p> <p>12 Do you understand that?</p> <p>13 A. I do.</p> <p>14 Q. Okay. The testimony you're giving today</p> <p>15 can be used by the parties at trial or any other</p> <p>16 proceeding in this matter.</p> <p>17 Do you understand that too?</p> <p>18 A. I do.</p> <p>19 Q. Okay. I'll be asking you questions and</p> <p>20 the court reporter will be transcribing everything</p> <p>21 everyone said. So that leads to a couple of things.</p> <p>22 One, we need to make sure and speak</p> <p>23 audibly, which you're doing well on so far. Thank</p> <p>24 you. That means "yes" and "no," not "uh-huh" or</p> <p>25 "uh-huh," which could be misinterpreted. Not shake</p>	<p>1 your head or nod your head, because that's difficult</p> <p>2 for her to take down.</p> <p>3 Do you understand?</p> <p>4 A. Understood.</p> <p>5 Q. Okay. Likewise, it's very difficult for</p> <p>6 her to take down when people are talking too fast,</p> <p>7 so try to take a breath, if you can. It's difficult</p> <p>8 for her to take down when people are talking over</p> <p>9 one another. So in a real-life conversation when</p> <p>10 you see where I'm going with the question, you jump</p> <p>11 in with a yes or no. Can't do that here. So let me</p> <p>12 finish the whole question. Then you answer.</p> <p>13 Likewise, I'll do my best to make sure you finish</p> <p>14 your whole answer. Then I'll jump in with another</p> <p>15 question.</p> <p>16 Do you understand?</p> <p>17 A. I do.</p> <p>18 Q. Okay. When we're done today, the court</p> <p>19 reporter is going to transcribe everything we said.</p> <p>20 We're all going to get a copy. You'll have the</p> <p>21 right to review it and make any changes. I just</p> <p>22 want to caution you that if you do make any changes,</p> <p>23 myself or any other attorney in this matter has the</p> <p>24 right to comment on those changes if they're</p> <p>25 substantive.</p>

Page 9	Page 10
<p>1 Do you understand?</p> <p>2 A. Understood.</p> <p>3 Q. Okay. There may be objections to certain</p> <p>4 of my questions today that your attorneys may object</p> <p>5 to the form of the question. The important thing</p> <p>6 for you to understand is unless they specifically</p> <p>7 instruct you not to answer, you still have to answer</p> <p>8 even though there's an objection pending.</p> <p>9 Do you understand?</p> <p>10 A. I do.</p> <p>11 Q. Okay. If you -- if you do not understand</p> <p>12 my question, please let me know. It's my fault. I</p> <p>13 will rephrase it. Likewise, if you didn't hear it,</p> <p>14 let me know. I'll re-state. Okay?</p> <p>15 A. Okay.</p> <p>16 Q. Okay. Not a test of endurance today.</p> <p>17 We'll probably take a five-minute break every hour</p> <p>18 or so. If you need a break for any reason before</p> <p>19 that, let me know. And as long as we're not in the</p> <p>20 middle of a question or topic, we'll take a break.</p> <p>21 Okay?</p> <p>22 A. Okay.</p> <p>23 Q. It may be difficult to remember -- thank</p> <p>24 you so much -- details of specific conversations,</p> <p>25 especially if they happened, you know, a while back.</p>	<p>1 I don't want you to guess today. I'm entitled to</p> <p>2 your best recollection, but not you guessing or</p> <p>3 estimating on what things might have been.</p> <p>4 Do you understand the difference?</p> <p>5 A. I do.</p> <p>6 Q. Okay. A dumb example people like to give</p> <p>7 is: If you had to estimate how long this table is,</p> <p>8 you could look at it and say maybe it's 20 feet or</p> <p>9 so. If I asked you how long the table is in my</p> <p>10 conference room in Los Angeles, you'd have no idea</p> <p>11 because I assume you haven't seen it. Correct?</p> <p>12 A. Correct.</p> <p>13 Q. So that's the difference.</p> <p>14 A. Okay.</p> <p>15 Q. Okay. Lastly, is there -- have you taken</p> <p>16 any medications within the last 24 hours or anything</p> <p>17 that might impact your ability to recall events and</p> <p>18 give your best testimony today?</p> <p>19 A. I haven't.</p> <p>20 Q. Okay. Any questions about the procedure</p> <p>21 before we get started?</p> <p>22 A. No.</p> <p>23 Q. Mr. Dardis, have you ever been deposed</p> <p>24 before today?</p> <p>25 A. I have, a long time ago.</p>
Page 11	Page 12
<p>1 Q. Okay. How long ago?</p> <p>2 A. I'd be guessing, but at least seven-plus</p> <p>3 years.</p> <p>4 Q. And what did that matter -- what was that</p> <p>5 matter about?</p> <p>6 A. It was an employee matter with my previous</p> <p>7 company, Sprint.</p> <p>8 Q. Like an employment case?</p> <p>9 A. Yes.</p> <p>10 Q. Other than that, have you ever testified</p> <p>11 in a deposition?</p> <p>12 A. No.</p> <p>13 Q. Okay. I know you testified in a hearing</p> <p>14 in this matter.</p> <p>15 Other than that, have you ever testified</p> <p>16 in court before?</p> <p>17 A. No.</p> <p>18 Q. Did you review any documents prior to</p> <p>19 coming today to prepare for your deposition?</p> <p>20 A. This morning, I looked over this document.</p> <p>21 Q. And by "this," you're referring to the</p> <p>22 deposition notice in this case, I believe?</p> <p>23 A. That is correct.</p> <p>24 Q. Okay. Any other documents you reviewed to</p> <p>25 prepare for today?</p>	<p>1 A. I just looked at previous emails that I</p> <p>2 thought I might be responsible for within this</p> <p>3 document.</p> <p>4 Q. Other than conversations with your</p> <p>5 attorney, which I'm not asking you about, did you</p> <p>6 have any conversations with anybody to prepare for</p> <p>7 this deposition today?</p> <p>8 A. Today? No.</p> <p>9 Q. Bad question by me. I didn't mean any</p> <p>10 conversations necessarily today. Conversations at</p> <p>11 any time to prepare for giving your testimony today.</p> <p>12 A. No.</p> <p>13 Q. Okay. Let me go through your background</p> <p>14 real quick and we'll get into this as quickly as we</p> <p>15 can.</p> <p>16 Do you have a college degree, Mr. Dardis?</p> <p>17 A. I do.</p> <p>18 Q. When did you obtain that?</p> <p>19 A. 1988, I graduated.</p> <p>20 Q. And where did you get your degree from?</p> <p>21 A. Villanova University.</p> <p>22 Q. Two in a row.</p> <p>23 What was your degree?</p> <p>24 A. Finance.</p> <p>25 Q. Okay. Did you -- do you have any other</p>

Page 13	Page 14
<p>1 degrees after that degree?</p> <p>2 A. No.</p> <p>3 Q. Okay. Did you attend any other -- further</p> <p>4 graduate school after you graduated from Villanova?</p> <p>5 A. Not a graduate school, no.</p> <p>6 Q. Okay. Do you have any other trainings or</p> <p>7 certifications that you have obtained, you know,</p> <p>8 since then?</p> <p>9 A. Other than corporate classes and seminars</p> <p>10 and things of that nature, no.</p> <p>11 Q. When did you start working at Charter?</p> <p>12 A. Three and a half years ago.</p> <p>13 Q. And what was your position when you</p> <p>14 started?</p> <p>15 A. I was the vice president of</p> <p>16 small-/medium-sized business for direct sales.</p> <p>17 Q. And what were your jobs and</p> <p>18 responsibilities in that position?</p> <p>19 A. I had -- responsible for -- this was</p> <p>20 premerger with TWC and Bright House, so I had</p> <p>21 responsibility for legacy Charter's direct sales</p> <p>22 force selling door to door into small-/medium-sized</p> <p>23 businesses.</p> <p>24 Q. And has that title changed since you've</p> <p>25 been at Charter?</p>	<p>1 A. It has, twice.</p> <p>2 Q. Okay. Tell me about those two times.</p> <p>3 A. So I was promoted to group vice president,</p> <p>4 where I took responsibility for SMB direct sales as</p> <p>5 well as our strategic direct sales groups. And that</p> <p>6 was 20-some -- 20 to 25 months ago. And then 18</p> <p>7 months ago, 17 months ago, I was promoted to senior</p> <p>8 vice president of SMB and residential direct sales,</p> <p>9 where I have responsibility for the same group in</p> <p>10 SMB. So SMB direct sales, strategic direct sales,</p> <p>11 and residential direct sales, and bulk direct sales.</p> <p>12 Q. And "SMB" stands for small business?</p> <p>13 A. Small-/medium-sized business.</p> <p>14 Q. Small-/medium-sized.</p> <p>15 Where were you employed directly before</p> <p>16 Charter?</p> <p>17 A. I had a noncompete for 12 months, so I was</p> <p>18 doing some consulting stuff. But prior to that, I</p> <p>19 was with Sprint Corporation for 23 years.</p> <p>20 Q. And can you go through the titles you held</p> <p>21 at Sprint?</p> <p>22 A. Starting with the last one and going down?</p> <p>23 Q. Sure. Yep. Let me start over.</p> <p>24 I don't want to go through, like, 10 or 12</p> <p>25 titles, if it's that many. But what was the -- what</p>
Page 15	Page 16
<p>1 was the last title you had at Sprint?</p> <p>2 A. I was vice president of enterprise sales,</p> <p>3 so I had responsibility for a region, selling</p> <p>4 business customers.</p> <p>5 Q. Okay. And how long had you had that job?</p> <p>6 A. It changed titles a lot, but the</p> <p>7 effectiveness and the functionality of the job was</p> <p>8 the same. So I was probably in the job for -- this</p> <p>9 is a little bit of a guess, so three to five years.</p> <p>10 Q. Is that job similar to what you do at</p> <p>11 Charter or is that something different?</p> <p>12 A. In both cases, we're selling to customers</p> <p>13 from a direct sales basis, so similar. Different</p> <p>14 product set.</p> <p>15 Q. All your jobs at Sprint, did they relate</p> <p>16 to sales?</p> <p>17 A. No. I was in strategy. I mean -- but it</p> <p>18 was as a result of strategically how do salespeople</p> <p>19 approach it, so I guess you could say it was related</p> <p>20 to sales.</p> <p>21 And I was in a finance position as well</p> <p>22 when I first started, which was a long time ago.</p> <p>23 Q. Okay. I think you've got Exhibit No. 1 in</p> <p>24 front of you.</p> <p>25 THE WITNESS: How would I know it's</p>	<p>1 Exhibit 1? Is it --</p> <p>2 MR. NEPPLE: It's a copy. He's got the</p> <p>3 first -- same.</p> <p>4 THE WITNESS: Okay.</p> <p>5 A. Yes.</p> <p>6 BY MR. LARSEN:</p> <p>7 Q. Right. And I think you said you saw --</p> <p>8 you've seen this document before today, correct?</p> <p>9 A. I have.</p> <p>10 Q. My understanding is that you are here to</p> <p>11 testify on some but not all of these categories; is</p> <p>12 that correct?</p> <p>13 A. I have knowledge based on some of them,</p> <p>14 yes.</p> <p>15 Q. Okay. Let's just go through, so we can</p> <p>16 make sure we're on the same page --</p> <p>17 A. Uh-huh.</p> <p>18 Q. -- which ones.</p> <p>19 My understanding is that you have partial</p> <p>20 knowledge on Category No. 3.</p> <p>21 Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And you have partial knowledge on Category</p> <p>24 No. 4?</p> <p>25 A. Not really, but --</p>

Page 17

1 Q. Okay.

2 A. -- maybe.

3 Q. Okay. You may have partial knowledge on

4 Category No. 7; is that correct?

5 A. Yes.

6 Q. Okay. And you are going to testify on

7 Category No. 11; is that correct?

8 A. Correct.

9 Q. And you're going to testify on Category

10 No. 12?

11 A. That's correct.

12 Q. Okay. Are there any other categories on

13 here that I didn't just discuss that you're here to

14 testify about?

15 MR. NEPPLE: He has some partial knowledge

16 with respect to 6 and 8, depending on where the

17 questions go.

18 BY MR. LARSEN:

19 Q. In your current role, are you involved in

20 door-to-door campaigning?

21 A. I am.

22 Q. Okay. And are you head of that department

23 or division or however you'd say it?

24 A. Yes. I'm the senior vice president.

25 Q. And how long have you been involved with

Page 19

1 Q. Okay. Are there any other direct sales

2 teams in addition to those two we just discussed?

3 A. Yes. There's community sales. So they

4 would be going out to sell large high-rises. We

5 call them MDUs, multidwelling units.

6 And then I have a strategic sales

7 organization that would sell into large accounts,

8 just coax services. So we have another group that

9 sells fiber services. But I have a group that sells

10 coax services. So they would sell into named

11 accounts, like an IBM or a Citigroup.

12 And then I have the indirect/direct sales

13 group that would go in and work with the channel

14 partners and the value-added resellers.

15 Q. So are that all -- are those all the

16 groups under your purview?

17 A. Yes, it is.

18 Q. Okay. And when direct salespeople go out,

19 do they take product with them?

20 MR. NEPPLE: Object to form.

21 Go ahead.

22 A. No. They carry a business card. Again,

23 it depends on the channel. So if you want to

24 elaborate on which channel or --

25

Page 18

1 door-to-door campaigning?

2 A. Since March of last year.

3 MR. NEPPLE: Thank you.

4 MR. LARSEN: You're welcome.

5 BY MR. LARSEN:

6 Q. Can you give me a general description of

7 what door-to-door campaigning means?

8 A. Sure.

9 So, like, literally from a residential

10 standpoint, it would be a rep that goes out to a

11 community and literally canvases that community. So

12 he'll -- he or she will knock on the door.

13 Hopefully someone will be home and answer it. And

14 they'll try to sell Spectrum cable services, which

15 traditionally would be a combination of Internet,

16 voice, and video services.

17 Q. So they're knocking on residential doors?

18 A. This -- residential direct sales is.

19 Q. And are there other direct sales that go

20 to businesses or other places?

21 A. Correct. I have an SMB direct sales group

22 as well.

23 Q. Okay. And you're in charge of both of

24 those?

25 A. I am.

Page 20

1 BY MR. LARSEN:

2 Q. Sure. Let's talk about the residential,

3 the ones that go door-to-door to people's homes.

4 A. Uh-huh.

5 Q. Do they take physical product with them to

6 hand to somebody who might answer the door?

7 A. They don't.

8 Q. Okay. They never do?

9 A. They shouldn't.

10 Q. Are there any of the direct salespeople

11 that take product with them when they go out?

12 A. Again, has it happened? Allegedly here it

13 happened with an individual. But they're instructed

14 not to. And, in fact, it's a -- it's an offense

15 that if they -- we call it collateral. If they

16 leave collateral behind, they actually will go into

17 corrective action. And we'll terminate somebody if

18 they do it twice.

19 Q. Okay. So they are not given fliers and

20 say, hey, when you go to somebody, hand them this

21 flier and talk about it?

22 A. Absolutely not.

23 Q. You talked about instruction.

24 Do they -- is there a formal process or

25 program where the direct salespeople receive

Page 21	Page 22
<p>1 instruction on how they're supposed to interact with</p> <p>2 potential customers?</p> <p>3 A. Yes.</p> <p>4 Q. And could you describe that?</p> <p>5 A. Sure. It's new-hire training for new</p> <p>6 people that come onboard. We have policy and</p> <p>7 procedure documents. And we have online training.</p> <p>8 Q. And this happens when they're first hired?</p> <p>9 A. For the new-hire training, yes.</p> <p>10 Q. And then when somebody is hired, is there</p> <p>11 any sort of ongoing training about this?</p> <p>12 A. About what specifically?</p> <p>13 Q. About how they're supposed to interact</p> <p>14 with customers?</p> <p>15 A. Well, there's a lot of -- yeah, there's a</p> <p>16 lot of ongoing training about how they should</p> <p>17 interact with customers.</p> <p>18 Q. Can you describe some of that?</p> <p>19 A. Sure. It's how to sell, you know, how to</p> <p>20 position yourself to be able to get in the door, how</p> <p>21 to position our products, what the value proposition</p> <p>22 of our products are.</p> <p>23 Q. And are these, like, company-wide meetings</p> <p>24 or are they emails that are sent around? Or how do</p> <p>25 they receive this training?</p>	<p>1 A. Combination of a lot. They get it through</p> <p>2 individual branch meetings. So their supervisors or</p> <p>3 managers will hold meetings with them. So that's</p> <p>4 one way they can get it.</p> <p>5 Another would be through online training.</p> <p>6 So we'll send out product training to sales reps and</p> <p>7 they'll get certified online.</p> <p>8 Q. Are these people commission-based?</p> <p>9 A. Partly, yes.</p> <p>10 Q. Do they wear certain clothes that identify</p> <p>11 them as being agents of Charter?</p> <p>12 A. The residential direct sales group does,</p> <p>13 yes. They have a shirt, hat, jacket.</p> <p>14 Q. And are the residential people authorized</p> <p>15 the sign up customers right there on the spot?</p> <p>16 A. They are.</p> <p>17 Q. How does that work? Do they bring forms</p> <p>18 with them or a pad or --</p> <p>19 A. Yeah, they have a -- they have a tablet,</p> <p>20 that they bring in, that they can sign the customer</p> <p>21 up, tell them what the deal is, and have the</p> <p>22 customer authorize it, and then move forward with an</p> <p>23 installation.</p> <p>24 Q. So you told me they don't have fliers or</p> <p>25 any collateral.</p>
Page 23	Page 24
<p>1 Do they have a script they're supposed to</p> <p>2 follow?</p> <p>3 A. No, that's part of the training. So we</p> <p>4 give that to them in the training.</p> <p>5 Q. Now, do the residential salespeople who</p> <p>6 we're talking about, does their training change</p> <p>7 depending on if a particular, you know, marketing</p> <p>8 campaign is occurring at the time?</p> <p>9 A. No. I mean, their training can change,</p> <p>10 but it wouldn't have anything to do with a marketing</p> <p>11 campaign.</p> <p>12 Q. So they're not going to give a different</p> <p>13 spiel to a customer, you know, if certain</p> <p>14 advertisements have been sent or not?</p> <p>15 A. No. We're not -- we're not linked into</p> <p>16 the advertising side of the business. They might</p> <p>17 give a different conversation to the customer based</p> <p>18 on whether or not they think the customer is more</p> <p>19 interested in a certain product or a certain price.</p> <p>20 Q. Take a look at Exhibit No. 3. Counsel has</p> <p>21 a copy there.</p> <p>22 I forgot to mention in my little spiel at</p> <p>23 the beginning I'm going to be showing you documents</p> <p>24 today.</p> <p>25 A. Okay.</p>	<p>1 Q. At the end, when you get the transcript,</p> <p>2 the documents will be attached as well.</p> <p>3 So take as much time as you need to look</p> <p>4 at it, and then let me know when you're done and</p> <p>5 I'll ask you some questions.</p> <p>6 A. Okay.</p> <p>7 Q. So have you seen this document before</p> <p>8 today?</p> <p>9 A. I have, yes.</p> <p>10 Q. Looks like it got forwarded to you on</p> <p>11 February 26, 2019; is that correct?</p> <p>12 A. That is correct.</p> <p>13 Q. Okay. And who's the person that forwarded</p> <p>14 to you, Chris -- I'm not going --</p> <p>15 A. Yes.</p> <p>16 Q. -- to be able to pronounce that correctly.</p> <p>17 A. Czekaj.</p> <p>18 Q. Czekaj. Who is Chris Czekaj?</p> <p>19 A. Czekaj -- Chris Czekaj is the vice</p> <p>20 president of strategic channels.</p> <p>21 Q. And do you report to him or does he report</p> <p>22 to you?</p> <p>23 A. He reports to me.</p> <p>24 Q. Okay. Did you discuss with Mr. Czekaj why</p> <p>25 he sent you this email?</p>



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<p>1 A. I don't remember if we talked about it.</p> <p>2 Q. So I'm reading the second email down from</p> <p>3 Jennifer Ingram.</p> <p>4 Do you know who Jennifer Ingram is?</p> <p>5 A. I do.</p> <p>6 Q. Who is she?</p> <p>7 A. She's the vice president of SMB marketing.</p> <p>8 Title could be wrong, but that's effective -- oh.</p> <p>9 It's right there, vice president of SMB marketing.</p> <p>10 Q. Yep. There you go. Yep.</p> <p>11 She says, "Hi, Chris. I understand that</p> <p>12 you and Amy connected earlier today. Kelly Atkinson</p> <p>13 has asked the marketing team to develop a plan to</p> <p>14 leverage the situation, so we've started thinking</p> <p>15 about this in partnership with the residential</p> <p>16 team." And it goes on.</p> <p>17 Do you recall discussions about a</p> <p>18 partnership with the marketing team?</p> <p>19 A. In reference to?</p> <p>20 Q. Sure. I wasn't going to read the whole</p> <p>21 thing, but I can.</p> <p>22 It looks like this is referring to some</p> <p>23 marketing related to Windstream.</p> <p>24 Is that your understanding?</p> <p>25 A. This -- yeah. Well, this email appears to</p>	<p>1 be related to Windstream, correct.</p> <p>2 Q. Yeah, subject line is "Windstream," right?</p> <p>3 A. Right.</p> <p>4 Q. And it looks to me like there is some</p> <p>5 discussions between Ms. Ingram and Mr. -- I already</p> <p>6 forgot how to --</p> <p>7 A. Czekaj.</p> <p>8 Q. -- Czekaj about developing a plan.</p> <p>9 Did -- were you involved in any</p> <p>10 conversations about that?</p> <p>11 A. I was copied on emails and I think I had a</p> <p>12 conversation with Chris.</p> <p>13 Q. Okay. What do you recall about that</p> <p>14 conversation with Chris?</p> <p>15 A. That Chris was interested in figuring out</p> <p>16 if there was something that we should post to our</p> <p>17 subagents and partners around whether -- you know,</p> <p>18 is there any way that we should market that</p> <p>19 Windstream was in Chapter 11.</p> <p>20 Q. And you're talking about door-to-door</p> <p>21 marketing?</p> <p>22 A. No.</p> <p>23 Q. Okay. What kind of marketing were you</p> <p>24 talking about in this discussion with Mr. Czekaj?</p> <p>25 A. Chris has responsibility for SMB strategic</p>
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<p>1 channels. So Chris has responsibility for channel</p> <p>2 partners that resell our services, VARs that</p> <p>3 aggregate our services, and national accounts which</p> <p>4 go out to our larger services.</p> <p>5 Q. And is that within your purview?</p> <p>6 A. Yes, it is.</p> <p>7 Q. And what else do you recall about this</p> <p>8 discussion you had with Chris?</p> <p>9 A. He was just exploring what the -- whether</p> <p>10 or not this was something that would make sense and</p> <p>11 that we would want to do.</p> <p>12 Q. Okay. And is this something that you</p> <p>13 subsequently did do?</p> <p>14 A. I believe marketing collateral was created</p> <p>15 for SMB, for a brief period of time, that was</p> <p>16 specific to Windstream.</p> <p>17 Q. And do you believe that was sent out to</p> <p>18 SMB customers?</p> <p>19 A. Well, it's not sent out. It's posted into</p> <p>20 a portal and then it's available to download.</p> <p>21 Q. So each one of your customers has access</p> <p>22 to a portal of information about Charter; is that</p> <p>23 correct?</p> <p>24 A. Again, it depends on the channel, but this</p> <p>25 portal would be something that the employee has</p>	<p>1 access to. So the SMB direct sales rep or the</p> <p>2 people that sell into the channel partners or the</p> <p>3 people that sell into the VARs would have access to</p> <p>4 a portal, to be able to pull that information.</p> <p>5 Q. So this is people at Charter?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. How does -- how does that</p> <p>8 information get to your SMB customers?</p> <p>9 A. To our SMB customers or channel? It's a</p> <p>10 little bit of an -- so there's SMB direct sales.</p> <p>11 This is SMB strategic sales.</p> <p>12 So you mean to our SMB strategic sales?</p> <p>13 Q. Is that what we're talking about in this?</p> <p>14 A. Yes.</p> <p>15 Q. Okay.</p> <p>16 A. That's what Chris has responsibility for.</p> <p>17 Q. Got it.</p> <p>18 A. So it would go to somebody that has -- so</p> <p>19 VAR, for instance. So Windstream is a VAR of Chris</p> <p>20 Czekaj's, right? That means that we send to</p> <p>21 Windstream. They send to end users. There's a rep</p> <p>22 that would be responsible for the relationship with</p> <p>23 Windstream. So that rep would have -- would have</p> <p>24 access to be able to download that information and</p> <p>25 provide it to Windstream.</p>

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<p>1 Q. So you're talking about the agreement to</p> <p>2 provide the last mile of service for Windstream?</p> <p>3 A. No. I'm talking about Windstream taking</p> <p>4 our product --</p> <p>5 Q. Uh-huh.</p> <p>6 A. -- and selling it in conjunction with</p> <p>7 other MSOs to an end user. I can explain that if</p> <p>8 you'd like, because it's a little complicated.</p> <p>9 Q. Go ahead, please.</p> <p>10 A. So if you're IBM. And IBM, instead of</p> <p>11 dealing with a Sprint or an AT&amp;T or somebody, wants</p> <p>12 to -- wants a product that's coming from cable, but</p> <p>13 doesn't want to have a relationship with Charter,</p> <p>14 Comcast, Altice, you know, and every other cable</p> <p>15 company out there. Windstream, Comcast, other</p> <p>16 value-added resellers will form an agreement with</p> <p>17 each of the cable companies to aggregate all those</p> <p>18 services so they're the customer of record.</p> <p>19 So in the case of Windstream -- they were</p> <p>20 the customer of record -- we would sell the services</p> <p>21 to Windstream. Windstream would then sell it to an</p> <p>22 end user.</p> <p>23 Q. But that's not what we're talking about in</p> <p>24 Exhibit No. 3, is it?</p> <p>25 A. I think it is, actually.</p>	<p>1 Q. Is it?</p> <p>2 A. I think this is Windstream being a VAR and</p> <p>3 Windstream potentially -- and Windstream is probably</p> <p>4 not the best example here, but if somebody else</p> <p>5 wanted collateral, they could -- they could pull it</p> <p>6 up.</p> <p>7 Q. If you look at the first email on this</p> <p>8 thread.</p> <p>9 A. Uh-huh.</p> <p>10 Q. "Amy/Jennifer, as you may know,</p> <p>11 Windstream" is in a -- "is in challenging market</p> <p>12 position and I'd like to target a marketing program</p> <p>13 specifically targeting their remaining customers."</p> <p>14 A. Uh-huh.</p> <p>15 Q. Okay. So how was what you were doing</p> <p>16 going to target their remaining customers?</p> <p>17 A. So this again -- so for Chris's account,</p> <p>18 which is SMB strategic accounts, what he's saying is</p> <p>19 how do I -- is there an opportunity to create</p> <p>20 marketing, collateral, campaign, whatever it might</p> <p>21 be, to go after existing Windstream customers.</p> <p>22 Q. Okay. And --</p> <p>23 A. Or sell to existing Windstream customers.</p> <p>24 Q. And did you subsequently attempt to do</p> <p>25 that in that channel?</p>
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<p>1 A. I don't know if collateral was developed</p> <p>2 for this channel. I don't know.</p> <p>3 Q. Okay. You don't recall following up with</p> <p>4 Chris about it to see if this happened or not?</p> <p>5 A. I do know it was developed in SMB for a</p> <p>6 period -- I think it was up for a period of a week</p> <p>7 before we -- before it was taken down. But I don't</p> <p>8 know if that was eligible within the strategic</p> <p>9 channels or not.</p> <p>10 Q. When you say it was up in SMB, what does</p> <p>11 that mean?</p> <p>12 A. So the collateral was developed, it was</p> <p>13 put within the portal, and it was accessible if</p> <p>14 somebody wanted to download it, if a -- if a Charter</p> <p>15 employee wanted to download it or order it.</p> <p>16 So when you order it, they literally would</p> <p>17 go through -- it's a site called Badger. And they</p> <p>18 would order those services. Nobody downloaded</p> <p>19 the -- nobody ordered the services through Badger.</p> <p>20 We could -- we checked that to ensure that that</p> <p>21 wasn't done. But it could have been downloaded</p> <p>22 locally and it could have been handed out.</p> <p>23 Q. That's the part I'm trying to understand.</p> <p>24 So how does it get handed out to the</p> <p>25 ultimate, you know, customer here?</p>	<p>1 A. In the case that I was giving you before,</p> <p>2 if I was the rep that was responsible for the</p> <p>3 Windstream relationship where they're reselling our</p> <p>4 services, if I'm the rep, I could download it from</p> <p>5 the portal and then I could go to Windstream and</p> <p>6 give them the collateral as an SMB strategic sales</p> <p>7 rep.</p> <p>8 Q. And you don't believe that occurred in</p> <p>9 this situation?</p> <p>10 A. I don't know. I have no idea.</p> <p>11 Q. Okay. Is there any way to find out if</p> <p>12 that occurred here?</p> <p>13 A. We would be taking the word of every</p> <p>14 salesperson out there. I mean, we could -- you</p> <p>15 know, it's a smaller organization. There's probably</p> <p>16 25, 30 of these folks. I mean, we can certainly ask</p> <p>17 them, but there's no way that I would -- the systems</p> <p>18 that track it would know whether or not we</p> <p>19 downloaded something from the online portal, which</p> <p>20 didn't happen. I can't tell if somebody did it from</p> <p>21 a localized basis and just printed the materials</p> <p>22 themselves, as opposed to asking for somebody to</p> <p>23 professionally print it, send it to them, and have</p> <p>24 it look nice.</p> <p>25 Q. Okay. And the latter one, to make it</p>

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1 professionally look nice, you checked and --  
2 A. No one.  
3 Q. -- you think that didn't occur?  
4 A. We think that didn't happen.  
5 Q. And how did you check? Who did you ask to  
6 confirm that?  
7 A. The marketing individuals. So, in this  
8 case, it would be, you know, Jennifer Ingram's  
9 group.  
10 Q. Okay. So you asked everybody in that  
11 group whether they did that and they all said no?  
12 A. We just asked the one person that's  
13 responsible for the portal, which can determine  
14 whether or not anything was ordered. And nothing  
15 was ordered.  
16 Q. Okay. Take a look at Exhibit No. 6.  
17 A. (Witness complies.)  
18 Q. Once you've had a chance to review, let me  
19 know if you've seen this document.  
20 A. Okay.  
21 Q. Okay. Do you recall seeing these emails  
22 before?  
23 A. I do.  
24 Q. This initial email on February 18, was  
25 this the first time that you learned that Windstream

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1 may be heading to bankruptcy?  
2 A. The last page?  
3 Q. It looks like the first email on the  
4 thread, February 18.  
5 A. I don't recall if that's the first time I  
6 heard of it.  
7 Q. Do you recall discussions about, you know,  
8 what opportunity that may present?  
9 A. Yes.  
10 Q. Okay. And what, if anything, did you do  
11 about that opportunity?  
12 A. So for residential direct sales, is what  
13 we're referring to, what this is -- this whole  
14 document is referring to is that we asked and we  
15 received a breakdown of where Windstream has the  
16 ability to sell in the same footprints as to where  
17 Charter has the ability to sell. So where their  
18 footprint -- we'll just call it overlaps our  
19 footprint. So in those environments where both  
20 Windstream and Charter can sell against each other,  
21 we wanted to know where those environments were.  
22 Q. And was the idea, then, that you would  
23 send people door to door in those environments?  
24 A. That's correct.  
25 Q. And did you subsequently do that?

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1 A. We did. We -- so we have -- we sign out  
2 leads. They're all acquisition-based, so they  
3 get -- each rep gets a certain amount of leads. And  
4 the purpose of this was to prioritize the Windstream  
5 leads.  
6 Q. Do you know which specific residential  
7 units were contacted during this period?  
8 A. I don't know. I know -- no, I wouldn't  
9 know who was -- if we have -- I don't even know how  
10 many reps this is, to be honest. So no.  
11 Q. If you wanted to know, is there a way to  
12 go and look in your systems to figure it out?  
13 A. I don't know. Let me think about that for  
14 a second.  
15 We could -- we certainly know what leads  
16 were assigned out. We know where we had success  
17 against those leads. That, we would know. I don't  
18 know what -- every door that was knocked and -- you  
19 know, and every door that was knocked, who was home  
20 and what was presented. We don't even know if they  
21 have Windstream service. So they could have  
22 somebody else's service as well.  
23 Q. You said you know where you've had  
24 success.  
25 So would you know, out of all of this

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1 area, how many people you signed up for Charter  
2 services?  
3 A. Yes, we would know -- we would -- we would  
4 know, based on geography and a lead list, how many  
5 sales were made.  
6 Q. And do you know, in this particular case,  
7 how many sales were made?  
8 A. I don't, not for a specific time frame.  
9 And, again, we wouldn't know who the existing  
10 incumbent was.  
11 Q. Yeah, I understand.  
12 A. Okay.  
13 Q. So -- two different things.  
14 A. Right.  
15 Q. So -- but you could go back and figure  
16 out, as a result of this door-to-door campaign, we  
17 signed up X number of customers?  
18 A. Not -- this isn't really a campaign. So  
19 every month, we provide them a set amount of leads,  
20 500 leads. They go out there and they sell to those  
21 500. Acquisition, right? We will know what their  
22 success is against those 500 leads.  
23 Q. And when the people are out in the field,  
24 do they make a note if they are taking a customer  
25 from a competitor?

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<p>1 A. I would have to check. I don't believe we 2 capture the data that says who the incumbent was. 3 Q. So if somebody was a Windstream customer 4 and said, Yeah, I'll switch to Charter, that doesn't 5 get noted down on the pad or something somewhere? 6 A. I don't believe so. I'm not a hundred 7 percent certain on that, but I don't believe so. 8 Q. If you wanted to be a hundred percent 9 certain, who would you ask to see if you had that 10 information? 11 A. Probably our VP of operations that's 12 responsible for the tool. 13 Q. In this particular case, when the 14 door-to-door people were sent out on these leads, 15 did they receive any specific training on what was 16 supposed to occur this time or was it just the same 17 as what they always do? 18 A. Same as always. 19 Q. Take a look at Exhibit No. 14. 20 A. (Witness review document.) 21 Q. Have you seen this document before? 22 A. I'm reading it. 23 I don't believe so. 24 Q. I see you're not copied. I was just 25 asking if you've --</p>	<p>1 A. No. 2 Q. Are you involved with any email campaigns 3 out of Charter? 4 A. No. I -- no, I mean, the -- our process 5 isn't to allow an email campaign for residential 6 direct sales, yeah. And they just go door to door. 7 They don't email. They shouldn't be emailing other 8 than follow-up. 9 Q. But are you aware that Charter does email 10 some customers? 11 A. Yeah, I'm sure they do. 12 Q. Okay. But that's not within your purview? 13 A. No. 14 Q. Okay. Do you know who's responsible for 15 that? 16 A. I really don't. 17 Q. So I would assume there's no need to 18 coordinate door-to-door efforts with any email 19 campaign that may be going on at the same time? 20 A. No. We -- effectively, we're one channel. 21 They're another channel. We compete with the same 22 lead list. I'm hoping the customer signs with us 23 from a direct standpoint versus goes to -- I mean, 24 we're all one company, but we kind of compete 25 against each other.</p>
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<p>1 Q. So in your job, as it relates to direct 2 sales, do you have any knowledge of what mailing 3 campaigns may be occurring at the same time? 4 A. I'm sure I could attend marketing meetings 5 that would be -- that would be part of that meeting, 6 but there's nothing that I would be looped in, make 7 decisions on, or be involved in as a standard course 8 of business. 9 Q. So you, as a standard course, you don't 10 get copied, hey, here's the new mailers going out 11 this week, so everybody is on the same page? 12 A. No. 13 Q. And is there ever a time you would be 14 involved in that? 15 A. I wouldn't be involved in the decision. 16 But there certainly could be a time where someone 17 might send a -- just a distributed email out to 18 everybody to say, hey, we're doing a mailing 19 campaign to introduce a new product or introduce a 20 new price point or something. But it wouldn't have 21 any impact on how we would approach our business. 22 Q. You can set that down. Thank you. 23 A. Sure. 24 Q. Take a look at Exhibit No. 17, please. 25 A. (Witness complies.)</p>	<p>1 Q. Again, you're not copied on this email, so 2 I have no reason to think you've seen it. 3 But I'm going to ask: Have you seen this 4 document before? 5 A. Not that I can recall. 6 Q. Were you aware of any discussion in this 7 time frame about Windstream's bankruptcy? 8 A. Time frame being 3/20? 9 Q. Yeah, in March of 2019. 10 A. Any discussions with whom, with Adam? I 11 don't know who Adam is. 12 Q. Sure. 13 Were you a part of any discussions with 14 anyone in Charter about the effect of Windstream's 15 bankruptcy on your business? 16 A. Well, similar to what we just discussed in 17 the previous email -- two emails ago, yeah, we had 18 conversations about understanding where Windstream 19 overlapped our customer base. 20 Q. Here this email says, "Folks, I'm sure 21 you're all aware WIN does have funding to continue 22 its normal operations while it restructures." 23 Did you have -- did you ever have any 24 conversations with anyone internal in Charter about 25 that topic?</p>

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<p>1 A. No, we didn't. I don't -- again, prior</p> <p>2 to -- prior to, you know, the discussions that this</p> <p>3 was initially brought up through the one direct</p> <p>4 sales rep that we're referring to, we didn't really</p> <p>5 have any conversations in regards to impact of</p> <p>6 Chapter 11, that I can recall.</p> <p>7 Q. Sure. You can set that down. Thank you.</p> <p>8 A. (Witness complies.)</p> <p>9 MR. LARSEN: I'll mark this next document</p> <p>10 as Exhibit No. 24.</p> <p>11 (Charter Exhibit 24 was received and</p> <p>12 marked for identification, as of this date.)</p> <p>13 MR. NEPPLE: And just to be clear, we're</p> <p>14 marking it AEO, like we did this morning with</p> <p>15 all documents.</p> <p>16 A. (Witness reviews document.)</p> <p>17 BY MR. LARSEN:</p> <p>18 Q. Mr. Dardis, have you seen this document</p> <p>19 before?</p> <p>20 A. I don't remember seeing this document --</p> <p>21 Q. Okay.</p> <p>22 A. -- but -- yeah.</p> <p>23 Q. Do you know who Marybeth McCarroll is?</p> <p>24 A. I do not.</p> <p>25 Q. Are you familiar with the Spectrum</p>	<p>1 business value-added seller agreement?</p> <p>2 A. I know of -- yes, it's one of our</p> <p>3 contracts. That would be the VAR contract, correct.</p> <p>4 Q. From reading this document, do you believe</p> <p>5 that's what this is referring to, services provided</p> <p>6 under that agreement?</p> <p>7 A. I don't know. It's tough to say from</p> <p>8 this. Windstream had services with our enterprise</p> <p>9 division as well. So this could be both -- this be</p> <p>10 could be enterprise. This could be my organization.</p> <p>11 It could be either.</p> <p>12 Q. Is the business value-added seller</p> <p>13 agreement, is that something within your purview?</p> <p>14 A. It is.</p> <p>15 Q. And are you familiar with a brief period</p> <p>16 of time when services were discontinued under that</p> <p>17 agreement?</p> <p>18 A. I am.</p> <p>19 Q. But you're not sure if that's what Exhibit</p> <p>20 No. 24 here refers to or a different agreement?</p> <p>21 A. This looks like an aging -- you know, a</p> <p>22 accounts receivable aging. So this could be -- I</p> <p>23 don't know if this is enterprise or VAR or anything</p> <p>24 else.</p> <p>25 MR. LARSEN: Mark this Exhibit No. 25.</p>
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<p>1 (Charter Exhibit 25 was received and</p> <p>2 marked for identification, as of this date.)</p> <p>3 BY MR. LARSEN:</p> <p>4 Q. I apologize for the format of this</p> <p>5 document, but I didn't produce it.</p> <p>6 Are you aware of what archived instant</p> <p>7 message conversations are at Charter?</p> <p>8 A. I -- yeah, I know what instant messaging</p> <p>9 is. "Archived," I just assume, means it's held in</p> <p>10 history.</p> <p>11 Q. And does this look like an instant message</p> <p>12 conversation between two people at Charter?</p> <p>13 MR. NEPPLE: Object to form, foundation.</p> <p>14 A. I honestly can't tell.</p> <p>15 BY MR. LARSEN:</p> <p>16 Q. Okay. Do you ever utilize the instant</p> <p>17 message function?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know who Shauna Brauchler is?</p> <p>20 A. Not to my immediate knowledge, no.</p> <p>21 Q. Okay. Do you know who Kelly Hill is?</p> <p>22 A. No, I do not. Not that I'm aware of.</p> <p>23 Q. You see about -- let's see -- four down,</p> <p>24 Ms. Brauchler says, "You received the letter I sent</p> <p>25 from Windstream regarding their BK"?</p>	<p>1 A. I see -- yes, I see, "You received the</p> <p>2 letter I sent you" -- yeah, I see the line.</p> <p>3 Q. Okay. Do you recall ever personally</p> <p>4 seeing a letter regarding Windstream's bankruptcy?</p> <p>5 A. A what -- I don't know. Clarify what type</p> <p>6 of letter or what -- any?</p> <p>7 Q. I'm saying: Did you recall seeing a</p> <p>8 letter? There's a reference here. I don't know</p> <p>9 what it means either. I'm asking you if you know.</p> <p>10 A. I don't know what this is, no. I don't</p> <p>11 recall knowing what this is.</p> <p>12 Q. So in any -- in any circumstance, do you</p> <p>13 remember, in or about this time in March 2019,</p> <p>14 reviewing some sort of letter about the Windstream</p> <p>15 bankruptcy?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you remember there being any</p> <p>18 discussions about Windstream being behind in</p> <p>19 payments it owed to Charter?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. What do you recall about that?</p> <p>22 A. That we -- that we looked at the accounts</p> <p>23 aging to determine what was owed by Windstream, both</p> <p>24 from an enterprise standpoint and from a cable ops.</p> <p>25 That's our organization on the VAR side. So we</p>

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<p>1 have -- we had looked at those individual aging</p> <p>2 reports.</p> <p>3 Q. So you mentioned enterprise standpoint.</p> <p>4 Is that a different contract between</p> <p>5 Charter and Windstream?</p> <p>6 A. Yes, it would be.</p> <p>7 Q. Okay. And the cable ops, does that refer</p> <p>8 to this value-added seller agreement?</p> <p>9 A. Yes. Cable ops is, for the most part,</p> <p>10 collect services. That's -- I fall into that world.</p> <p>11 And then we have a separate segment, enterprise,</p> <p>12 that handles fiber services. So that -- when you</p> <p>13 referred to the last-mile services --</p> <p>14 Q. Uh-huh.</p> <p>15 A. -- before, that probably would be more of</p> <p>16 the fiber side.</p> <p>17 Q. Okay. Were you involved in any</p> <p>18 discussions -- actually, strike that.</p> <p>19 Okay. I asked you about any discussions</p> <p>20 about Windstream and Charter, and you said that you</p> <p>21 recall looking and saw that they were behind.</p> <p>22 Is that correct?</p> <p>23 A. Yeah, I was aware -- I was aware that --</p> <p>24 that they were -- that they were aging, yes.</p> <p>25 Q. Okay.</p>	<p>1 A. I don't remember the time frame, but I was</p> <p>2 aware of it.</p> <p>3 Q. Okay. Do you recall what the outcome, if</p> <p>4 anything, was after those discussions?</p> <p>5 A. No. I need to check the time frames, but</p> <p>6 there was conversations to determine, you know,</p> <p>7 what, if anything, we should do. But this -- I --</p> <p>8 my belief is that might have been -- I don't -- I</p> <p>9 have to check the time frames. I don't know if that</p> <p>10 was following the letter that came to us in</p> <p>11 conversations around, you know, the allegedness of</p> <p>12 what went -- and I don't know if it was post- or</p> <p>13 prebankruptcy, to be honest.</p> <p>14 Q. Okay.</p> <p>15 A. So pre- -- bankruptcy was on 2/25? Yeah,</p> <p>16 I don't know if this was before or after that, those</p> <p>17 conversations.</p> <p>18 Q. Okay. Well, again -- and I understand</p> <p>19 this is not your document.</p> <p>20 A. It --</p> <p>21 Q. Fair enough. I understand.</p> <p>22 This is dated March 15, 2019, and it looks</p> <p>23 like there are discussions here about what we're</p> <p>24 going to do about the nonpayment.</p> <p>25 MR. NEPPLE: Object to form, foundation.</p>
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<p>1 A. Okay.</p> <p>2 BY MR. LARSEN:</p> <p>3 Q. Were you involved in any discussions in</p> <p>4 this time frame, in the middle of March, about what</p> <p>5 to do about the fact that they were behind on this</p> <p>6 agreement?</p> <p>7 A. Yes, I was -- I was asked if there was</p> <p>8 anything, you know, what specifically we should do</p> <p>9 going forward. So for new business that was coming</p> <p>10 in, how should we handle that.</p> <p>11 Q. And what was your response?</p> <p>12 A. Well, I asked for interpretation and</p> <p>13 our -- the ultimate result was to treat it as</p> <p>14 business as usual and to move forward providing</p> <p>15 services as -- that we normally would.</p> <p>16 Q. You said you asked. Who did you ask?</p> <p>17 MR. NEPPLE: To the extent your answer</p> <p>18 would divulge conversations with the attorneys,</p> <p>19 don't include that.</p> <p>20 THE WITNESS: Okay.</p> <p>21 A. So involved in those conversations would</p> <p>22 have been the enterprise side of the house and would</p> <p>23 have been our finance side. I'm just not sure who</p> <p>24 that gentleman was. I'm trying to remember his</p> <p>25 name.</p>	<p>1 BY MR. LARSEN:</p> <p>2 Q. But the takeaway from that conversation is</p> <p>3 that you -- it was decided that Charter was going to</p> <p>4 continue business as normal?</p> <p>5 A. Yeah. We -- I didn't understand really</p> <p>6 what Chapter 11 federal bankruptcy meant and what</p> <p>7 our obligations were. So they were explaining to me</p> <p>8 that we're obligated to -- anything that was, you</p> <p>9 know, prebankruptcy that was aging was either</p> <p>10 eliminated or we'll try to get a piece of down the</p> <p>11 road. And anything going forward we had to treat as</p> <p>12 business as usual, which we chose to do. Or</p> <p>13 directed to do, I guess, anyway.</p> <p>14 MR. LARSEN: Let's mark this as Exhibit</p> <p>15 No. 26.</p> <p>16 (Charter Exhibit 26 was received and</p> <p>17 marked for identification, as of this date.)</p> <p>18 BY MR. LARSEN:</p> <p>19 Q. Have you seen -- Exhibit No. 26 is a</p> <p>20 series of emails Bates-stamped Charter 1492 to 1496.</p> <p>21 Have you seen these documents before?</p> <p>22 A. I -- if you give me a minute, I'll read</p> <p>23 it.</p> <p>24 Q. Yeah.</p> <p>25 A. I don't know if I've seen this specific</p>

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1 one, but I'm aware of the situation.  
2 Q. Okay. When did you first learn of the  
3 situation?  
4 A. It was right before -- it was the Friday  
5 before, I believe, these circuits were taken down,  
6 so that probably would have been the 14th or 15th of  
7 March.  
8 Q. And what do you recall about that?  
9 A. I got a call Saturday morning from my VP  
10 of strategic accounts, Chris Czekaj, letting me know  
11 that we had pulled a bunch of our -- a bunch of  
12 circuits had been disconnected for nonpayment for  
13 Windstream. And Windstream specifically -- I  
14 believe her name was Jeanie [sic] -- Jeanne  
15 somebody. Hold on. I think I just saw her name  
16 here. Jeanne -- yeah, Jeanne Dale had sent a couple  
17 emails to Chris and copied myself as well, I  
18 believe, along with a slew of other people, that  
19 services were down and they shouldn't be down  
20 because of the protection from federal bankruptcy.  
21 Q. And what did you do once you learned of  
22 that information?  
23 A. Chris was already doing it, but it was how  
24 fast can we turn these services back up.  
25 Q. Did you ever figure out how the services

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1 got turned off or why?  
2 MR. NEPPLE: Well, hold on. Let me  
3 object. We're going to stand on our objection  
4 to No. 11. He's free to talk about a portion  
5 of it, but he's going to be our designee to  
6 talk about was there any coordination with any  
7 other portion of Charter. You're free to ask  
8 him any questions he has -- of whether he has  
9 any personal knowledge. But we're not  
10 producing a designee on how the disconnections  
11 occurred.  
12 So go ahead.  
13 A. Yeah, my understanding is just that it was  
14 due to nonpayment.  
15 MR. LARSEN: All right. We seriously  
16 object to that. And we --  
17 MR. NEPPLE: I understand.  
18 MR. LARSEN: Just want to put that on the  
19 record. I don't think that's proper, to not  
20 bring somebody on this topic, which is  
21 certainly relevant.  
22 MR. NEPPLE: Well, we objected. Right?  
23 MR. LARSEN: I understand.  
24 MR. NEPPLE: Okay. So the objection  
25 hasn't been ruled upon and we preserved our

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1 objection. And I have instructed the witness.  
2 You can ask in his personal capacity. I'm just  
3 informing you we're going to stand our  
4 objection and you feel free. So you -- we  
5 understand each other.  
6 MR. LARSEN: Your objection is on the  
7 record.  
8 MR. NEPPLE: Yep. Fine.  
9 MR. LARSEN: Okay. I just want to make  
10 sure what -- you instructed him not to answer  
11 and then you told him to answer. So --  
12 MR. NEPPLE: No.  
13 MR. LARSEN: -- I'm a little unclear --  
14 MR. NEPPLE: No.  
15 MR. LARSEN: -- on how we're proceeding.  
16 MR. NEPPLE: No, what I said, so that  
17 we're clear, you are free to ask, as a  
18 designee, whether there was any coordination  
19 with any other units of Charter. Anything on  
20 disconnection other than that, he is free to  
21 answer if he knows, but he will not be our --  
22 he is not our designee. We're standing on our  
23 objection on that part, if that makes sense.  
24 BY MR. LARSEN:  
25 Q. I think the question was: After you

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1 learned of this -- you answered that question.  
2 I think the next question was: Did you  
3 subsequently learn how and why they got turned off?  
4 MR. NEPPLE: Object to form, speculation,  
5 foundation.  
6 Go ahead.  
7 BY MR. LARSEN:  
8 Q. If you know.  
9 A. The only reason -- the only thing I was  
10 aware of is they were turned off for nonpayment.  
11 Q. And did you ask any follow-up questions on  
12 how that occurred?  
13 MR. NEPPLE: Same objection.  
14 A. I did not.  
15 BY MR. LARSEN:  
16 Q. And since that time, at any point in time  
17 between now and then, have you subsequently  
18 endeavored to find out how, in fact, they got turned  
19 off for nonpayment?  
20 MR. NEPPLE: Same objection, foundation,  
21 speculation.  
22 A. No, I -- we just know they were turned off  
23 for nonpayment and we were -- when we were told that  
24 we needed to turn them back on, we worked to turn  
25 them back on immediately.



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1 BY MR. LARSEN:  
2 Q. To your knowledge, subsequent to this  
3 issue around this weekend on 3/15, have there been  
4 any other issues about service being turned off?  
5 A. I think there was a circuit or two that  
6 continued, that was turned off, an oversight, I  
7 believe.  
8 Q. And then did that subsequently get turned  
9 back on?  
10 A. I believe so, yes.  
11 Q. Other than that, have you -- are you aware  
12 of any other instances?  
13 A. Not that I'm aware of.  
14 MR. LARSEN: Mark this Exhibit No. 27.  
15 (Charter Exhibit 27 was received and  
16 marked for identification, as of this date.)  
17 MR. NEPPLE: 26.  
18 THE WITNESS: Oh, I'm sorry.  
19 A. (Witness reviews document.)  
20 BY MR. LARSEN:  
21 Q. Exhibit No. 27 is an email string  
22 Bates-stamped Charter 9191 to 9192.  
23 Mr. Dardis, have you seen these documents  
24 before?  
25 A. Not that I can recall.

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1 Q. Looks like this is dated April 11?  
2 A. Correct.  
3 Q. Do you believe this refers to that  
4 subsequent occasion when one circuit may have been  
5 turned off?  
6 A. I don't know, because I thought these  
7 circuits would have been more towards April 14 or  
8 15, that the circuits went out. Maybe I ought to  
9 read this again. Is this referring to 295 accounts  
10 shut down? Hold on for one second.  
11 Q. Take your time.  
12 A. Let me read it from bottom up.  
13 What was the question? I'm sorry.  
14 Q. Sure.  
15 Does -- after reading this, do you think  
16 this refers to that one subsequent account that  
17 mistakenly got turned off?  
18 MR. NEPPLE: Objection to form,  
19 foundation, speculation.  
20 Go ahead.  
21 A. I'm not sure what this refers to.  
22 BY MR. LARSEN:  
23 Q. Okay. Were you aware of another issue on  
24 or about April 11 about a customer's service being  
25 turned off?

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1 A. Not that I can recall.  
2 To clarify, I'm aware of the 295 accounts  
3 that were shut down.  
4 Q. Uh-huh.  
5 A. If this is referring to that, I'm aware of  
6 it. But I'm not aware of something that would have  
7 been subsequent to that, that I can recall.  
8 Q. I see a reference here five lines down:  
9 "Did even one [sic] of those child accounts  
10 disconnect?"  
11 Do you know what a child account refers to  
12 in this context?  
13 A. I'm assuming that there's a parent  
14 hierarchy account and then subaccounts under it, but  
15 that's an assumption.  
16 THE COURT REPORTER: There's a what,  
17 parent?  
18 THE WITNESS: Yeah, a --  
19 MR. NEPPLE: "Hierarchy" is what the word  
20 is.  
21 THE WITNESS: Yeah, "hierarchy." I'm  
22 sorry.  
23 A. So I have no idea. I don't know how the  
24 billing system works from that standpoint.  
25

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1 BY MR. LARSEN:  
2 Q. But you don't recall anything being  
3 brought to your attention, on or about April 11,  
4 about another account perhaps being turned off?  
5 A. A Windstream account?  
6 Q. Yes.  
7 A. Not that I can recall.  
8 MR. LARSEN: Can I go off the record for a  
9 second?  
10 MR. NEPPLE: Sure.  
11 THE VIDEOGRAPHER: Stand by, please. The  
12 time is 3:08 p.m. We're going off the record.  
13 (Recess was taken.)  
14 THE VIDEOGRAPHER: The time is 3:11 p.m.  
15 We're back on the record.  
16 MR. LARSEN: Let's mark this as Exhibit  
17 No. 28.  
18 (Charter Exhibit 28 was received and  
19 marked for identification, as of this date.)  
20 BY MR. LARSEN:  
21 Q. Okay. Exhibit No. 28 is an April 11,  
22 2019, email that your counsel was kind enough to  
23 give me a copy of. So it doesn't have a Bates stamp  
24 number right now. Once you're done reading, if you  
25 let me know if you've seen this document before.



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1 A. I have.

2 MR. NEPPLE: Oh. Okay. And just so we're

3 clear, we're also adding a notice of

4 confidential. So if you'd just write

5 "confidential" at the bottom.

6 THE WITNESS: I will.

7 MR. NEPPLE: Both confidential and AEO

8 until we get it worked out.

9 BY MR. LARSEN:

10 Q. Mr. Dardis, when did you first see this

11 email?

12 A. That same day, April 11.

13 Q. Did you direct this email to be sent?

14 A. I did.

15 Q. And who is Scott Niles?

16 A. Scott Niles is the group vice president in

17 charge of residential direct sales, so he has the

18 3,500 salespeople who knock on the doors. And he

19 also has the nonbulk residential direct sales group

20 as well, about 240 of those folks.

21 Q. Why did you direct Mr. Niles to send this

22 email?

23 A. Because I received a message from

24 counsel --

25 MR. NEPPLE: Well, to the extent you can

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1 issued when a Windstream VP picked up the phone and

2 called him and, I assume, probably didn't tell him

3 who he was in the beginning, must have said he was a

4 prospective client or something, and allegedly

5 Emmett went into a sales pitch where he mentioned

6 that Windstream was going out of business.

7 Q. Did you ever personally follow up with

8 Mr. Walker to see what he said about this situation?

9 A. I didn't personally, but we had a

10 couple -- his manager, I believe it was, followed

11 up.

12 Q. Did you -- did you ever learn the outcome

13 of this meeting between Mr. Walker and his manager?

14 A. Yes.

15 Q. And what was that?

16 A. That he was asked if he used collateral.

17 He said he did use collateral as a leave-behind. So

18 when he talked to a prospective customer and the

19 customer wasn't going to buy at that point in time,

20 he had left a piece of collateral with his business

21 card attached to it. And in addition to that, we

22 asked him if he left -- you know, left it at doors

23 where no one was there. He said no. And we asked

24 him if he said that, you know, Windstream was going

25 out of business and he said no.

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1 answer without saying you were directed by your

2 counsel, otherwise --

3 A. It wasn't directed by counsel, so it

4 was -- we received an email from our internal legal

5 group basically stating -- letting --

6 THE WITNESS: Okay. Sorry.

7 MR. NEPPLE: I'm going to object as

8 attorney/client privilege. I don't know how

9 you can -- it was sent. He received it.

10 A. I received an email --

11 THE WITNESS: Do you want me to --

12 MR. NEPPLE: Yeah, how about you received

13 an email.

14 A. I received an email with the allegations

15 concerning Emmett Walker. And as a result of that

16 email, I sent a message to Scott saying, Make sure

17 your team understands that we can say they're in

18 Chapter 11, but we can't make any inferences around

19 what that means.

20 BY MR. LARSEN:

21 Q. And what did you learn about this

22 individual named Emmett Walker?

23 A. Just what was sent, which is that the

24 allegation was that he was using some collateral

25 and, as a result of that, there was a complaint

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1 Q. Did Mr. Walker say where he got this piece

2 of collateral?

3 A. He did.

4 Q. What did he say?

5 A. He said he got it from a customer.

6 Q. So he said the customer handed this to him

7 and then he left it with the customer?

8 A. A customer that his peer -- Rebecca Root,

9 I believe her name is. She is also a direct sales

10 rep, so she has the same job that Emmett does. A

11 customer had -- that she had sold previously had

12 contacted her saying, I have a piece of collateral

13 for you. And she picked it up. They photocopied

14 it. And as a result of that, they felt they could

15 distribute it, which they can't.

16 Q. Did you follow up with Ms. Root about

17 this?

18 A. She was -- she was spoken with again by

19 the manager and everybody else.

20 Q. Did the same person talk to Mr. Walker and

21 Ms. Root?

22 A. I don't know. I don't know if it was the

23 same manager.

24 Q. Do you know the names of the -- either one

25 of the managers?

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1 A. I can -- we can certainly get those. Not  
2 off the top of my head. Brenda Auger, A-U-G-E-R, is  
3 the director.  
4 MR. LARSEN: Bless you.  
5 BY MR. LARSEN:  
6 Q. Do you know the outcome of the  
7 conversation with Ms. Root?  
8 A. Just what I mentioned, that she received  
9 the piece of collateral from a customer, and she had  
10 provided it to Emmett, and Emmett allegedly took it  
11 and put his name on it and left it behind with some  
12 prospective prospects.  
13 Q. Did Ms. Root say that she had used this  
14 piece of collateral in her sales efforts?  
15 A. I don't believe she did. I'm not a  
16 hundred percent sure, but she -- I don't believe she  
17 said she did.  
18 Q. Did she say that she gave it to anybody  
19 else in addition to Mr. Walker?  
20 A. Not that I'm aware of.  
21 Q. So I'm looking back at this email.  
22 Did you dictate this email or did  
23 Mr. Niles come up with the specific language?  
24 A. He came up with the language. I think, in  
25 my email, I said something like, They're in

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1 Chapter 11 bankruptcy, no -- or "Simply put: Yes,  
2 they're in Chapter 11 bankruptcy; no, we cannot tell  
3 prospects they are going to lose service." I think  
4 that's similar to -- he might have paraphrased what  
5 I put in mine.  
6 Q. Okay. Did he run this by you before he  
7 sent it or did he just send it?  
8 A. No, he didn't.  
9 Q. Looking at the first sentence, it says,  
10 "All, it has been brought to my attention that we  
11 may have reps making inappropriate, inaccurate,  
12 and/or disparaging claims about Windstream."  
13 Do you know if he's referring to anything  
14 other than this issue with Mr. Walker?  
15 A. He isn't. He's just referring to --  
16 that's the only thing he was aware of at the time,  
17 too, was Emmett.  
18 Q. And do you know that because you discussed  
19 it with Mr. Niles?  
20 A. That's correct.  
21 Q. Did you get any -- I guess your -- it  
22 wasn't your email.  
23 Do you know if Mr. Niles got any responses  
24 to this email?  
25 A. I don't know.

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1 Q. Did you ever ask Mr. Niles if he got any  
2 responses to this email?  
3 A. I asked Mr. Niles if he had conversations  
4 with his team regarding this email, which he did.  
5 Q. Who are the recipients of this email; do  
6 you know?  
7 A. Yes. These are his VPs that reside out in  
8 the field.  
9 Q. And do you know if this email subsequently  
10 got sent to all the people underneath these VPs in  
11 the To line?  
12 A. That's the subsequent conversations that  
13 he had with them, to ensure that they were cascading  
14 the email down.  
15 Q. Just so I understand, Mr. Niles told you  
16 that all of these people told him that they had sent  
17 these emails to the people working under them?  
18 A. The three -- the four main ones: Amanda  
19 Field, Damon Miiller, Nat- -- Nate Purses. And,  
20 actually, he was acting as one, so there's only  
21 three. The VP of the northeast is gone at this  
22 time, so he wasn't copied on that. Scott has that  
23 job. So, yes, he did inform me that he had  
24 conversations with all of them.  
25 Q. Okay. And when he -- when he informed you

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1 of this, did he tell you of any substance of these  
2 conversation other than them confirming that's what  
3 they had done?  
4 A. Well, they confirmed that that's what they  
5 had done. But what he was confirming is that they  
6 were taking this email and making sure that their  
7 teams were aware that they shouldn't -- that's  
8 inappropriate behavior.  
9 Q. Okay. All right. So let me -- maybe I  
10 haven't been clear.  
11 Do you have confirmation that this email  
12 was subsequently sent to all the people out in the  
13 field or do you think it was just discussed?  
14 A. I -- the only confirmation I have is that  
15 Scott told me that he followed up with his team and  
16 told them to cascade it down. I don't have email  
17 receipts from everybody in the field saying they  
18 received the email, no.  
19 Q. Gotcha. And I wasn't even asking that.  
20 A. Okay.  
21 Q. But when you say "cascaded down," that  
22 means send an email?  
23 A. That means -- right. "Cascaded down"  
24 means to send it down to the level below you and  
25 continue to send it down till it gets to the rep

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1 level.  
2 Q. Okay. Other than this, you know, alleged  
3 incident with Mr. Walker, are you aware of any other  
4 complaints along these lines?  
5 A. With residential direct sales, no.  
6 Q. Any complaints in any other areas that are  
7 under your purview?  
8 A. Recently became aware of one from the SMB  
9 direct sales side of the house, yes.  
10 Q. And tell me about that, please.  
11 A. His name, Sikes. S-I-K-E-S, I believe. I  
12 believe he resides in Ohio, and it was a  
13 similar-type situation, that prior to April, he had  
14 taken it upon himself to send out an email to  
15 prospects saying that Windstream is in Chapter 11  
16 and, you know, I'm your new provider.  
17 Q. Have you personally seen that email?  
18 A. I have.  
19 Q. Do you know if that email was produced in  
20 this case?  
21 A. I don't know if -- I don't know if it was  
22 produced or not.  
23 Q. What -- can you tell me everything you  
24 recall about when you saw it?  
25 A. I just saw it recently. Again, it came

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1 through our legal group, so that's the first time I  
2 saw it. And it was how I just referenced it. It  
3 was an email from this salesperson, sent out to a  
4 couple of prospects that he was going after and  
5 implying that, you know, Windstream might not come  
6 out of bankruptcy.  
7 Q. Was there any attachments to the email,  
8 like a flier or an advertisement?  
9 A. I don't believe so, but I don't know for  
10 sure.  
11 Q. What, if anything, did you do when you  
12 learned about this issue with Mr. Sikes?  
13 A. I contacted the group vice president in  
14 charge of SMB direct sales, Brian Miller. And Brian  
15 was on it immediately and had similar conversations  
16 with his management team.  
17 Q. And was a similar email sent out to  
18 Mr. Miller's team?  
19 A. I don't believe so, because around this  
20 time, we had sent out a message to everybody,  
21 including all the direct sales reps, with the TRO  
22 attached to it that basically told -- outlined --  
23 you know, ensuring that everybody knew how to handle  
24 Windstream or any other account in a Chapter 11  
25 status. So that message had just recently been

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1 delivered to the entire sales field, including SMB  
2 direct sales.  
3 Q. Did this issue with Mr. Sikes occur before  
4 that message was sent out to everyone?  
5 A. The issue occurred before, but I don't  
6 believe we were aware of it until after that message  
7 was sent. It's just recent.  
8 Q. Other than Mr. Walker and Mr. Sikes and  
9 what you testified to, are there any other  
10 individuals where this has arisen that you're aware  
11 of?  
12 A. Not that I'm aware.  
13 Q. Have you reviewed the letters that were  
14 sent by Windstream's counsel in this case, kind of  
15 cease-and-desist letters?  
16 A. Windstream's -- I don't know which ones.  
17 Yeah. You mean the TRO?  
18 Q. I could show them to you, but if you  
19 haven't seen them, I'm not going to waste time.  
20 It's -- I'm sure you saw them in regards to the TRO  
21 hearing. Here, I'll just --  
22 A. Yeah, I --  
23 MR. NEPPLE: 19.  
24 MR. LARSEN: Correct. Exhibit 19. Thank  
25 you.

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1 A. Is there something -- do you want me to  
2 read the whole thing or is --  
3 BY MR. LARSEN:  
4 Q. I don't. I just --  
5 MR. NEPPLE: If he has questions.  
6 THE WITNESS: Okay.  
7 BY MR. LARSEN:  
8 Q. Yeah, the -- there's two letters attached  
9 to this exhibit. The first one is a letter of  
10 March 29 -- or March 21, 2019.  
11 Did you -- did you see this letter on or  
12 about the time that it arrived on March 21?  
13 A. This, you're referring to? I'm sorry.  
14 This advertisement or --  
15 Q. No, the -- you got Exhibit No. 19?  
16 A. Oh, the letter itself?  
17 Q. There you go.  
18 A. I don't recall even seeing this, to be  
19 honest.  
20 Q. Okay.  
21 A. I haven't read it, I guess.  
22 Q. Okay. That's fair enough.  
23 So you did not have any discussions with  
24 anyone at Charter concerning this letter on or about  
25 March 21 when it came in?

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1 A. Hard answer unless I -- you know, I just  
2 don't know --  
3 Q. Take your time.  
4 A. Okay. On March 21?  
5 MR. NEPPLE: And to the extent your  
6 conversation would reveal conversations with  
7 in-house Charter counsel or outside Charter  
8 counsel, don't include that, please.  
9 A. Well, I don't -- it looks like this  
10 wouldn't even be sent to me. This looks like this  
11 would go to direct mail or branding or marketing or  
12 somebody, right?  
13 I don't believe I was copied on this or  
14 was aware of it on March 21.  
15 BY MR. LARSEN:  
16 Q. Was there a time when you subsequently  
17 became aware of it?  
18 A. I was aware that there was -- when -- you  
19 know, when we first got brought into the TRO case,  
20 then I was brought up to speed on what the -- what  
21 the concerns were.  
22 Q. If you turn a couple more pages, WIN 60 on  
23 the bottom. There's another letter dated March 26,  
24 2019.  
25 A. Uh-huh.

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1 that position.  
2 MR. NEPPLE: Well, and I'll respond as,  
3 you know, the topics talked about  
4 communications. She went through 30 pieces  
5 and -- or exhibits and was here to talk about  
6 any communications you put in front of her and  
7 they were produced in the litigation. But I  
8 understand your objection and we'll deal with  
9 it down the road.  
10 He will read and sign, please.  
11 THE VIDEOGRAPHER: The time -- the time is  
12 3:28 p.m. on May 1, 2019. This is the end of  
13 Media Unit No. 1 and this completes the  
14 videotaped deposition of Mr. Keith Dardis.  
15 (Deposition continues - Next page)  
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Page 70

1 Q. Same question: Were you aware of this  
2 letter on or about March 26 when it came in?  
3 A. I don't believe so, but I don't know for  
4 sure. It wasn't sent to me.  
5 Q. And you don't recall having any  
6 discussions with anyone at Charter about what we  
7 need to do, if anything, in response to this letter?  
8 A. I wouldn't be involved in this decision.  
9 Q. Okay.  
10 A. Assuming this is just pertaining to the  
11 direct mail piece, which it looks like it is.  
12 MR. LARSEN: I don't have any further  
13 questions. I do just want to get on the record  
14 what we discussed briefly off the record.  
15 I think we do take the position that --  
16 not this witness, but at least the initial  
17 witness, there were several categories that she  
18 was not adequately prepared for and not ready  
19 to discuss all the topics that were noticed.  
20 So we do reserve our rights on, you know,  
21 making the motion to compel a further  
22 deposition or whatever else may occur.  
23 MR. NEPPLE: Well, and --  
24 MR. RAPPOPORT: By the way, I want to go  
25 on the record. The committee agrees and joins

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1 MR. LARSEN: Rough draft. Friday final.  
2 MR. HOCKETT: We'll want the same. Rough  
3 and expedite.  
4 MR. RAPPOPORT: No order.  
5 MR. LARSEN: Scanned exhibits.  
6 MR. HOCKETT: Scanned exhibits.  
7  
8  
9 (Time noted: 3:28 p.m.)  
10  
11 \_\_\_\_\_  
12 KEITH DARDIS  
13  
14 Subscribed and sworn to  
15 before me this day  
16 of 2019.  
17 \_\_\_\_\_  
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Page 73

1 CERTIFICATE  
2 STATE OF CONNECTICUT  
3  
4 I, ANGELA M. SHAW-CROCKETT, Notary Public, duly  
5 commissioned and qualified in and for the States of  
6 New York, New Jersey and Connecticut, before whom the  
7 foregoing deposition was taken, do hereby certify that the  
8 witness whose testimony appears in the foregoing deposition  
9 was duly sworn by me; that the testimony of said witness  
10 was taken by me to the best of my ability and  
11 thereafter reduced to typewriting under my direction;  
12 that I am neither counsel for, related to, nor  
13 employed by any of the parties for the action in  
14 which this deposition was taken, and further that I  
15 am not a relative or employee of any attorney or  
16 counsel employed by the parties thereto, nor  
17 financially or otherwise interested in the outcome of  
18 the action. Witness will read and sign.  
19 IN WITNESS THEREOF, I have hereunto set my  
20 hand this 3rd day of May, 2019.  
21  
22  
23 Angela M. Shaw-Crockett, Notary Public  
24  
25

Page 74

1 ERRATA SHEET  
2 VERITEXT LEGAL SOLUTIONS  
3 330 OLD COUNTRY ROAD  
4 MINEOLA, NEW YORK 11501  
5 516-608-2400  
6 NAME OF CASE: Windstream Holdings, Inc. v.  
7 Charter Communication, LLC  
8 NAME OF DEPONENT: KEITH DARDIS  
9 DATE OF DEPOSITION: 5/1/2019  
10 PAGE LINE(S) CHANGE REASON  
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**Debtor**



**Defendants' Designations and Counter Designations**

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <hr/> <p>In re: WINDSTREAM HOLDINGS, INC., et al., Debtors.</p> <hr/> <p>WINDSTREAM HOLDINGS, INC., et al., Plaintiffs, vs. Chapter 11 CHARTER COMMUNICATIONS, INC. and 19-22312(RDD) CHARTER COMMUNICATIONS OPERATING, LLC, Defendants.</p> <hr/> <p>September 10, 2019 Videotaped Deposition of Andrew Sites</p> <p>a witness herein, called by the Debtor and Debtor in Possession for cross-examination under the applicable Rules of Ohio Civil Court Procedure, taken before me, Linda A. Schilt, a Court Reporter and Notary Public in and for the State of Ohio, taken pursuant to Subpoena, at the offices of Ice Miller, 250 West Street, Columbus, Ohio 43215, on Tuesday, September 10, 2019, commencing at approximately 12:54 p.m., and concluding at approximately 2:19 p.m.</p>	<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 TERENCE P. ROSS, ESQ. Katten Muchin Rosenman, LLP 3 2900 K Street NW North Tower - Suite 200 4 Washington, DC 20007-5118</p> <p>5 6 On behalf of the Debtor and Debtor in Possession.</p> <p>7 STEVEN T. RAPPOPORT, ESQ. 8 Morrison Foerster, LLP 250 West 55th Street 9 New York, New York 10019-9601</p> <p>10 11 On behalf of the Committee of Unsecured Creditors.</p> <p>12 JOHN KINGSTON, ESQ. 13 Thompson Coburn, LLP 501 North 7th Street 14 St. Louis, Missouri 63101</p> <p>15 16 On behalf of the Defendants.</p> <p>17 Also present: 18 Marlene Dori, Legal Video Specialist --- 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 Tuesday Afternoon Session September 10, 2019 2 12:54 p.m. 3 --- 4 STIPULATIONS 5 It is hereby stipulated by and between counsel 6 for the respective parties herein that this 7 deposition of Andrew Sites may be taken at this 8 time by the Notary; that said deposition is being 9 taken pursuant to Subpoena; that said deposition 10 may be reduced to writing in stenotypy by the 11 Notary, whose notes may thereafter be transcribed 12 out of the presence of the witness; that proof of 13 the official character and qualifications of the 14 Notary, the time and place of the taking of said 15 deposition are hereby waived. 16 --- 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX 2 --- 3 ANDREW SITES PAGE 4 Cross-examination, by Mr. Ross 7, 60 5 Cross-examination, by Mr. Kingston 57 6 --- 7 EXHIBITS 8 SITES DEPOSITION EXHIBITS MARKED/REFERRED 9 Exhibit 1 - Subpoena 10 10 Exhibit 2 - Letter with attachments from Katten Muchin 10 11 12 Exhibit 3 - Collection of e-mails. First e-mail from Steven McCready 22 13 Exhibit 4 - E-mail to Scott Niles 34 14 Exhibit 5 - E-mail to Golden Graphics 51 15 Exhibit 6 - E-mail to Steven McCready 52 16 Exhibit 7 - E-mail to Vanessa 52 17 Exhibit 8 - E-mail to Connie 52 18 Exhibit 9 - E-mail to Dr. Wesson 52 19 Exhibit 10 - E-mail to Connie 52 20 Exhibit 11 - E-mail to Vanessa 52 21 Exhibit 12 - E-mail to Whitaker Enterprises 52 22 Exhibit 13 - Document 52 23 Exhibit 14 - Quote template 52 24 Exhibit 15 - E-mail to HC Humane Society 52 25 Exhibit 16 - E-mail to Wingfield Crop 52</p>

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<p>1 SITES DEPOSITION EXHIBITS MARKED/REFERRED</p> <p>2 Exhibit 17 - Quote template 52</p> <p>3 Exhibit 18 - Quote template 52</p> <p>4 ---</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 THE VIDEOGRAPHER: We're now on the</p> <p>2 record. This is a video recorded deposition of --</p> <p>3 MR. SITES: Andrew Sites.</p> <p>4 THE VIDEOGRAPHER: Thank you.</p> <p>5 Being taken at -- on September the 10th, 2019. The</p> <p>6 time now is 12:54 p.m. We're located at Ice</p> <p>7 Miller, 250 West Street, Suite 700, Columbus, Ohio.</p> <p>8 We are here in the matter of</p> <p>9 Windstream Holdings versus Charter Communications.</p> <p>10 This is in the case number 19-23312, Chapter 11.</p> <p>11 It is in the United States Bankruptcy Court,</p> <p>12 Southern District of New York. My name is Marlene</p> <p>13 Dori, video technician.</p> <p>14 Will the court reporter swear in the</p> <p>15 witness.</p> <p>16 P R O C E E D I N G S</p> <p>17 ---</p> <p>18 ANDREW SITES,</p> <p>19 being by me first duly sworn, as hereinafter</p> <p>20 certified, deposes and says as follows:</p> <p>21 THE VIDEOGRAPHER: And the</p> <p>22 attorneys briefly identify themselves for the</p> <p>23 record, please.</p> <p>24 MR. ROSS: Terence Ross with the</p> <p>25 law firm of Katten Muchin Rosenman. We are</p>
Page 7	Page 8
<p>1 conflicts counsel for the Debtors and Debtors in</p> <p>2 Possession, Windstream Holdings, Inc., et al.</p> <p>3 MR. RAPPOPORT: Steve Rappoport of</p> <p>4 Morrison Foerster. We represent the Official</p> <p>5 Committee of Unsecured Creditors of Windstream</p> <p>6 Holdings.</p> <p>7 MR. KINGSTON: John Kingston with</p> <p>8 Thompson Coburn appearing on behalf of Mr. Sites</p> <p>9 and Charter.</p> <p>10 THE VIDEOGRAPHER: This is media</p> <p>11 number one. You may begin.</p> <p>12 CROSS-EXAMINATION</p> <p>13 BY MR. ROSS:</p> <p>14 Q. So, Mr. Sites, would you please</p> <p>15 state your full legal name for the record?</p> <p>16 A. Andrew Joseph Sites.</p> <p>17 Q. Have you ever been known by any</p> <p>18 other names than that?</p> <p>19 A. Nothing, no. That's not -- just a</p> <p>20 nickname with buddies, but no.</p> <p>21 Q. By whom are you currently employed?</p> <p>22 A. Charter Communications.</p> <p>23 Q. And what's your title there?</p> <p>24 A. Business account executive.</p> <p>25 Q. And how long have you had that</p>	<p>1 title?</p> <p>2 A. About a year and a half.</p> <p>3 Q. So since beginning of 2017?</p> <p>4 A. End of May, beginning -- yeah, end</p> <p>5 of May 2017.</p> <p>6 Q. And how long have you worked for</p> <p>7 Charter Communications?</p> <p>8 A. Since then. I started out as this</p> <p>9 job. I started out with that job. I got hired in</p> <p>10 as a business account executive.</p> <p>11 Q. Can you just briefly tell us what</p> <p>12 you do as a business account executive?</p> <p>13 A. We go door-to-door,</p> <p>14 business-to-business and meet face-to-face with new</p> <p>15 customers. We get a list of customers to go visit</p> <p>16 and basically try to sell them, switch them from,</p> <p>17 you know, competitors and switch to our services.</p> <p>18 Q. Where actually do you work? Is</p> <p>19 there an office you work out of?</p> <p>20 A. I'm in Lima, Ohio. 3100 Elida Road.</p> <p>21 I work mostly just right around there. Lima. I</p> <p>22 worked in Lima for a while. I've worked Paulding,</p> <p>23 Van Wert, and Delphos.</p> <p>24 Q. Do you have a geographic region that</p> <p>25 you personally are assigned to?</p>



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1 A. Yeah. I get once a month and then I  
2 work that area for four months. We get zip codes.  
3 Q. In March and April of 2019, earlier  
4 this year, what geographic region were you working?  
5 A. I was in Lima.  
6 Q. And are you familiar with an entity  
7 Spectrum?  
8 A. Yes.  
9 Q. Can you just describe what you know  
10 about that?  
11 A. That is basically Charter merged  
12 with Bright House, and Bright House and Time Warner  
13 obviously, and they basically re-branded, you know,  
14 the cable and internet and phone provider from Time  
15 Warner or Charter, Bright House, and just made it  
16 one, Spectrum, from my understanding at least.  
17 Q. Are you familiar with the term doing  
18 business as name, a d/b/a?  
19 A. Not really.  
20 Q. That's fine. Do you work on  
21 commission?  
22 A. Yes.  
23 Q. What portion of your annual income  
24 is commission-based?  
25 A. Close to half.

1 Q. Do you have any college?  
2 A. Yeah. I graduated from The Ohio  
3 State University.  
4 Q. I think you're supposed to emphasize  
5 The Ohio State University.  
6 A. I said it.  
7 Q. You were served a subpoena in this  
8 lawsuit, correct?  
9 A. Yes.  
10 Q. So let me have that marked as Sites  
11 Exhibit Number 1 for identification.  
12 ---  
13 Thereupon, a document was marked for  
14 purposes of identification as Sites Exhibit 1 by  
15 the reporter.  
16 ---  
17 MR. ROSS: At the same time, let's  
18 mark this as Sites Exhibit Number 2.  
19 ---  
20 Thereupon, a document was marked for  
21 purposes of identification as Sites Exhibit 2 by  
22 the reporter.  
23 ---  
24 MR. KINGSTON: Is this the one you  
25 want to give me? It looks like it was in a binder.

1 MR. ROSS: Why don't you take that  
2 one instead.  
3 MR. KINGSTON: I just didn't know  
4 if it might have your notes on it, that's why I was  
5 asking.  
6 MR. ROSS: No, my notes were on  
7 this one, but thanks for asking.  
8 BY MR. ROSS:  
9 Q. So, Mr. Sites, you've been handed  
10 two documents. The first is, I'll represent to  
11 you, the subpoena that we issued to you, which we  
12 marked for identification as Sites Exhibit  
13 Number 1.  
14 Do you recall receiving this?  
15 A. Yes.  
16 Q. And let me get you to look then at  
17 the second document that was handed to you. This  
18 is a letter with several attachments from my law  
19 firm that was provided to you, which we've marked  
20 for identification as Sites Exhibit Number 2.  
21 Did you receive this?  
22 A. I believe so, yes.  
23 Q. Did you read it?  
24 A. I did not read the whole thing, no.  
25 Q. Okay. So with respect to the

1 subpoena, you understand that you were required, in  
2 addition to showing up for this deposition today,  
3 to search for some documents and produce them,  
4 correct?  
5 A. Yes, I believe so.  
6 Q. So what steps did you undertake to  
7 search for and produce documents?  
8 A. Well, the documents that I would  
9 have had from my e-mail, they disappear on my end  
10 after a few days and I believe my company found  
11 those for me.  
12 Q. So --  
13 A. I no longer have access to them  
14 after a certain amount of time, but we do have them  
15 here. I personally can't pull them up.  
16 Q. So when you refer to your e-mail, is  
17 that a company e-mail or personal?  
18 A. My company e-mail.  
19 Q. And could you just tell me for the  
20 record what your company e-mail is?  
21 A. andrew.sites@charter.com.  
22 Q. Thank you. Did you, in addition to  
23 asking the company to pull up your e-mails, did you  
24 search in your home or office at work for any  
25 documents?

Page 13	Page 14
<p>1 A. There wasn't any documents that I</p> <p>2 had that I would be searching for.</p> <p>3 Q. Did you search, though?</p> <p>4 A. Yes.</p> <p>5 Q. And you found nothing?</p> <p>6 A. No.</p> <p>7 Q. Okay. As part of what we've marked</p> <p>8 as Sites Exhibit Number 2 for identification,</p> <p>9 there's attached several pages into the document a</p> <p>10 copy of the complaint that initiated the lawsuit in</p> <p>11 this case.</p> <p>12 Do you see that?</p> <p>13 A. Which page is that on?</p> <p>14 Q. So it would be about five, six pages</p> <p>15 in.</p> <p>16 A. This one?</p> <p>17 Q. Yes. Did you read that document?</p> <p>18 A. Not -- I mean, I skimmed it, I</p> <p>19 guess. I didn't really read it word for word.</p> <p>20 Q. Okay. Do you have any understanding</p> <p>21 as to why you were subpoenaed to testify in this</p> <p>22 lawsuit?</p> <p>23 A. Yes. I mean, I'm assuming the</p> <p>24 e-mails that I sent Windstream customers.</p> <p>25 Q. Anything else?</p>	<p>1 A. Not necessarily. But, I mean,</p> <p>2 obviously, I'm a Charter employee, but --</p> <p>3 Q. What do you know about the lawsuit</p> <p>4 between Windstream and Charter?</p> <p>5 A. Basically that we -- we were trying</p> <p>6 to -- our company as a whole was trying to use</p> <p>7 Windstream's bankruptcy against them. That's what</p> <p>8 my understanding has been.</p> <p>9 Q. Well, let me ask you this: When did</p> <p>10 you first become aware of that lawsuit?</p> <p>11 A. Of the big -- the lawsuit that's</p> <p>12 going on right now between --</p> <p>13 Q. Between Windstream and Charter, yes.</p> <p>14 A. Probably shortly after I sent those</p> <p>15 e-mails I was made aware of it several times, but</p> <p>16 the ship had already sailed, so to speak.</p> <p>17 Q. And, I'm sorry, I spoke over you</p> <p>18 during your last answer. I apologize for that.</p> <p>19 A. Okay.</p> <p>20 Q. It's really important for the record</p> <p>21 that we try not to do that, but that was my bad,</p> <p>22 okay?</p> <p>23 A. I understand.</p> <p>24 Q. How did you learn about the lawsuit</p> <p>25 the first time?</p>
Page 15	Page 16
<p>1 A. I'm not 100 percent on the first</p> <p>2 time I had heard about it, whether it was a</p> <p>3 co-worker or on a call, but we've addressed it</p> <p>4 several times on calls, you know, since the first</p> <p>5 time, obviously, saying not to do what I had</p> <p>6 already done.</p> <p>7 Q. But those calls were after you'd</p> <p>8 taken these actions that you're talking about?</p> <p>9 A. I believe so, yes. I'm not 100</p> <p>10 percent sure on that. They could have been the</p> <p>11 week of. I think we did discuss it on a call right</p> <p>12 before that, but I didn't have any -- there was no</p> <p>13 Windstream customers in my territory, so I probably</p> <p>14 didn't pay attention to it as much as I could have,</p> <p>15 which, I mean, an 8:15 a.m. call is not always -- I</p> <p>16 don't know. It's just we did discuss it. I don't</p> <p>17 think I paid enough attention to it as I should</p> <p>18 have, honestly, because I didn't think it would be</p> <p>19 a concern because I didn't have any Windstream in</p> <p>20 my area.</p> <p>21 Q. Okay. You talked about calls. What</p> <p>22 are you referring to, some sort of sales call or</p> <p>23 team call of some sort?</p> <p>24 A. Yeah. Our weekly -- we do weekly</p> <p>25 calls between our team, Northwest Ohio.</p>	<p>1 Q. Is there a specific supervisor you</p> <p>2 report to?</p> <p>3 A. Yes. Jim Ruhland, R-u-h-l-a-n-d. I</p> <p>4 guess it's James, but...</p> <p>5 Q. Do you happen to know what his title</p> <p>6 is?</p> <p>7 A. Business sales manager, I would</p> <p>8 assume.</p> <p>9 Q. And is he for the Northwest Ohio</p> <p>10 region?</p> <p>11 A. Yes.</p> <p>12 Q. And so when you were referring</p> <p>13 earlier to weekly calls, these are calls relating</p> <p>14 to Northwest Ohio, correct?</p> <p>15 A. For the most part, but we will --</p> <p>16 mostly it's about numbers between, you know, me and</p> <p>17 our Findlay guys and our Perrysburg, and then I</p> <p>18 think the other office is in Lorain. And it mostly</p> <p>19 pertains to Northwest Ohio, but if Charter has,</p> <p>20 obviously, something that goes nationwide, we'll</p> <p>21 usually discuss that. But it's mostly just our</p> <p>22 numbers and, you know, weekly goals and stuff like</p> <p>23 that.</p> <p>24 Q. By numbers you mean new subscribers</p> <p>25 or --</p>

Page 17	Page 18
<p>1 A. Yes, yes. Like new internet and</p> <p>2 phone and TV customers.</p> <p>3 Q. That's a good point. Why don't you</p> <p>4 just, for the record, describe what the service is</p> <p>5 that you sell?</p> <p>6 A. Phone, internet and cable TV to</p> <p>7 businesses. Business class.</p> <p>8 Q. Any particular size of business?</p> <p>9 A. Mostly small. Very small. Not --</p> <p>10 larger companies, like corporations, obviously, we</p> <p>11 don't really sell too much. And I can't touch</p> <p>12 government or hospitals, but small business is the</p> <p>13 main.</p> <p>14 Q. How about residential customers?</p> <p>15 A. No residential customers. Unless</p> <p>16 they have a home business, then I have to have</p> <p>17 approved paperwork.</p> <p>18 Q. So I have to ask you a couple of</p> <p>19 questions about the lawsuit at issue here. I just</p> <p>20 don't want you to be confused. I'm shifting to</p> <p>21 something else.</p> <p>22 When was the first time that you</p> <p>23 became aware that Windstream filed for bankruptcy</p> <p>24 protection in the courts?</p> <p>25 A. The same -- I'm not 100 percent</p>	<p>1 sure, but the same call we addressed that</p> <p>2 Windstream, again, I wasn't -- I didn't pay too</p> <p>3 much attention because Windstream wasn't really in</p> <p>4 my area, but that was the same -- the same call</p> <p>5 we -- I heard about it was the first time I heard</p> <p>6 about the bankruptcy and the lawsuit, I guess it</p> <p>7 would be. I guess I kind of tied the two together.</p> <p>8 Q. Have you ever filed for bankruptcy</p> <p>9 protection yourself?</p> <p>10 A. No.</p> <p>11 Q. And you're not a lawyer, are you?</p> <p>12 A. No.</p> <p>13 Q. For that matter, have you ever</p> <p>14 testified in a lawsuit before?</p> <p>15 A. No.</p> <p>16 Q. But you're represented by counsel</p> <p>17 today, correct?</p> <p>18 A. Yes.</p> <p>19 Q. That's Mr. Kingsman (sic), right?</p> <p>20 A. Yes.</p> <p>21 Q. Kingston.</p> <p>22 A. Yes.</p> <p>23 Q. What did you major in in college?</p> <p>24 A. Family financial planning.</p> <p>25 Q. When did you graduate from The Ohio</p>
Page 19	Page 20
<p>1 State University?</p> <p>2 A. 2011.</p> <p>3 Q. What did you do between graduation</p> <p>4 and the time you actually started working for</p> <p>5 Charter?</p> <p>6 A. I worked. And I worked for Michigan</p> <p>7 Grain Inspection, which was a subsidiary of the</p> <p>8 USDA. And then for Lima Radio Hospital, which is a</p> <p>9 subsidiary for Verizon Wireless.</p> <p>10 Q. And were those sales positions?</p> <p>11 A. The second, the Verizon job was.</p> <p>12 The first one was not.</p> <p>13 Q. So one of the reasons we're here</p> <p>14 today is that there, I take it, came a time when</p> <p>15 you started telling potential customers that</p> <p>16 Windstream was going out of business, so they had</p> <p>17 to switch their service.</p> <p>18 Do you recall when that happened?</p> <p>19 A. Yeah. It was March or April, I</p> <p>20 believe. And I only sent a few e-mails, but it</p> <p>21 wasn't like -- it was more, like I've discussed</p> <p>22 several times, it was more work finding who I sent</p> <p>23 an e-mail to or a phone call to, but I didn't even</p> <p>24 get to the point of even really messing with it.</p> <p>25 I looked up street sheets on where</p>	<p>1 Kenton customers that weren't active and kind of</p> <p>2 reached out to some of them.</p> <p>3 But, like I said, it was -- there</p> <p>4 wasn't enough info for me to really -- without</p> <p>5 going there and going door-to-door like we're</p> <p>6 supposed to, there's just not enough info on that</p> <p>7 list to really attack it. So it was kind of a</p> <p>8 waste of time, which e-mailing, unless you've</p> <p>9 already discussed with a customer face-to-face is</p> <p>10 really kind of pointless. It's you're just</p> <p>11 basically throwing darts at a wall.</p> <p>12 Q. So when you said March or April, you</p> <p>13 meant 2019, correct?</p> <p>14 A. Yes, I believe so. Yes.</p> <p>15 Q. In your job, do you often -- strike</p> <p>16 that.</p> <p>17 To what extent do you engage in</p> <p>18 e-mail solicitations as part of your job?</p> <p>19 A. It's usually a follow-up. It's not</p> <p>20 not -- if I did send something like what I did with</p> <p>21 the Windstream stuff, I should get it approved</p> <p>22 with, you know, my manager and higher-ups and I</p> <p>23 didn't do it that time.</p> <p>24 Q. So would it be accurate to say that</p> <p>25 the initial contact is almost you always</p>

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1 face-to-face?

2 A. For the most part, yes. Vast

3 majority of the times, unless they reach out to me.

4 Q. Is there an actual storefront that a

5 customer could walk into it and say, I'm interested

6 in switching service?

7 A. Yes.

8 Q. But that's not your responsibility?

9 A. No. They just -- the retail reps

10 just started selling business class at least, you

11 know, regularly. So it's not really something that

12 they sell a whole lot. They are now, but in the

13 past they haven't. But when I first started, they

14 were giving me information.

15 Q. So your primary modus operandi is to

16 go door-to-door in an office building, a strip

17 mall, someplace where there are small businesses;

18 is that right?

19 A. Yes.

20 Q. Now, in this instance, there were a

21 number of communications with customers by --

22 potential customers by e-mail. What was the

23 genesis of that? Why e-mail?

24 A. That was just the easiest way to

25 get, you know, ahold of customers quick. And like

Page 23

1 A. Yes.

2 Q. And then there's a signature block

3 and that's your signature block, right?

4 A. Correct.

5 Q. And that's your office address,

6 right?

7 A. Yes.

8 Q. So right under that appears to be an

9 e-mail that you're forwarding to a Mr. Ruhland. Is

10 that pronounced right?

11 A. Yes. That's my boss.

12 Q. Yes. So underneath that is an

13 e-mail that you had sent to Mr. McCready and --

14 just it's a Mr. McCready twice.

15 Who is Mr. McCready, Steven

16 McCready?

17 A. I believe he was a lawyer from

18 Martin & Brown.

19 Q. Who's Martin & Brown?

20 A. I'm not sure. It was a law office.

21 Q. And --

22 A. Not too familiar with them.

23 Q. Why were you sending him an e-mail?

24 A. Because I received an e-mail. Well,

25 it was -- originally, it was an e-mail -- they sent

Page 22

1 I said, it's not -- it wasn't something I was

2 going -- wanted to spend a whole lot of time on.

3 So I just -- honestly, it was hoping something's

4 thrown, like I said, darts at the wall and hoping

5 something stuck. And, frankly, nothing stuck.

6 Q. So let me put in front of you

7 another document, and we'll mark this as Sites

8 Exhibit Number 3 for identification.

9 ---

10 Thereupon, a document was marked for

11 purposes of identification as Sites Exhibit 3 by

12 the reporter.

13 ---

14 BY MR. ROSS:

15 Q. So, Mr. Sites, this is a collection

16 of e-mails that was produced in the course of this

17 lawsuit. And you are free to look through them,

18 but I'm going to ask you some questions whenever

19 you're ready.

20 A. Yeah, I'm familiar with these

21 e-mails, so I'm ready.

22 Q. So on the very first page of Sites

23 Exhibit Number 3, there's at the top an e-mail

24 address that seems to indicate this is coming from

25 you, correct?

Page 24

1 me a letter, which I found letter, but at the time

2 I had not been aware of the letter. And I received

3 an e-mail from Dino, who was in Spectrum Reach,

4 which is marketing. He said a law office was

5 trying to get ahold of me. So he forwarded this on

6 to me and I read, you know, what the law office was

7 saying. And instead of calling a supervisor, which

8 is our policy, I just replied and tried to

9 basically get out of trouble before I got into

10 trouble. But that's not what we're supposed to do.

11 Q. So in the first sentence of that

12 e-mail, who is Dino?

13 A. Dino is the man I just described

14 from Spectrum Reach.

15 Q. Are you saying Spectrum Reach?

16 A. Yes.

17 Q. What is that?

18 A. It's our marketing.

19 Q. Do you know his last name?

20 A. Gerdeman.

21 Q. Can you spell that for the record as

22 best you can?

23 A. G-e-r-d-e-m-a-n. I don't believe

24 he's an employee anymore, though. They downsized

25 that -- that part of Spectrum in our area, so...

Page 25

1 Q. Was he in your supervisory chain in  
2 some way?  
3 A. Not at all. He just works in Lima.  
4 They were looking for somebody from Lima to get  
5 ahold on and they found Dino.  
6 Q. So he was just facilitating getting  
7 the letter from Mr. McCready to you?  
8 A. Yes.  
9 Q. Okay. You say in the second -- I'm  
10 sorry, the third sentence, I was given misleading  
11 information.  
12 A. That is just -- that was basically  
13 me just trying to -- if you see the previous  
14 e-mails, which we haven't discussed yet, I said  
15 that they're going out of business and at no point  
16 was I told that Windstream was going out of  
17 business. And, honestly, at this point, I was just  
18 trying to make myself look better by not -- not a  
19 complete idiot that assumes a bankruptcy is going  
20 out of business when there's obviously differences  
21 between the two.  
22 I know that more than, you know --  
23 more than what this shows. I understand that. But  
24 I was just more excited at the time more than  
25 anything. You know, the initial e-mails and this

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1 one, I was obviously nervous because a law office  
2 was getting ahold of me. It's not something you  
3 deal with every day.  
4 Q. No. The misleading information is  
5 that because Windstream was in bankruptcy, it was  
6 going out of business?  
7 A. That -- not necessarily. I mean,  
8 that was just me kind of -- I said that to cover my  
9 own behind. Not really -- there's a big difference  
10 between a bankruptcy and going out of business, I  
11 understand that, but at the time in the e-mails it  
12 wasn't really -- I didn't really look over my work  
13 as well as I should have, I would say.  
14 Q. So but I'm just trying to understand  
15 when you say, I was given misleading information,  
16 are you telling me that that assertion was  
17 incorrect?  
18 A. Yes. You're saying my assertion  
19 into that?  
20 Q. Yes.  
21 A. Yeah. I acted alone on writing  
22 that. So, like I said, I just didn't want to look  
23 like a complete buffoon.  
24 Q. So there's further down on that  
25 e-mail six -- a list of six e-mails, do you see

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1 that?  
2 A. Yep.  
3 Q. And are those the potential  
4 customers that you talked to about the Windstream  
5 bankruptcy?  
6 A. Yes.  
7 Q. And that's all there was?  
8 A. Yes.  
9 Q. And on a couple of them, they have a  
10 domain name Windstream from which, I guess, you  
11 could assume they were a Windstream customer,  
12 right?  
13 A. Yes.  
14 Q. But on a couple of them, there  
15 aren't, and my question to you is: How did you  
16 know that the HC Humane Society was a Windstream  
17 customer?  
18 A. I really didn't for 100 percent. I  
19 wasn't completely certain that they were Windstream  
20 customers.  
21 Q. And same with Sparky's Pizza?  
22 A. Yes.  
23 Q. So attached to that first page are a  
24 series of e-mails, and I certainly don't want to  
25 put words in your mouth, but they just appear on

Page 28

1 their face to be the e-mails that you sent to this  
2 list; am I right?  
3 A. Yes.  
4 Q. And in addition, with respect to  
5 each e-mail you sent out there's a follow-up e-mail  
6 that you sent to them?  
7 A. Yes.  
8 Q. Am I correct about that?  
9 A. Yes.  
10 Q. Okay. So we can look at any one of  
11 these that you want to, but on -- I'm on page 2,  
12 which is Bates stamped at the bottom  
13 Charter\_020213. Can we look at the original e-mail  
14 you sent to the potential customer at the bottom;  
15 is that okay?  
16 A. Yes.  
17 Q. This is to somebody named Vanessa.  
18 Says, I was referred to you by another rep in our  
19 area. Who was that?  
20 A. I got a list of -- I got a list of  
21 potential Windstream customers from another rep. I  
22 can work another area if it's a referral from  
23 another customer, because Kenton wasn't my area.  
24 So I kind of used that to say I was referred, but  
25 it's really just kind of a loose term, honestly.

Page 29	Page 30
<p>1 Q. But the referral came from another 2 rep? 3 A. Yes. 4 Q. Who was that? 5 A. It was Julianne Jordan (phonetic). 6 She didn't really give me a referral. She just 7 gave me a list of potential Windstream customers in 8 Kenton. 9 Q. Just for the record, Kenton is 10 another town in Northwest Ohio, right? 11 A. That's the town that all these are 12 from, yes. 13 Q. So you say in this e-mail, "I'm 14 contacting you because your current phone provider 15 is going out of business." And that would have 16 been -- that's the Windstream reference that you're 17 referring to? 18 A. Yes. 19 Q. And I wanted to make -- "I wanted to 20 help you make a seamless transition to a new 21 service," to complete the sentence. You then go on 22 to talk about wanting the opportunity to quote 23 service to them, correct? 24 A. Yes. 25 Q. So do you notice the date of that</p>	<p>1 e-mail? 2 A. March 29th. 3 Q. So at that point in time, how did 4 you know that Windstream was in bankruptcy? 5 A. As we discussed earlier, it was -- 6 I'm not 100 percent. It could have been the call, 7 it could have been a fellow employee. I'm not 100 8 percent sure on where I heard exactly. 9 I just, like I said, I kind of 10 didn't pay as much attention when we did first talk 11 about it, didn't think it would be a big deal 12 because I didn't have any Windstream customers. 13 Q. Let me get you to look for a moment 14 at Sites Exhibit Number 2. It's the thick 15 document. And to that page that we looked at 16 before. The first page of the lawsuit. And you 17 may have to move the clip that's holding the pages 18 together, but up in the top right-hand corner is 19 the filing date. 20 A. Shows 4/5/19. 21 Q. So that was after you contacted 22 these customers, correct? 23 A. Yes. 24 Q. So you could not have known of the 25 lawsuit by Windstream against Charter at that</p>
Page 31	Page 32
<p>1 point? 2 A. No, I wouldn't have known about the 3 lawsuit. 4 Q. Okay. 5 A. And that would -- my original 6 thought was that I kind of heard they had filed 7 bankruptcy and then after I sent a few e-mails, we 8 really got into it on a call like don't -- 9 basically don't do what I had already done. 10 Q. So take your time to look through 11 the rest of these e-mails, but I think they're all 12 dated March -- 13 A. Yeah, they're all the same day. 14 Q. Okay. 15 A. And I stopped, but like, honestly, 16 it took, to even send these few e-mails, it took, 17 you know, two hours. It wasn't really worth my 18 time to -- and, like I said, nothing really came 19 from it, because I was doing basically blind 20 research online and, you know, Facebook pages and 21 websites, et cetera. There's not a whole lot of 22 information when you just blindly look for a 23 business and try to get, you know, who you talk to. 24 Q. So then on top of that page, and I'm 25 now referring to the second page in Sites Exhibit</p>	<p>1 for identification Number 3, Bates stamp 2 Charter_020213, the top is, I take it, the 3 follow-up e-mail to this Vanessa? 4 A. Yeah. 5 Q. And -- 6 A. That was -- sorry, go ahead. 7 Q. No, you go ahead. I'm sorry. 8 A. That was after I had received the 9 e-mail from the law firm, the Martin &amp; Brown. 10 Instead of going to my higher-ups like I should 11 have done and talked to them about it, I tried just 12 e-mailing all the customers that I had spoken with 13 that day, again, trying to cover my own bum and it 14 wasn't really the best idea. 15 Q. So, again, where you say, apologies 16 I was given misinformation, are you not accurately 17 representing what happened there? 18 A. That's not accurate, no. 19 Q. But you are aware at that point that 20 Windstream is not going out of business? 21 A. Yes. 22 Q. Okay. 23 A. And I was aware the first point. 24 Like I said, I was excited and I think I just -- I 25 didn't think about what I was saying when I sent</p>



<p>Page 33</p> <p>1 those first e-mails. That was kind of what 2 happened. 3 Q. When you sent those first e-mails, 4 you were aware that Windstream was not going out of 5 business? 6 A. I was aware they were bankrupt. I 7 wasn't -- I think I misconstrued the term 8 bankruptcy with going out of business, but they're 9 not the same thing. 10 Q. If you could actually go to the next 11 to last page of this same exhibit, Sites 3 for 12 identification. It's got the Bates stamp 13 Charter_020217 on the bottom. 14 Are you on that page? 15 A. Yes. 16 Q. So that's a couple of days, 17 actually, before, March 27th. 18 A. Yes. 19 Q. So I'm not trying to trip you up in 20 any way, but is it possible that these six e-mails 21 all went out the same week and that's what you -- 22 A. Yeah, I guess I could have sent a 23 couple of them prior. 24 Q. Okay. 25 A. I thought it was all the same day,</p>	<p>Page 34</p> <p>1 but being a day or two apart, that's not unheard 2 of. 3 Q. Let me have this marked as Sites 4 Exhibit Number 4 for identification. 5 --- 6 Thereupon, a document was marked for 7 purposes of identification as Sites Exhibit 4 by 8 the reporter. 9 --- 10 BY MR. ROSS: 11 Q. So, Mr. Sites, take a moment to look 12 at this, but in particular I want to focus your 13 attention on the date of April 11, 2019. And 14 whenever you're ready, my first question to you is 15 going to be who is Scott Niles? 16 A. I am not sure who Scott Niles is 17 without -- but I would assume he's a higher-up 18 maybe, but I'm not sure who Scott Niles is. 19 Q. Okay. So I don't see your e-mail 20 address on this e-mail. Can you just confirm 21 that's correct for me? 22 A. Correct. 23 Q. Do you recall -- have you read the 24 document yet? 25 A. This e-mail?</p>
<p>Page 35</p> <p>1 Q. Yes. 2 A. No, I haven't read the whole thing. 3 I was looking for my name. 4 Q. Why don't you read it real quick. 5 My question to you, though, is going to be: Do you 6 recall ever receiving this e-mail? 7 A. I don't recall this e-mail 8 particularly. We could have received this e-mail 9 on -- I'm sure I did. If this was sent to 10 everyone, I'm sure I got it and we did -- 11 basically, what this e-mail is discussing we talked 12 about several times on different calls between 13 our -- we have our Great Lakes development call 14 every other Wednesday and that was something we 15 really dug into it, is not to contact Windstream 16 customers and not to -- definitely don't mention 17 their bankruptcy. 18 And as I said before, once I knew 19 there was, you know, don't talk to those, I threw 20 away the list I had and stopped even contacting 21 anyone from Windstream. 22 Q. You just referred to the Great Lakes 23 and I missed the last part. 24 A. The Great Lakes, we have a 25 development call, but it's where we discuss, you</p>	<p>Page 36</p> <p>1 know, we have -- discuss different topics and 2 anything that's, you know, big for our area or big 3 for the company. 4 Q. So Great Lakes is a broader region 5 than Northwest Ohio? 6 A. Yes. 7 Q. So that would be a call where 8 multiple regions talked about it? 9 A. Yes. 10 Q. So do you recognize any of the 11 recipients of this e-mail as being in your 12 immediate supervisory chain? 13 A. No. 14 Q. Okay. 15 A. I don't recognize any of these. 16 These could be, though, you know, higher-ups above 17 them, but, I mean, I could be wrong as well. 18 Q. Well, if you don't know, you don't 19 know. 20 A. Yeah. 21 Q. I mean, that's fair. 22 So you said that -- again, the 23 testimony will speak for itself, but essentially 24 that you knew when you told these folks that 25 Windstream was going out of business that they were</p>

1 only in bankruptcy, right?  
2 A. Correct.  
3 Q. And so what was the motivation  
4 behind telling them that, telling customers that  
5 they were going out of business?  
6 A. I wasn't thinking. So, I mean,  
7 that's the only motivation. Looking back, that's  
8 the only motivation I can think of is had I taken  
9 that e-mail template and showed even any other rep  
10 or showed my supervisor before I clicked send, I  
11 don't think we'd be here right now, because I  
12 wouldn't have said anything like that. They would  
13 have said no, don't -- absolutely don't send that  
14 type of e-mail.  
15 Q. So but your motivation really was to  
16 make a sale, wasn't it?  
17 A. Yes.  
18 Q. And you had no factual basis for  
19 saying that Windstream was going out of business,  
20 correct?  
21 A. Neg -- no, I did not.  
22 Q. And in the e-mail we saw earlier,  
23 Sites Exhibit 3 for identification, with the six  
24 e-mail listing, how did you know that there was  
25 just six? Did you somehow go back on your computer

1 and --  
2 A. I went back and checked my e-mail  
3 how many I sent.  
4 Q. Okay. I take it that would have  
5 been before April 19th when you said this, right?  
6 A. Yes. And, honestly, when I got the  
7 information on the lawsuit that we discussed in our  
8 Great Lakes call, don't contact these customers,  
9 don't call, I didn't even go back and look at these  
10 and see what I said exactly. I just was kind of  
11 like, I'm not even messing with this anymore,  
12 because it's -- but I should have. I mean,  
13 obviously, I should have went back and noticed  
14 that. Apologized to the customer before I received  
15 a letter, but regardless --  
16 Q. But then the letter came from the  
17 Martin & Brown law firm?  
18 A. Yes, yes.  
19 Q. And did the e-mails apologizing go  
20 out before or after you got that letter?  
21 A. The second I read the e-mail, the  
22 information that Martin & Brown gave me, I e-mailed  
23 those customers. Because it said -- the e-mail  
24 specifically said to apologize to the customers I  
25 had spoken with and tell them that's not true,

1 because it wasn't true, they weren't going out of  
2 business, they were filing for bankruptcy. And I  
3 know there's a difference. It was just me being  
4 excited and wanting to get a sale thinking this was  
5 fish in a barrel and it really wasn't.  
6 It's not even -- big companies file  
7 bankruptcy all the -- well, not all the time, but  
8 it does happen without a company going under.  
9 Q. So was that letter directed  
10 specifically to you or was it to multiple people?  
11 A. The one from Martin & Brown, that  
12 was specifically to me.  
13 Q. Addressed exactly to you?  
14 A. Yes.  
15 Q. Is that something you still have?  
16 A. Maybe. I'm not 100 percent sure if  
17 I have that letter or not.  
18 Q. Did you produce it to us today in  
19 connection with this subpoena duces tecum?  
20 A. Not that I'm aware of, no.  
21 Q. How did -- when you say a letter,  
22 was it, in fact, a traditional snail mail letter?  
23 A. What do you mean snail mail?  
24 Q. Well, was it a hard copy of a letter  
25 as opposed to an e-mail? A lot of people now, they

1 just confuse the two.  
2 A. No, it was an actual letter. There  
3 was an e-mail too. That's what I said I received  
4 from Dino.  
5 Q. Dino sort of sent you an e-mail  
6 saying look at the letter?  
7 A. Pretty much, yeah.  
8 MR. ROSS: So, Counsel, we'd ask  
9 for that to be produced.  
10 MR. KINGSTON: Okay.  
11 BY MR. ROSS:  
12 Q. So when you got the letter, other  
13 than -- I won't be able to pronounce his last  
14 name, sorry, but Dino, other than Dino, did you  
15 talk to anyone about it?  
16 A. Just my supervisor to tell them,  
17 hey, I got this letter. Actually, he called me,  
18 because I didn't -- I tried basically putting it  
19 under the rug and just contact the customer and get  
20 it taken care of before I actually contacted my  
21 supervisor.  
22 Q. So the first time Mr. Ruhland heard  
23 about this was after you had gotten the letter and  
24 you went to him?  
25 A. I believe he called me. I think



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1 Dino -- well, Dino e-mailed me and Jim together.  
2 Q. Okay.  
3 A. I'm fairly certain in the first  
4 place about that. And then after the fact, I  
5 checked where our mail is, because I don't get very  
6 much mail in our office, so I don't check it every  
7 day, and there was a letter from them sitting  
8 there.  
9 Q. Okay.  
10 A. But, I mean, that's been six, seven  
11 months. I'm not sure I even still have it.  
12 Q. Well, what did Mr. Ruhland tell you  
13 to do, if anything?  
14 A. About?  
15 Q. About the letter.  
16 A. He basically just said stop  
17 contacting anyone and we have lawyers and stuff and  
18 let the chain of command handle it, not me. Like  
19 it was basically I was an idiot for e-mailing these  
20 people in the first place and for -- he didn't say  
21 that exactly, but that's what I, you know -- I  
22 shouldn't have e-mailed the people in the first  
23 place and I really shouldn't have replied to them.  
24 Q. As a result of these e-mails and  
25 everything that happened afterwards, were you

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1 disciplined in some way by the company?  
2 A. Yes. I was put on disciplinary or  
3 corrective action for one year. That was as of  
4 July -- or June 1st.  
5 Q. What does it mean corrective action  
6 for one year?  
7 A. Basically, I can't get in any  
8 trouble. I have to have a good driving record and  
9 I have to have my sales, obviously, stay in good  
10 standing.  
11 Q. When you say June 1st, you meant  
12 June 1, 2019, correct?  
13 A. Yes.  
14 Q. And is this the sort of thing that's  
15 like a warning and if you -- if anything happens  
16 during that year, that you get fired, or how does  
17 that work?  
18 A. That was my understanding. I have  
19 to -- you know, I'm basically make sure I do my job  
20 correctly and as I'm supposed to be doing. I'd  
21 already done -- I sneezed on a conference call and  
22 used an F word. So that was -- but I apologized,  
23 so I didn't get anything official. I thought -- I  
24 didn't know I wasn't on mute at the time, but so I  
25 had already kind of been little -- little bit on

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1 thin ice with that. Not thin ice, but, you know,  
2 just didn't help it.  
3 From my understanding, this had been  
4 discussed with all the way up to our VP on the east  
5 coast, so...  
6 Q. Did anyone other than your immediate  
7 supervisor, Mr. Ruhland, talk to you about this  
8 incident?  
9 A. Yes. When I had to go up and sign  
10 the paperwork for the one-year corrective action,  
11 it was my director. Basically my boss' boss.  
12 Q. Who is that?  
13 A. Brian Yates.  
14 Q. Do you know what his title is?  
15 A. Director of sales. Spectrum  
16 Business.  
17 Q. Where is he located?  
18 A. He is in Bay City, Michigan.  
19 Q. And you actually met with him or you  
20 simply had to go up to sign a form?  
21 A. I met with him for corrective action  
22 for several minutes. I mean, I was in Toledo for  
23 about an hour meeting with them to make sure I  
24 understood not to contact the Windstream customers  
25 like I did before and not to be just blindly

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1 e-mailing customers.  
2 Q. When did this happen?  
3 A. That was on June 1st.  
4 Q. Okay. Who else did you meet with  
5 besides Mr. Yates?  
6 A. My supervisor, Jim Ruhland.  
7 Q. That was it?  
8 A. Yes.  
9 Q. What did they tell you?  
10 A. Basically about my corrective  
11 action, what it pertained to and, you know, keep my  
12 sales up and don't get in trouble.  
13 Q. So they didn't discuss the actual  
14 incident in any way?  
15 A. We did. We discussed, you know, why  
16 would you just e-mail people? That's not what we  
17 do. We go door-to-door and talk to people  
18 face-to-face. And e-mail should only be used as a  
19 follow-up, not as, you know, trying to sell stuff.  
20 Q. And they explained to you that  
21 you're not supposed to give out misinformation to  
22 customers?  
23 A. Yes, that was also explained.  
24 Q. Are you aware of any other reps who  
25 have been telling customers that Windstream was

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<p>1 bankrupt?</p> <p>2 A. Not to my knowledge, no. I'm sure</p> <p>3 it has happened. I would assume that's why we're</p> <p>4 all here, but no, I have no idea about any other</p> <p>5 rep doing that.</p> <p>6 Q. Okay.</p> <p>7 A. It's not -- Windstream is not very</p> <p>8 prevalent in my area. Kenton is not technically</p> <p>9 Northwest Ohio, it's technically part of Columbus.</p> <p>10 So which would be -- I'm not sure if they're</p> <p>11 Southern Ohio or Mid-Ohio or what, but they're not</p> <p>12 in the Great Lakes, so they're --</p> <p>13 Q. Okay. Let me get you to look again</p> <p>14 at what we've marked for identification as Sites</p> <p>15 Exhibit Number 2. And, again, go to that -- the</p> <p>16 complaint which initiated the lawsuit. And within</p> <p>17 that document, I'd like you to go to page 13 and</p> <p>18 14. Let's start with the page 13, and I'll</p> <p>19 represent to you that this is an advertisement that</p> <p>20 Spectrum sent earlier in 2019 by mail. And take</p> <p>21 your time to read it, but my question to you is</p> <p>22 going to be: Did you see this before today?</p> <p>23 A. No, I did not. The mailers don't</p> <p>24 really pertain to our, you know, what we do. We</p> <p>25 have our own flyers and stuff that we hand out and</p>	<p>1 they're pretty broad. They don't specifically talk</p> <p>2 to Windstream customers or anything like that. The</p> <p>3 first time I've seen this was when I got the</p> <p>4 subpoena.</p> <p>5 Q. Okay. I'm going to ask the same</p> <p>6 question about the advertisement that's on page 14.</p> <p>7 Again, take your time to look at that one.</p> <p>8 A. Yeah, same thing. This isn't</p> <p>9 something that we had. And, again, my area doesn't</p> <p>10 even have Windstream. But this is a completely</p> <p>11 different, I guess, department that would get</p> <p>12 these. The mailers are a little different than</p> <p>13 what we do.</p> <p>14 Q. So, again, the first time you saw it</p> <p>15 was when you received the subpoena and looked at</p> <p>16 the complaint?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And I take it that means if you</p> <p>19 hadn't seen it before, you never distributed either</p> <p>20 of these documents?</p> <p>21 A. No, I did not.</p> <p>22 Q. Are you aware of anybody -- strike</p> <p>23 that.</p> <p>24 Are you aware of any other</p> <p>25 representative of Charter who was distributing</p>
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<p>1 these door-to-door?</p> <p>2 A. No. This doesn't look like</p> <p>3 something we would do door-to-door. This looks</p> <p>4 like something that would come in the mail.</p> <p>5 Q. Do you know Mr. Emmit Walker?</p> <p>6 A. No, I do not know Emmit Walker.</p> <p>7 Q. You never saw this advertisement,</p> <p>8 either of these advertisements that we've been</p> <p>9 looking at posted in the Lima store?</p> <p>10 A. No. And another thing, those</p> <p>11 advertisements don't even -- my stuff would say</p> <p>12 Spectrum Business, this is just Spectrum. I</p> <p>13 believe this would be for residential customers.</p> <p>14 Q. Okay. Did you ever at any point</p> <p>15 have any discussions with anybody about these</p> <p>16 advertisements? And by that I mean, within the</p> <p>17 company Charter?</p> <p>18 A. No. No discussion whatsoever about</p> <p>19 them. I've never seen them before, never heard of</p> <p>20 them until these documents I was given from the</p> <p>21 person who served me my subpoena.</p> <p>22 Q. At some point in time did you learn</p> <p>23 that a court had issued a temporary restraining</p> <p>24 order against Charter and its employees instructing</p> <p>25 them to stop telling customers that Windstream was</p>	<p>1 going out of business?</p> <p>2 A. I don't know specifically if that</p> <p>3 was, you know, the exact case, but I do know that</p> <p>4 we were told don't. Don't mention the bankruptcy,</p> <p>5 don't mention anything about that. The only thing</p> <p>6 you could sell to anybody, much less Windstream,</p> <p>7 is we're faster, speed reliability, price, et</p> <p>8 cetera.</p> <p>9 Q. So you were told not to reference</p> <p>10 Windstream, but you don't remember anyone within</p> <p>11 the company telling you that a temporary</p> <p>12 restraining order had been issued?</p> <p>13 A. I'm sure that's not exactly -- I</p> <p>14 mean, I don't -- I don't know, honestly. That</p> <p>15 might have been the exact words they used or might</p> <p>16 not. But I know my boss said do not -- don't</p> <p>17 mention the bankruptcy. He didn't say -- he just</p> <p>18 said there was lawsuits more than anything.</p> <p>19 Now, we could have discussed it</p> <p>20 specifically like that in a call with the Great</p> <p>21 Lakes area, but that's again -- that's -- those</p> <p>22 exact words, no, I'm not sure.</p> <p>23 Q. Okay. So got a similar question to</p> <p>24 ask you.</p> <p>25 A. Yeah.</p>

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<p>1 Q. But it is different. But I don't</p> <p>2 want to confuse you.</p> <p>3 So after that, the court then issued</p> <p>4 a preliminary injunction directing Charter and its</p> <p>5 employees not to tell customers or potential</p> <p>6 customers that Windstream was going out of</p> <p>7 business.</p> <p>8 Do you remember the issuance of that</p> <p>9 preliminary injunction or being told about the</p> <p>10 issuance of that preliminary injunction?</p> <p>11 A. Not specifically on that and not a</p> <p>12 specific date, but, like I said, we continued to</p> <p>13 get -- be told do not -- do not mention anything</p> <p>14 about that to customers.</p> <p>15 Q. Okay, fair enough.</p> <p>16 A. And, I mean, before that, any of</p> <p>17 those lawsuits came out, I had already sent a few</p> <p>18 e-mails. And I honestly threw my list that I had</p> <p>19 away, because I didn't want to mess with it, didn't</p> <p>20 want to be, you know -- I was trying to wash my</p> <p>21 hands of that whole situation.</p> <p>22 Q. So can I get you to go back to what</p> <p>23 we marked for identification as Sites Exhibit</p> <p>24 Number 3. It's this one. And just want to ask you</p> <p>25 whether or not any of these customers you sent</p>	<p>1 e-mails to ever followed up in any way with you?</p> <p>2 A. No. I have not followed up with a</p> <p>3 single one of these customers or spoke with them</p> <p>4 past the, you know, initial e-mail. They never</p> <p>5 even e-mailed me back.</p> <p>6 Q. So none of these customers, to your</p> <p>7 knowledge, switched their service?</p> <p>8 A. No. Definitely not with me.</p> <p>9 Q. Okay. So now, in connection with</p> <p>10 your subpoena today, you were asked to search for</p> <p>11 and produce some documents, and your counsel's</p> <p>12 given me a manila folder with those documents that</p> <p>13 are supposedly complying with the subpoena.</p> <p>14 What I'd like to do, since they're</p> <p>15 not stamped in some way, is have them, each one,</p> <p>16 entered one by one.</p> <p>17 A. Okay.</p> <p>18 Q. Take us a couple of minutes, but my</p> <p>19 question is always going to be the same to you,</p> <p>20 which is: You agree that you're producing this</p> <p>21 document --</p> <p>22 A. Yes.</p> <p>23 Q. -- in connection with the subpoena.</p> <p>24 So let's just do that.</p> <p>25 MR. ROSS: Linda, what number am I</p>
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<p>1 up to?</p> <p>2 THE COURT REPORTER: Five.</p> <p>3 A. Yep, five.</p> <p>4 ---</p> <p>5 Thereupon, a document was marked for</p> <p>6 purposes of identification as Sites Exhibit 5 by</p> <p>7 the reporter.</p> <p>8 ---</p> <p>9 THE COURT REPORTER: Are you</p> <p>10 marking them all now?</p> <p>11 MR. ROSS: Yes. One by one. So</p> <p>12 just give that to him. So that's Sites Exhibit</p> <p>13 Number 5 for identification.</p> <p>14 And this will be Sites Exhibit</p> <p>15 Number 6 for identification. Seven.</p> <p>16 Sites Exhibit Number 8.</p> <p>17 That's Sites Exhibit Number 9.</p> <p>18 And, Linda, I'm giving you Sites</p> <p>19 Exhibit Number 10.</p> <p>20 And here is Sites Exhibit Number 11.</p> <p>21 And Sites Exhibit Number 12.</p> <p>22 Here's Sites Exhibit 13.</p> <p>23 Sites Exhibit 14.</p> <p>24 Sites Exhibit 15.</p> <p>25 Sites Exhibit 16.</p>	<p>1 Sites Exhibit Number 17.</p> <p>2 And, finally, Sites Exhibit</p> <p>3 Number 18.</p> <p>4 ---</p> <p>5 Thereupon, documents were marked for</p> <p>6 purposes of identification as Sites Exhibits 6</p> <p>7 through 18 by the reporter.</p> <p>8 ---</p> <p>9 BY MR. ROSS:</p> <p>10 Q. Okay. Mr. Sites, I've given you</p> <p>11 what we've marked for identification as Sites</p> <p>12 Exhibits 5 through 18. I think you've had a chance</p> <p>13 to look at them each as we've marked them.</p> <p>14 Could you just confirm these are the</p> <p>15 documents that you're producing in response to our</p> <p>16 subpoena?</p> <p>17 A. Yes.</p> <p>18 Q. So let me just ask you a few</p> <p>19 questions about this. The very first one, Sites</p> <p>20 Exhibit Number 5 for identification, appears to be</p> <p>21 going to someone called tim@goldengraphics. It</p> <p>22 doesn't appear to be on the list of e-mails that</p> <p>23 you identified in Sites Exhibit Number 3.</p> <p>24 A. No, it does not.</p> <p>25 Q. So does this, does Sites Exhibit</p>

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<p>1 Number 5 for identification have nothing to do with</p> <p>2 Windstream?</p> <p>3 A. I don't believe it does. I think</p> <p>4 Golden Graphics was a different -- I'm not 100</p> <p>5 percent sure, honestly, but it says something about</p> <p>6 Windstream, so I would assume it does. I just must</p> <p>7 have missed this one.</p> <p>8 Q. Okay. Let me get you to look at</p> <p>9 Sites Exhibit Number 6.</p> <p>10 A. That is the same e-mail that we</p> <p>11 looked at earlier.</p> <p>12 Q. This is the same as Sites Exhibit</p> <p>13 Number 3, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And Sites Exhibit Number 7</p> <p>16 appears to be the e-mail we discussed where you --</p> <p>17 to a Vanessa person, right?</p> <p>18 A. Yes.</p> <p>19 Q. And then Sites Exhibit Number 8 is</p> <p>20 the one to somebody named Connie, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And then Sites Exhibit Number 9 for</p> <p>23 identification is the one to Dr. Wesson that we</p> <p>24 already discussed, right?</p> <p>25 A. Yes.</p>	<p>1 Q. Sites Exhibit Number 10 --</p> <p>2 A. Is to Connie again, it looks like.</p> <p>3 Q. Appears to be a duplicate of that</p> <p>4 one. Specifically, a duplicate of Sites Exhibit</p> <p>5 Number 8, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And then Sites Exhibit Number 11 is</p> <p>8 a duplicate of the e-mail to Vanessa, right?</p> <p>9 A. Yes.</p> <p>10 Q. So let me get you to look at Sites</p> <p>11 Exhibit Number 12 for identification for a moment.</p> <p>12 This is going to somebody referred to as Denise at</p> <p>13 Whitaker Enterprises?</p> <p>14 A. Yes.</p> <p>15 Q. And that is listed on Sites Exhibit</p> <p>16 Number 3 as one of the e-mails that you sent the</p> <p>17 Windstream information about, right?</p> <p>18 A. Yes.</p> <p>19 Q. And you start by saying, Hello,</p> <p>20 thanks for the information on the phone.</p> <p>21 That sounds like she actually --</p> <p>22 that you actually did talk to her by phone?</p> <p>23 A. I believe this -- there was one or</p> <p>24 two that I didn't find an e-mail online, so I just</p> <p>25 called them quick and they gave me an e-mail --</p>
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<p>1 Q. So --</p> <p>2 A. -- at least to send a quote over.</p> <p>3 Q. Sites Exhibit Number 12 was sent</p> <p>4 before you sent the information about Windstream?</p> <p>5 A. I believe so, yes.</p> <p>6 Q. Okay. And would that also be true</p> <p>7 for Sites Exhibit Number 13?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So Sites Exhibit Number 14,</p> <p>10 could you just tell us for the record what this is?</p> <p>11 A. That's just a quick quote for</p> <p>12 service. It's a template my -- that I just use. I</p> <p>13 don't -- I don't think it's really an approved -- I</p> <p>14 don't think we have, like, an exact approved quote.</p> <p>15 We might, but this is the one I typically use</p> <p>16 because it's easier for me to do.</p> <p>17 Q. So this would have been attached to</p> <p>18 the e-mail you sent to Golden Graphics?</p> <p>19 A. Yes.</p> <p>20 Q. So Sites Exhibit Number 15 for</p> <p>21 identification, which goes to the HC Humane</p> <p>22 Society, again, there's reference to being referred</p> <p>23 to you by another rep in our area. Who is that</p> <p>24 other rep?</p> <p>25 A. That was the same rep as before,</p>	<p>1 Julianne Jordan. And that was just me covering my</p> <p>2 own behind with, you know, reaching out to somebody</p> <p>3 not in my area specifically.</p> <p>4 Q. So Sites Exhibit Number 16 doesn't</p> <p>5 have that mention of being referred by another rep.</p> <p>6 Is that because Wingfield Crop was in your business</p> <p>7 area?</p> <p>8 A. No. I just didn't mention it in</p> <p>9 that e-mail.</p> <p>10 Q. Okay. And Sites Exhibit Number 17</p> <p>11 and 18 are just, again, the form of a quote that</p> <p>12 you personally use for potential customers?</p> <p>13 A. Yes.</p> <p>14 Q. And they would have been attached to</p> <p>15 the e-mails to these customers?</p> <p>16 A. Yes.</p> <p>17 MR. ROSS: So we've been going for</p> <p>18 an hour now. Actually, a little bit more than an</p> <p>19 hour. Why don't we take a brief break. You can --</p> <p>20 we'll go off the record, you can use the restroom,</p> <p>21 and then we'll finish up relatively quickly. Is</p> <p>22 that okay?</p> <p>23 THE WITNESS: Okay.</p> <p>24 THE VIDEOGRAPHER: We're going off</p> <p>25 the record. The time is 1:58. Stand by, please.</p>

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<p>1 (A recess was taken.)</p> <p>2 THE VIDEOGRAPHER: We're back on</p> <p>3 the record. The time is 2:15. You may begin.</p> <p>4 MR. ROSS: So, Mr. Sites, that's</p> <p>5 all the questions I have for you at the moment.</p> <p>6 Thank you very much for your time.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 MR. KINGSTON: I just have a few,</p> <p>9 Counsel.</p> <p>10 MR. ROSS: I think he goes first.</p> <p>11 MR. KINGSTON: You know, I</p> <p>12 apologize. You're 100 percent right.</p> <p>13 MR. RAPPOPORT: I have no</p> <p>14 questions.</p> <p>15 MR. KINGSTON: Sorry about that.</p> <p>16 MR. RAPPOPORT: No, you're fine.</p> <p>17 CROSS-EXAMINATION</p> <p>18 BY MR. KINGSTON:</p> <p>19 Q. Mr. Sites, I want to talk a little</p> <p>20 bit about the discussion you had with Mr. Ross</p> <p>21 regarding telephone calls in which Windstream's</p> <p>22 bankruptcy was mentioned. Do you recall those?</p> <p>23 A. Yes.</p> <p>24 Q. And there was -- the record will</p> <p>25 obviously speak for itself, but I think there was a</p>	<p>1 little confusion as to kind of the timing of the</p> <p>2 telephone calls that may or may not have preceded</p> <p>3 your e-mails to various Windstream customers where</p> <p>4 you talked about the Windstream bankruptcy.</p> <p>5 Do you recall that?</p> <p>6 A. Yes.</p> <p>7 Q. Were you ever on a telephone call at</p> <p>8 Charter related to the Windstream bankruptcy where</p> <p>9 you were given instructions related to the</p> <p>10 Windstream bankruptcy other than not to mention it?</p> <p>11 A. No. Just -- no. The only thing we</p> <p>12 were told was don't mention anything about the</p> <p>13 bankruptcy, anything of that nature. The only</p> <p>14 thing we were told when we're working on a</p> <p>15 Windstream area, it's, you know, we're faster, more</p> <p>16 reliable and cheaper. That's the standard for</p> <p>17 anything, any other company.</p> <p>18 Q. So it would be incorrect to suggest</p> <p>19 that there was instructions given to employees,</p> <p>20 such as yourself, to use the Windstream bankruptcy</p> <p>21 as a ploy to gain business on one of these</p> <p>22 telephone calls?</p> <p>23 A. Yes.</p> <p>24 Q. And then I think that you and</p> <p>25 Mr. Ross had a discussion about what you were told</p>
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<p>1 related to a preliminary injunction or a temporary</p> <p>2 restraining order filed in the Windstream case.</p> <p>3 Do you recall that?</p> <p>4 A. Yes.</p> <p>5 Q. And it wasn't clear to me if you</p> <p>6 were talking about what you were told or what you</p> <p>7 may have received by e-mail.</p> <p>8 A. We could have received an e-mail.</p> <p>9 I'm sure we did. If it was something that went</p> <p>10 company-wide, I'm sure we got the e-mail. But</p> <p>11 usually with those big e-mails, I know if it's</p> <p>12 something really important, we're going to discuss</p> <p>13 it on our calls and individually with our boss and</p> <p>14 stuff. So I probably should pay attention more to</p> <p>15 those things. We get flyers and stuff all the time</p> <p>16 about national stuff, national issues. Whereas,</p> <p>17 you know, if it's -- again, if it's something</p> <p>18 really important, we'll discuss it, you know,</p> <p>19 amongst our smaller team.</p> <p>20 It's almost like a college. You</p> <p>21 talk about stuff in your giant group and then you</p> <p>22 go down to your smaller groups and discuss.</p> <p>23 Q. So as between an e-mail and a</p> <p>24 discussion, you have a recollection of discussions</p> <p>25 related to Windstream, but you don't have any</p>	<p>1 recollection of a specific e-mail related --</p> <p>2 A. Not a specific e-mail, no. But I'm</p> <p>3 sure we got it. I have no doubts with something</p> <p>4 like this we would have got something.</p> <p>5 MR. KINGSTON: I pass the witness.</p> <p>6 FURTHER CROSS-EXAMINATION</p> <p>7 BY MR. ROSS:</p> <p>8 Q. So you have no recollection but you</p> <p>9 have no doubts. What's the basis for that?</p> <p>10 A. Yeah. It sounds like something that</p> <p>11 we would have had to have received.</p> <p>12 Q. So you're guessing?</p> <p>13 A. I guess it's an educated guess.</p> <p>14 MR. ROSS: Okay. That's all, thank</p> <p>15 you.</p> <p>16 THE VIDEOGRAPHER: This concludes</p> <p>17 today's deposition of Mr. Sites. This is the end</p> <p>18 of media one of one. We're going off the record.</p> <p>19 The time now is 2:19. Stand by, please.</p> <p>20 MR. KINGSTON: We'll read and sign.</p> <p>21 (Signature not waived.)</p> <p>22 ---</p> <p>23 Thereupon, the deposition concluded at</p> <p>24 approximately 2:19 p.m.</p> <p>25 ---</p>

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<p>1 AFFIDAVIT/ERRATA SHEET</p> <p>2 STATE OF OHIO:</p> <p>3 SS:</p> <p>4 COUNTY OF FRANKLIN:</p> <p>5 WINDSTREAM HOLDINGS v. CHARTER COMMUNICATIONS</p> <p>6</p> <p>7 I, Andrew Sites, do hereby certify that</p> <p>8 I have read the foregoing transcript of my</p> <p>9 deposition given on September 10, 2019, and wish to</p> <p>10 make the following additions, corrections,</p> <p>11 amendments, or deletions:</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 PAGE NO. LINE NO. CHANGE AND REASON FOR CHANGE:</p> <p>19</p> <p>20</p> <p>21</p> <p>22 In all other respects, the transcript is true and</p> <p>23 correct.</p> <p>24 _____</p> <p>25 Andrew Sites</p> <p>26</p> <p>27 Subscribed and sworn to before me this ____ day</p> <p>28 of _____, 2019.</p> <p>29</p> <p>30 _____</p> <p>31 NOTARY PUBLIC, STATE OF OHIO</p> <p>32 My Commission Expires:</p>	<p>1 CERTIFICATE</p> <p>2 ---</p> <p>3</p> <p>4 THE STATE OF OHIO:</p> <p>5 SS:</p> <p>6 COUNTY OF FRANKLIN:</p> <p>7</p> <p>8 I, Linda A. Schilt, a Court Reporter</p> <p>9 and Notary Public in and for the State of Ohio, do</p> <p>10 hereby certify that before the taking of his said</p> <p>11 deposition, the said Andrew Sites was first duly</p> <p>12 sworn by me to tell the truth, the whole truth, and</p> <p>13 nothing but the truth;</p> <p>14 That said deposition was taken in all</p> <p>15 respects pursuant to the stipulations of counsel</p> <p>16 heretofore set forth; that the foregoing is the</p> <p>17 deposition given at the said time and place by the</p> <p>18 said Andrew Sites;</p> <p>19 That I am not an attorney for or</p> <p>20 relative of either party and have no interest</p> <p>21 whatsoever in the event of this litigation.</p> <p>22 IN WITNESS WHEREOF, I have hereunto set</p> <p>23 my hand and official seal of office at Columbus,</p> <p>24 Ohio, this 25th day of September, 2019.</p> <p>25</p> <p>26</p> <p>27 /s/Linda A. Schilt _____</p> <p>28 Notary Public, State of Ohio</p> <p>29</p> <p>30 My Commission Expires: July 29, 2024.</p> <p>31</p> <p>32</p>



**Debtor**



**Defendants' Designations and Counter Designations**

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<p>UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>In re: ) ) WINDSTREAM HOLDINGS, INC., ) et al., ) Case No. 19-22312 Debtor. ) Chapter 11 ) WINDSTREAM HOLDINGS, INC., ) et al., ) ) Adv. Pro. No. 19-08246 Plaintiffs, ) vs. ) ) CHARTER COMMUNICATIONS, ) INC., and CHARTER ) COMMUNICATIONS OPERATING, ) LLC, ) Defendants. )</p> <p>-----</p> <p>THE VIDEOTAPED DEPOSITION OF EMMITT WALKER WEDNESDAY, SEPTEMBER 11th, 2019 -----</p> <p>The deposition of EMMITT WALKER, called for examination pursuant to the Federal Rules of Civil Procedure, taken before me, the undersigned, Charles A. Cady, Notary Public within and for the State of Ohio, taken at the offices of Benesch, Friedlander, Coplan &amp; Aronoff LLP, 200 Public Square, Suite 2300, Cleveland, Ohio, commencing at 9:59 a.m., the day and date above set forth.</p>	<p>1 APPEARANCES:</p> <p>2</p> <p>3 Conflict counsel for the debtors and debtors in possession:</p> <p>4 Terence Ross, Esq. 5 KATTEN MUCHIN ROSENMAN LLP 575 Madison Avenue 6 New York, NY 10022</p> <p>7</p> <p>8 On behalf of the Plaintiffs Charter 9 Communications Holing Company, LLC, and Charter Communications Operating, LLC:</p> <p>10 Michael Nepple, Esq. 11 THOMPSON COBURN LLP One US Bank Plaza 12 St. Louis, MO 63101</p> <p>13</p> <p>14 On behalf of the Official Committee of 15 Unsecured Creditors: 16 Jocelyn Greer, Esq. 17 MORRISON &amp; FOERSTER LLP 250 West 55th Street 18 New York, NY 10019</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 EMMITT WALKER DEPOSITION INDEX</p> <p>2</p> <p>3 Examinations Page</p> <p>4 MR. ROSS ..... 5</p> <p>5 MR. NEPPLE .....59</p> <p>6 MR. ROSS .....83</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 No. Page</p> <p>10 Exhibit 1 Subpoena ..... 12</p> <p>11 Exhibit 2 Notice of deposition and ..... 13</p> <p>12 complaint</p> <p>13 Exhibit 3 Performance Improvement Plan..... 17</p> <p>14 Exhibit 4 E-mails..... 17</p> <p>15 Exhibit 5 Transcript of conversation ..... 17</p> <p>16 4/11/19-Emmitt Walker</p> <p>17 Exhibit 6 Transcript of conversation ..... 17</p> <p>18 4/12/19-Emmitt Walker and Rebecca Root</p> <p>19 Exhibit 7 Flyer and Walker's business card . 17</p> <p>20 Exhibit 9 Voicemail from Customer 4/11/19 .. 17</p> <p>21 Exhibit 10 E-mail chain 4/15-4/19..... 17</p> <p>22 Exhibit 11 Violation Report-Emmitt Walker... 17</p> <p>23 Exhibit 12 Incident Investigation ..... 17</p> <p>24 Report-Emmitt Walker</p> <p>25 Exhibit 13 Violation Report-Rebecca Root... 17</p> <p>Exhibit 14 Incident Investigation ..... 17</p> <p>Report-Rebecca Root</p> <p>Exhibit 15 E-mail chain 4/29/19 ..... 17</p> <p>Exhibit 16 E-mail chain 4/15-4/19..... 28</p> <p>Exhibit 17 E-mail chain 4/11-4/13..... 32</p> <p>Exhibit 18 Transcript of conversation ..... 44</p> <p>4/12-Rebecca Root</p> <p>Exhibit 19 Preliminary Injunction against .. 76</p> <p>Charter Communications, Inc.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 THE VIDEOGRAPHER: We're on the</p> <p>2 record. The time is 9:59 a.m. Today's date</p> <p>3 is September 11, 2019. We are here in re the</p> <p>4 bankruptcy proceedings of Windstream Holdings</p> <p>5 Incorporated, et al., in the adversarial</p> <p>6 proceedings in Windstream Holdings</p> <p>7 Incorporated, et al., versus Charter</p> <p>8 Communications Incorporated and Charter</p> <p>9 Communications Operating, LLC, in the United</p> <p>10 States Bankruptcy Court for the Southern</p> <p>11 District of New York, case number 19-22312.</p> <p>12 Will the attorneys present please</p> <p>13 identify themselves for the record.</p> <p>14 MR. ROSS: Terence Ross</p> <p>15 from the law firm of Katten Muchin Rosenman,</p> <p>16 representing the conflict -- we are conflict</p> <p>17 counsel for the debtors and debtors in</p> <p>18 possession.</p> <p>19 MS. GREER: Jocelyn Greer</p> <p>20 from Morrison and Foerster for the official</p> <p>21 committee of unsecured creditors.</p> <p>22 MR. NEPPLE: Mike Nepple of</p> <p>23 Thompson Coburn for the Charter entities.</p> <p>24 THE VIDEOGRAPHER: Will the</p> <p>25 court reporter please swear in the witness.</p>



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<p>1 EMMITT WALKER</p> <p>2 of lawful age, called for examination pursuant to</p> <p>3 the Federal Rules of Civil Procedure, having been</p> <p>4 first duly sworn, as hereinafter certified, was</p> <p>5 examined and testified as follows:</p> <p>6 EXAMINATION OF EMMITT WALKER</p> <p>7 BY MR. ROSS:</p> <p>8 Q Good morning, Mr. Walker. Could you just for</p> <p>9 the record state your full legal name.</p> <p>10 A Yes. My name is Emmitt Walker.</p> <p>11 Q And have you ever been known by any other</p> <p>12 name?</p> <p>13 A No.</p> <p>14 Q Are you represented by counsel here today?</p> <p>15 A Yes.</p> <p>16 Q Could you identify that person?</p> <p>17 A Mike.</p> <p>18 Q Okay. Mike Nepple?</p> <p>19 A Mike Nepple.</p> <p>20 THE WITNESS: Sorry.</p> <p>21 Q By whom are you currently employed?</p> <p>22 A Spectrum. Charter Communications.</p> <p>23 Q Do you understand the difference between</p> <p>24 Charter and Spectrum?</p> <p>25 A Yes. Spectrum is our product and Charter is</p>	<p>1 the name of the company.</p> <p>2 Q Okay. What's your formal business title that</p> <p>3 would be on your business card perhaps?</p> <p>4 A I am a direct sales rep.</p> <p>5 Q And how long have you been a direct sales rep</p> <p>6 for Charter?</p> <p>7 A For a year.</p> <p>8 Q Starting roughly September of 2018?</p> <p>9 A Starting November of 2018. So for eight</p> <p>10 months --</p> <p>11 Q And --</p> <p>12 A -- if that's right.</p> <p>13 Q Is that the first time you went to work for</p> <p>14 Charter?</p> <p>15 A No.</p> <p>16 Q So when did you first go to work for Charter?</p> <p>17 A July of 2017.</p> <p>18 Q And what were you doing for Charter starting</p> <p>19 in July of 2017?</p> <p>20 A It was an inbound sales agent.</p> <p>21 Q Do you have any college education?</p> <p>22 A No.</p> <p>23 Q Why don't you start by telling me what job of</p> <p>24 sales agent entails. What are your duties?</p> <p>25 A I am responsible to sell people either cable,</p>
Page 7	Page 8
<p>1 internet or voice service, and now recently</p> <p>2 mobile.</p> <p>3 Q So is there a difference between sales agent</p> <p>4 and a direct sales representative?</p> <p>5 A Yes.</p> <p>6 Q What's the --</p> <p>7 A No. Well, inbound sales agent I was at the</p> <p>8 call center. Now I'm going door to door.</p> <p>9 Q So as a sales agent you were at a call center</p> <p>10 answering the phone?</p> <p>11 A Yes.</p> <p>12 Q Where was that call center located</p> <p>13 physically?</p> <p>14 A Akron, Ohio on South Main Street.</p> <p>15 Q Charter under its Spectrum brand sells</p> <p>16 multiple services, right?</p> <p>17 A Right.</p> <p>18 Q At the call center were you serving -- were</p> <p>19 you servicing calls from all aspects of the</p> <p>20 business or a particular line of business?</p> <p>21 A Residential.</p> <p>22 Q And residential voice or internet or cable?</p> <p>23 A Um --</p> <p>24 Q Or all of the above?</p> <p>25 A All of the above.</p>	<p>1 Q Okay. You started there in July of 2017, and</p> <p>2 then you became a direct sales rep in</p> <p>3 November of 2018, right?</p> <p>4 A Right.</p> <p>5 Q And I think you just said the job of the</p> <p>6 direct sales representative is face to face</p> <p>7 as opposed to over the phone, right?</p> <p>8 A Right.</p> <p>9 Q Are you again selling to a particular segment</p> <p>10 of customers?</p> <p>11 A We get to choose our turf, what addresses we</p> <p>12 go to.</p> <p>13 Q But is it business?</p> <p>14 A Oh. Residential.</p> <p>15 Q You sell residential?</p> <p>16 A Uh-huh.</p> <p>17 Q Do you work out of a physical location, an</p> <p>18 office, or out of your home?</p> <p>19 A Out of an office.</p> <p>20 Q And where is that located?</p> <p>21 A It is located in Lorain, Ohio, on Elyria</p> <p>22 Street.</p> <p>23 Q Now, as I understand it, there are different</p> <p>24 regions for Spectrum sales.</p> <p>25 What region is that in?</p>

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<p>1 A Elyria-Lorain area --</p> <p>2 Q Okay.</p> <p>3 A -- and sometimes Cleveland.</p> <p>4 Q Are you familiar with the term "Great Lakes region"?</p> <p>5</p> <p>6 A Yes.</p> <p>7 Q Is it part of the Great Lakes region?</p> <p>8 A Yes.</p> <p>9 Q Okay. Is there a subregion beneath the Great</p> <p>10 Lakes region that that's part of?</p> <p>11 A I don't know.</p> <p>12 Q Okay. So as a sales agent working at the</p> <p>13 call center, were you taking calls from a</p> <p>14 particular region or from all across the</p> <p>15 country?</p> <p>16 A Certain regions.</p> <p>17 Q Which regions?</p> <p>18 A North Carolina, Ohio. Those are the ones I</p> <p>19 remember. It's been awhile.</p> <p>20 Q And as a direct sales representative you've</p> <p>21 been in this Lorain area the entire time?</p> <p>22 A Yes.</p> <p>23 Q Can you describe the training you received to</p> <p>24 become a direct sales representative?</p> <p>25 A Pretty much just a refresher on products and</p>	<p>1 what we sell.</p> <p>2 Q No training with respect to how to sell?</p> <p>3 MR. NEPPLE: Object to form.</p> <p>4 Go ahead.</p> <p>5 A Just to be honest, no. I don't know.</p> <p>6 Q Okay. Could you elaborate in any way upon</p> <p>7 how you do door-to-door sales? Kind of a</p> <p>8 general description of the job?</p> <p>9 A Generally, I just go to a door, I ask them if</p> <p>10 they have internet or TV. If so, then I just</p> <p>11 tell them our prices for said products.</p> <p>12 Q The purpose is to try to get them to buy</p> <p>13 Spectrum services?</p> <p>14 A Right. Uh-huh.</p> <p>15 Q Do you work on commission?</p> <p>16 A Yes.</p> <p>17 Q What percentage of your compensation is based</p> <p>18 on commission?</p> <p>19 A It differs depending on what we sell.</p> <p>20 Q Do you want to explain that?</p> <p>21 A Well, if we sell TV -- well, we have to sell</p> <p>22 a bundled product. So if we sell internet</p> <p>23 only, that's 60 dollars. If I sell internet</p> <p>24 and phone, it's 120. If I sell internet,</p> <p>25 phone and TV, it's 180. And depending on how</p>
Page 11	Page 12
<p>1 many sales I make for the month determines</p> <p>2 how much each is. So it's in a tier system.</p> <p>3 Q So if you sell a very large amount above what</p> <p>4 they expect you to sell, you actually get</p> <p>5 more by way of contingent fee, right?</p> <p>6 A Yes.</p> <p>7 Q What did you do before you started to work at</p> <p>8 Charter?</p> <p>9 A I was a server at a restaurant.</p> <p>10 Q So I assume since your office is in Lorain,</p> <p>11 Ohio, that the residential customers you're</p> <p>12 trying to sell are in that same geographic</p> <p>13 area?</p> <p>14 A Yes.</p> <p>15 Q And I think you said you had some choice with</p> <p>16 respect to who you try to sell? Am I wrong</p> <p>17 about that?</p> <p>18 A We have an option to choose our own addresses</p> <p>19 of where we want to go.</p> <p>20 Q Where do you get the addresses from?</p> <p>21 A From my supervisor.</p> <p>22 Q Who is your supervisor?</p> <p>23 A James Roman.</p> <p>24 Q Do you know what his title is?</p> <p>25 A He is my general supervisor.</p>	<p>1 Q So, Mr. Walker, you received a subpoena to</p> <p>2 appear here today to testify, correct?</p> <p>3 A Yes.</p> <p>4 MR. ROSS: Let me have</p> <p>5 this marked as Walker Deposition Exhibit</p> <p>6 Number 1 for identification.</p> <p>7 -----</p> <p>8 (Walker Exhibit 1 was marked.)</p> <p>9 -----</p> <p>10 Q Mr. Walker, I've handed you what we have</p> <p>11 marked for identification as Walker Exhibit</p> <p>12 Number 1.</p> <p>13 You did receive this subpoena, correct?</p> <p>14 A Yes.</p> <p>15 Q And you note there that in addition to</p> <p>16 showing up for the deposition which you're</p> <p>17 here for today that you were required to</p> <p>18 search for and produce certain documents; is</p> <p>19 that correct?</p> <p>20 A Yes.</p> <p>21 Q And did you do that?</p> <p>22 A I didn't have any documents to give.</p> <p>23 Q Did you search?</p> <p>24 A Yes.</p> <p>25 Q Well, what kind of search did you conduct?</p>

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<p>1 A I looked in my bag and I didn't have any.</p> <p>2 Q Do you have a computer or a laptop of some</p> <p>3 sort?</p> <p>4 A I have a tablet that I use for work.</p> <p>5 Q And did you look on that?</p> <p>6 A Yes.</p> <p>7 Q That's issued to you by Charter?</p> <p>8 A Yes.</p> <p>9 Q Did you find anything?</p> <p>10 A No.</p> <p>11 MR. ROSS: Let me have</p> <p>12 this marked as Walker Exhibit Number 2 for</p> <p>13 identification.</p> <p>14 - - - - -</p> <p>15 (Walker Exhibit 2 was marked.)</p> <p>16 - - - - -</p> <p>17 Q Mr. Walker, I have handed you what we have</p> <p>18 marked for identification as Walker</p> <p>19 Deposition Exhibit Number 2, which is a</p> <p>20 letter dated August 15, 2019, to you with</p> <p>21 some attachment.</p> <p>22 Did you receive this?</p> <p>23 A Yes.</p> <p>24 Q And did you review it?</p> <p>25 A Somewhat. Not completely.</p>	<p>1 Q So attached to the letter is a notice of</p> <p>2 deposition. Then attached to that, about 10</p> <p>3 pages in, is something referred to as a</p> <p>4 complaint, which is how you start a lawsuit</p> <p>5 in a federal court.</p> <p>6 Did you read that complaint?</p> <p>7 A No.</p> <p>8 Q Not at all?</p> <p>9 A No.</p> <p>10 Q Do you have any idea as to why you got</p> <p>11 subpoenaed to testify?</p> <p>12 A Because I gave a flyer to a customer.</p> <p>13 Q When was this?</p> <p>14 A I don't remember.</p> <p>15 Q Well, you understand that a lawsuit was filed</p> <p>16 by Windstream against Charter, correct?</p> <p>17 A Yes.</p> <p>18 Q And what do you understand about that</p> <p>19 lawsuit?</p> <p>20 A It's pertaining to the bankruptcy Windstream</p> <p>21 is having.</p> <p>22 Q Why is Windstream suing Charter?</p> <p>23 A Honestly, I don't know.</p> <p>24 Q Okay. Do you sell to any businesses or are</p> <p>25 you not allowed to sell to businesses because</p>
Page 15	Page 16
<p>1 you're on the residential side?</p> <p>2 A I'm in residential, so no.</p> <p>3 Q No, you don't sell to businesses?</p> <p>4 A Huh-uh.</p> <p>5 Q You've got to --</p> <p>6 A No.</p> <p>7 Q When did you first become aware that there</p> <p>8 was a lawsuit between Charter and Windstream?</p> <p>9 A I believe in March.</p> <p>10 Q Of 2019?</p> <p>11 A Yes.</p> <p>12 Q How did you learn about it?</p> <p>13 A Because when I gave out the flyer, I got in</p> <p>14 trouble at work. And that's when they told</p> <p>15 me that I guess there were a filing in court</p> <p>16 about us.</p> <p>17 Q You said "they" told you. Who was the</p> <p>18 "they"?</p> <p>19 A Upper management, my supervisor.</p> <p>20 Q Mr. Roman?</p> <p>21 A Yes.</p> <p>22 Q Well, we just talked about when you first</p> <p>23 became aware of the lawsuit, then we'll talk</p> <p>24 about when did you first become aware of the</p> <p>25 bankruptcy? Not the lawsuit, but the</p>	<p>1 bankruptcy of Windstream?</p> <p>2 A I don't remember.</p> <p>3 Q You did become aware at some point they</p> <p>4 were -- they had filed for bankruptcy</p> <p>5 protection, right?</p> <p>6 A No, I didn't know.</p> <p>7 Q Sitting here today you know that they filed</p> <p>8 for bankruptcy protection, correct?</p> <p>9 A Yes.</p> <p>10 Q Have you ever filed for bankruptcy protection</p> <p>11 yourself?</p> <p>12 A No.</p> <p>13 Q You ever testified in a lawsuit before?</p> <p>14 A I don't understand.</p> <p>15 Q Have you ever gone to court and given</p> <p>16 testimony before?</p> <p>17 A No. This is the first time.</p> <p>18 Q Okay. So you had responded earlier to a</p> <p>19 question that you hadn't found any documents</p> <p>20 in response to the subpoena. Your counsel</p> <p>21 actually gave me some documents or entered</p> <p>22 them into evidence so that you can see them.</p> <p>23 This will take a couple minutes though.</p> <p>24 Okay?</p> <p>25 A Okay.</p>

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<p>1 MR. ROSS: Are you ready?</p> <p>2 Let's just briefly go off the record so that</p> <p>3 we can go over what's marked up.</p> <p>4 THE VIDEOGRAPHER: Off the record.</p> <p>5 The time is 10:14.</p> <p>6 -----</p> <p>7 (Walker Exhibits 3 through 7 and 9</p> <p>8 through 15 were marked.)</p> <p>9 -----</p> <p>10 THE VIDEOGRAPHER: Back on the</p> <p>11 record. The time is 10:17.</p> <p>12 BY MR. ROSS:</p> <p>13 Q So, Mr. Walker, I'm going to hand you some</p> <p>14 exhibits and I'll identify them as I go. The</p> <p>15 first one is Walker Deposition Exhibit Number</p> <p>16 3 for identification, which appears to be an</p> <p>17 April 15, 2019 performance improvement plan</p> <p>18 for you.</p> <p>19 Walker Deposition Exhibit Number 4 for</p> <p>20 identification is Bates stamped</p> <p>21 CHARTER_020026 to 27.</p> <p>22 Walker Deposition Exhibit Number 5 for</p> <p>23 identification is Bates stamped</p> <p>24 CHARTER_020028 to 29.</p> <p>25 Walker Deposition Exhibit Number 6 for</p>	<p>1 identification is Charter -- is Bates stamped</p> <p>2 CHARTER number 020030 through 32.</p> <p>3 Walker Deposition Exhibit Number 7 for</p> <p>4 identification is Bates stamped</p> <p>5 CHARTER_020037 through 41.</p> <p>6 Walker Deposition Exhibit Number 8 for</p> <p>7 identification is Bates stamped</p> <p>8 CHARTER_020037 -- okay. So that's a</p> <p>9 duplicate. We're going to eliminate Walker</p> <p>10 Deposition Exhibit Number 8.</p> <p>11 Walker Deposition Exhibit Number 9 for</p> <p>12 identification is Charter -- Bates stamped</p> <p>13 CHARTER_020042 to 43.</p> <p>14 Walker Deposition Exhibit Number 10 is</p> <p>15 Bates stamped CHARTER_020413 through 418.</p> <p>16 Walker Deposition Exhibit Number 11 for</p> <p>17 identification is Bates stamped</p> <p>18 CHARTER_045784 to 86.</p> <p>19 Walker Deposition Exhibit Number 12 for</p> <p>20 identification is Bates stamped</p> <p>21 CHARTER_045787 to 90.</p> <p>22 Walker Deposition Exhibit Number 13 for</p> <p>23 identification is Bates stamped</p> <p>24 CHARTER_046025 through 27.</p> <p>25 Walker Deposition Exhibit Number 14 is</p>
Page 19	Page 20
<p>1 Bates stamped CHARTER_046029 through 32.</p> <p>2 And Walker Deposition Exhibit Number 15</p> <p>3 for identification is not Bates stamped but</p> <p>4 it's an e-mail chain on May -- on April 29,</p> <p>5 2019.</p> <p>6 So take your time and look at any of</p> <p>7 those that you want to, and then I'm going to</p> <p>8 ask you some questions about them.</p> <p>9 A I'm ready.</p> <p>10 Q So none of these were produced out of your</p> <p>11 own personal records?</p> <p>12 A The corrective action.</p> <p>13 Q So the --</p> <p>14 A But I never physically had possession of</p> <p>15 them. I was written up and I signed them and</p> <p>16 I gave them to my supervisor, James Roman.</p> <p>17 Q Okay. So for the record, you have to just</p> <p>18 identify what documents those are by these</p> <p>19 numbers at the bottom.</p> <p>20 A Okay.</p> <p>21 Q So are you telling me that that's Exhibit</p> <p>22 13 -- 11, 12 and 13?</p> <p>23 A I never had possession of 13. I never had</p> <p>24 possession of 12. I never had possession of</p> <p>25 11. I never had possession of 10, nor 14, 15</p>	<p>1 and 9.</p> <p>2 7 was my flyer I gave out. And Exhibit</p> <p>3 6, 5 was my statement after the incident of</p> <p>4 me giving out the flyer when I was written up</p> <p>5 at work for it. And Exhibit 4 and 3 I don't</p> <p>6 recognize.</p> <p>7 Q Okay. So the only ones you had in your</p> <p>8 possession then are Exhibits 5, 6 and 7; is</p> <p>9 that correct?</p> <p>10 A Well, this was a conversation -- like Exhibit</p> <p>11 6 and 5 was a conversation I had concerning</p> <p>12 me getting written up for work and why I was</p> <p>13 giving out the flyer. But the only one I had</p> <p>14 possession of and handed out was 7.</p> <p>15 Q Okay. So Walker Exhibit 7 for identification</p> <p>16 is the flyer that you had given out in</p> <p>17 person?</p> <p>18 MR. NEPPLE: Look at --</p> <p>19 A Yes.</p> <p>20 MR. NEPPLE: Look at the</p> <p>21 whole document, please.</p> <p>22 A Yes.</p> <p>23 Q On the second page of Walker Deposition</p> <p>24 Exhibit Number 7 for identification, that's</p> <p>25 your business card at the top right-hand</p>

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<p>1 corner?</p> <p>2 A Yes.</p> <p>3 Q So why don't we talk about that exhibit,</p> <p>4 Walker Deposition Exhibit Number 7 for</p> <p>5 identification.</p> <p>6 Where did you get that advertisement?</p> <p>7 A The Windstream customer, the one right</p> <p>8 here -- well, actually, I never had page 3.</p> <p>9 Q Okay.</p> <p>10 A The one I handed out was this one.</p> <p>11 Q Page 2 of --</p> <p>12 A Page 2 and page 4.</p> <p>13 Q Of Walker Deposition Exhibit Number 7,</p> <p>14 correct?</p> <p>15 A Yes.</p> <p>16 Q Okay.</p> <p>17 MR. NEPPLE: Can we clean</p> <p>18 that up Bates number, please? By the Bates</p> <p>19 number. Can you --</p> <p>20 MR. ROSS: I don't have</p> <p>21 it.</p> <p>22 MR. NEPPLE: Oh, that's</p> <p>23 right.</p> <p>24 MR. ROSS: You only gave</p> <p>25 me one copy. So why don't you just grab it</p>	<p>1 and tell us what the Bates number is?</p> <p>2 MR. NEPPLE: To be clear</p> <p>3 when you said pages 2 and 4, page 2 is</p> <p>4 CHARTER_020038, correct?</p> <p>5 A Yes.</p> <p>6 MR. NEPPLE: And page 4 is</p> <p>7 CHARTER_020040, correct?</p> <p>8 A Yes.</p> <p>9 MR. NEPPLE: Okay. Just so</p> <p>10 the record is clear.</p> <p>11 Q And you got the page 2 that you just</p> <p>12 referenced from a Windstream customer?</p> <p>13 A Former, yes.</p> <p>14 Q And why do you say "former"?</p> <p>15 A Because we were at that customer house the</p> <p>16 day before I received it and she was -- and</p> <p>17 she switched.</p> <p>18 Q Okay. And do you remember her name?</p> <p>19 A I don't remember.</p> <p>20 Q Okay. And she gave you this advertisement</p> <p>21 which she had received?</p> <p>22 A Yes.</p> <p>23 Q And you took it away, obviously.</p> <p>24 A She gave it, yes.</p> <p>25 Q But you took it back away with you to your</p>
Page 23	Page 24
<p>1 office, correct?</p> <p>2 A Yes.</p> <p>3 Q And was there anyone else with you at the</p> <p>4 time?</p> <p>5 A Yes.</p> <p>6 Q Who was that?</p> <p>7 A Rebecca Root, my partner.</p> <p>8 Q So when you say your "partner," what does</p> <p>9 that mean?</p> <p>10 A Her and I work together sometimes.</p> <p>11 Q Okay. And when you say "work together," does</p> <p>12 that mean go door to door together?</p> <p>13 A Yes.</p> <p>14 Q Is she also a direct sales representative?</p> <p>15 A Yes.</p> <p>16 Q And is she in the same office as you?</p> <p>17 A Yes.</p> <p>18 Q And she also sells residential, I assume?</p> <p>19 A Yes.</p> <p>20 Q During your training period, did you go out</p> <p>21 on sales calls with direct sales</p> <p>22 representatives who were more senior in the</p> <p>23 business than you?</p> <p>24 A Yes.</p> <p>25 Q Was she one of them?</p>	<p>1 A Yes.</p> <p>2 Q But she was not and is not your supervisor or</p> <p>3 manager in any sense, right?</p> <p>4 A Right.</p> <p>5 Q So you went to this customer, got this</p> <p>6 advertisement, you took it back to the</p> <p>7 office.</p> <p>8 Did you make copies of it?</p> <p>9 A I did, yes.</p> <p>10 Q I'm sorry. What was the name of your partner</p> <p>11 again?</p> <p>12 A Rebecca Root.</p> <p>13 Q How do you spell that last name?</p> <p>14 A R-o-o-t.</p> <p>15 Q And did you give any of the copies to her to</p> <p>16 use?</p> <p>17 A No.</p> <p>18 Q And what did you do with the copies you made?</p> <p>19 A I passed them out to customers I spoke to.</p> <p>20 Q Okay. And did you share them with any other</p> <p>21 direct sales representatives?</p> <p>22 A No.</p> <p>23 Q Did you discuss them with Ms. Root?</p> <p>24 A We discussed the mailer, yes.</p> <p>25 Q What did you discuss with her?</p>

1 A That it was our mailer and I was going to use  
2 it.  
3 Q When you say "our mailer," you mean  
4 Charter's?  
5 A Yes.  
6 Q Did you assume that it was authorized to be  
7 used?  
8 MR. NEPPLE: Object to form.  
9 Go ahead.  
10 A Yes.  
11 Q Did Ms. Root tell you anything about it?  
12 A No.  
13 Q Do you recall approximately what date this  
14 all happened?  
15 A No.  
16 Q So that advertisement mentions that  
17 Windstream has filed for Chapter 11  
18 bankruptcy.  
19 Do you see that on page 2?  
20 A Yes.  
21 Q So I assume when you read that, you knew that  
22 they had filed for bankruptcy, right?  
23 A Yes.  
24 Q Did you undertake any steps to investigate  
25 what that meant?

1 A I Googled it, yes.  
2 Q What did you come up with?  
3 A That they were filing for bankruptcy.  
4 Q That's all?  
5 A Yes.  
6 Q So did there come a time when you got a phone  
7 call about this advertisement?  
8 A Yes.  
9 Q And that phone call was from a Mr. Parrish,  
10 right?  
11 A Yes.  
12 Q And tell me what you remember about that  
13 phone call.  
14 A He called and asked me if he was losing his  
15 service. I told him I don't know and that he  
16 will have to call Windstream and ask them.  
17 Q That's what you remember?  
18 A That's the main thing I remember from the  
19 conversation.  
20 Q Is there anything you remember that's not the  
21 main thing?  
22 A He asked me why. And from what I remember  
23 when I Googled that Windstream tried to  
24 update their infrastructure and they pretty  
25 much ran out of money. I predicted that they

1 ran out of money.  
2 Q Do you recall Mr. Parrish asking you if his  
3 services as a Windstream customer would be  
4 disconnected?  
5 A Yes.  
6 Q And you told him yes, his services would be  
7 disconnected in a few months, correct?  
8 MR. NEPPLE: Object to form.  
9 Go ahead.  
10 A No. I said I don't know, he could lose his  
11 service in a month, two years, three years, I  
12 don't know. You will have to call them.  
13 Q And you then told him that Windstream had  
14 provided Spectrum with a list of Windstream  
15 customers so that Spectrum could set up  
16 service to make it easier for them to switch  
17 when Windstream goes out of business?  
18 A I said I had a list of customers in order  
19 to sell Spectrum to.  
20 Q Did you tell him that other companies get  
21 together to help out those who are in  
22 bankruptcy and that Spectrum is helping  
23 Windstream?  
24 A Yes.  
25 Q And did you say that they would definitely be

1 disconnected in the near future because they  
2 are "Going out of business"?  
3 MR. NEPPLE: Object to form.  
4 Go ahead.  
5 A I predicted they were going out of business  
6 because they were filing for bankruptcy.  
7 Q And did you state "Windstream overextended  
8 themselves trying to upgrade their network  
9 and never finished the job"?  
10 A Yes.  
11 Q Did Mr. Parrish at the end of the  
12 conversation disclose that he was a  
13 Windstream employee?  
14 A Yes.  
15 Q Did he tell you weren't being truthful?  
16 A Yes.  
17 Q Did he ask for your supervisor's name and  
18 contact information?  
19 A He did.  
20 Q You provided that, right?  
21 A Yes.  
22 Q And you told him that your supervisor's name  
23 was John Aaron?  
24 A James Roman.  
25 Q Do you know a John Aaron?

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<p>1 A No.</p> <p>2 MR. ROSS: Let me have</p> <p>3 this marked as our next deposition exhibit.</p> <p>4 -----</p> <p>5 (Walker Exhibit 16 was marked.)</p> <p>6 -----</p> <p>7 Q So, Mr. Walker, I have handed you what we</p> <p>8 have marked as Walker Deposition Exhibit</p> <p>9 Number 16, which is an e-mail chain in the</p> <p>10 period of April 2019.</p> <p>11 As you know, when you print out these</p> <p>12 e-mails, you've got to start at the back to</p> <p>13 follow chronologically and read forward.</p> <p>14 So why don't you take a look at that and</p> <p>15 tell me when you've had a chance to read</p> <p>16 through those e-mails. Keep in mind that</p> <p>17 they're double-sided.</p> <p>18 MR. NEPPLE: Read the entire</p> <p>19 chain, please.</p> <p>20 THE WITNESS: Okay.</p> <p>21 A Okay.</p> <p>22 Q So on the third page of this exhibit, there's</p> <p>23 an e-mail dated April 15, 2019.</p> <p>24 Do you see it?</p> <p>25 A Yep. Yes.</p>	<p>1 Q So does that refresh your recollection that</p> <p>2 this incident you've been discussing with me</p> <p>3 had to have occurred before April 15, 2019?</p> <p>4 A Yes, going by the date.</p> <p>5 Q So there is a section "Reason For Corrective</p> <p>6 Action."</p> <p>7 Do you see that?</p> <p>8 A Yes.</p> <p>9 Q I'll just read it. It says, "Emmitt Walker</p> <p>10 violated Charter's Unauthorized, Unapproved</p> <p>11 Use of Marketing Material when distributing a</p> <p>12 flyer referencing Windstream's bankruptcy,</p> <p>13 with his attached business card, to a</p> <p>14 customer and consequently, a Final Written</p> <p>15 Warning + PIP is recommended."</p> <p>16 Is that an accurate summary of what</p> <p>17 happened?</p> <p>18 A Yes.</p> <p>19 Q What's a "PIP"?</p> <p>20 A It's a final. And if I don't make my sales</p> <p>21 for the month, I can be let go.</p> <p>22 Q Do you still work for Spectrum?</p> <p>23 A Yes.</p> <p>24 Q So this is some form of disciplinary action</p> <p>25 against you as an employee of Charter,</p>
Page 31	Page 32
<p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q How did you hear about this?</p> <p>4 MR. NEPPLE: Object to form.</p> <p>5 MR. ROSS: Well, that's a</p> <p>6 fair objection.</p> <p>7 Q You're not on the --</p> <p>8 MR. NEPPLE: There's one.</p> <p>9 MR. ROSS: Yes. That's</p> <p>10 seldom.</p> <p>11 Q You're not mentioned in any of these e-mails.</p> <p>12 You've read them all through. You're not in</p> <p>13 this e-mail chain, right?</p> <p>14 A Yes.</p> <p>15 Q So how did you come to learn about this</p> <p>16 corrective action being taken?</p> <p>17 A Well, I was placed on a final in PIP, so</p> <p>18 that's how I found out I was in trouble.</p> <p>19 Q I'm asking you how did that happen. Did</p> <p>20 somebody come in and talk to you? Did you</p> <p>21 get sent an e-mail? What happened?</p> <p>22 A I was called into the office.</p> <p>23 Q By whom?</p> <p>24 A By James Roman.</p> <p>25 Q And what did he say?</p>	<p>1 A He told me I was not allowed to give out</p> <p>2 flyers, so I was placed in a corrective</p> <p>3 action.</p> <p>4 Q And what did you say to him?</p> <p>5 A "Okay. I didn't know. I apologize. Since</p> <p>6 it was sent out I thought it was okay."</p> <p>7 Q Since the flyer had been sent out by Charter,</p> <p>8 you thought it was okay for you to hand it</p> <p>9 out?</p> <p>10 A Yes.</p> <p>11 MR. ROSS: Let me have</p> <p>12 this marked as Walker Deposition Exhibit</p> <p>13 Number 17 for identification.</p> <p>14 -----</p> <p>15 (Walker Exhibit 17 was marked.)</p> <p>16 -----</p> <p>17 Q Mr. Walker, I have handed you what we have</p> <p>18 marked for identification as Walker</p> <p>19 Deposition Exhibit Number 17. This again is</p> <p>20 an e-mail from the period of April 11th</p> <p>21 through 13th, 2019, with a couple</p> <p>22 attachments, which appear to be transcripts</p> <p>23 of conversations with you.</p> <p>24 Why don't you look it over and then let</p> <p>25 me know when you're ready to answer some</p>

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<p>1 questions about it.</p> <p>2 A Okay. I'm ready.</p> <p>3 Q So on the very first page of Walker</p> <p>4 Deposition Exhibit Number 17 for</p> <p>5 identification, there's an e-mail in the</p> <p>6 middle from a Brenda Auger to a Scott Niles.</p> <p>7 Do you know either of those people?</p> <p>8 A Brenda is our regional direct sales manager.</p> <p>9 Q Okay. So she's somewhere in your supervisory</p> <p>10 chain of command?</p> <p>11 A Yes.</p> <p>12 Q She's above Mr. Roman?</p> <p>13 A Yes.</p> <p>14 Q So she summarizes there conversations with</p> <p>15 Emmitt Walker and Rebecca Root.</p> <p>16 Do you see those seven bullet points?</p> <p>17 A Yes.</p> <p>18 Q I just want to ask you about a couple.</p> <p>19 There's one here where she says, "Feeling</p> <p>20 that the flyer was approved by Charter,</p> <p>21 Emmitt and Rebecca made some copies and gave</p> <p>22 flyers to two customers with DSR Emmitt</p> <p>23 Walker's business card attached."</p> <p>24 Is that accurate?</p> <p>25 A Yes.</p>	<p>1 Q Let's go to the bullet point above that where</p> <p>2 it says, "A customer gave Emmitt Walker and</p> <p>3 another DSR (Rebecca Root) a flyer that she</p> <p>4 had received in the mail from Charter."</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q So that's essentially what you just testified</p> <p>8 to, correct?</p> <p>9 A Yes.</p> <p>10 Q As to how the whole thing got started, right?</p> <p>11 A Yes.</p> <p>12 Q And we looked at that flyer already.</p> <p>13 So then in the next-to-last bullet point</p> <p>14 it says, "Emmitt Walker stated that he didn't</p> <p>15 know that he was doing anything wrong and</p> <p>16 since an approved flyer was being sent to</p> <p>17 potential customers in his assigned turf, he</p> <p>18 thought he was allowed to use the flyer."</p> <p>19 Does that accurately summarize what your</p> <p>20 sort of explanation for this whole incident</p> <p>21 was?</p> <p>22 A Yes.</p> <p>23 Q It seems kind of a reasonable explanation.</p> <p>24 What did they say in response to that? Did</p> <p>25 they reject it outright?</p>
Page 35	Page 36
<p>1 MR. NEPPLE: Object to form.</p> <p>2 Go ahead.</p> <p>3 A They told me I'm not allowed to give out</p> <p>4 anything unless it is approved by our</p> <p>5 department.</p> <p>6 Q So because the flyer was approved by a</p> <p>7 different department you couldn't give it</p> <p>8 out?</p> <p>9 A Yes.</p> <p>10 Q If you continue down there's another e-mail</p> <p>11 under that from Mr. Scott Niles to various</p> <p>12 people. And it continues onto the back of</p> <p>13 the page.</p> <p>14 You're not in the e-mail chain, but I'm</p> <p>15 just going to ask you if you had ever seen</p> <p>16 that e-mail before?</p> <p>17 A No.</p> <p>18 Q Did one of your supervisors essentially</p> <p>19 advise you of what Mr. Niles is saying on</p> <p>20 page 2 of Walker Deposition Exhibit Number 17</p> <p>21 for identification?</p> <p>22 MR. NEPPLE: Object to form.</p> <p>23 A What was the question?</p> <p>24 Q Sure. I'll start again now that you've read</p> <p>25 it.</p>	<p>1 So you see that you're not in the e-mail</p> <p>2 chain, correct?</p> <p>3 A Yes.</p> <p>4 Q But Brenda Auger is in the e-mail chain,</p> <p>5 right?</p> <p>6 A Yes.</p> <p>7 Q At the bottom of the e-mail Mr. Niles says,</p> <p>8 "Please make sure your teams are aware ASAP."</p> <p>9 Do you see that?</p> <p>10 A Yes.</p> <p>11 Q So you're at some point underneath Brenda</p> <p>12 Auger's team, right?</p> <p>13 A Yes.</p> <p>14 Q Did she make you aware of the facts in</p> <p>15 Mr. Niles' e-mail?</p> <p>16 MR. NEPPLE: Object to form.</p> <p>17 Go ahead.</p> <p>18 A When I was written up, that's when they told</p> <p>19 me I'm not allowed to mention anything about</p> <p>20 Windstream.</p> <p>21 Q Okay. Was there ever a meeting of direct</p> <p>22 representatives, sales representatives, where</p> <p>23 this subject was discussed?</p> <p>24 A We have weekly huddles, and it was told</p> <p>25 during the huddle also.</p>



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<p>1 Q Do you remember when that was?</p> <p>2 A No.</p> <p>3 Q Was it before or after you were disciplined?</p> <p>4 A After.</p> <p>5 Q Did you -- well, let's talk about the next</p> <p>6 page. You looked at this exhibit when I</p> <p>7 first gave it to you.</p> <p>8 Did you have a chance to actually read</p> <p>9 this transcript?</p> <p>10 A Yes.</p> <p>11 Q Okay. So this appears to be a transcript of</p> <p>12 a conversation with you on April 11, 2019.</p> <p>13 Do you remember such a conversation?</p> <p>14 A Yes.</p> <p>15 Q You had a chance to read it. Is it accurate?</p> <p>16 MR. NEPPLE: Object to form.</p> <p>17 Q It goes over to page 2, by the way,</p> <p>18 Mr. Walker, just to make sure you're not</p> <p>19 confused.</p> <p>20 A So what was the question again?</p> <p>21 Q So is this an accurate recording of your</p> <p>22 conversation?</p> <p>23 MR. NEPPLE: Same objection.</p> <p>24 You can answer.</p> <p>25 THE WITNESS: Oh, okay.</p>	<p>1 A Yes.</p> <p>2 Q So who is Scott Collins?</p> <p>3 A He is a manager in our department.</p> <p>4 Q Is he somehow responsible for your work?</p> <p>5 A Yes.</p> <p>6 Q Is he above Mr. Roman in the chain of</p> <p>7 command?</p> <p>8 A Yes.</p> <p>9 Q Is he underneath Ms. Auger?</p> <p>10 A Yes.</p> <p>11 Q Who is Jerry Hawthorne?</p> <p>12 A A manager also.</p> <p>13 Q And is he a supervisor of yours?</p> <p>14 A Not a supervisor, but he's the manager of</p> <p>15 James Roman.</p> <p>16 Q Okay. And what about Jean Chewning, if I</p> <p>17 pronounced that right.</p> <p>18 A Jean was our human resource person.</p> <p>19 Q At Charter?</p> <p>20 A Yes.</p> <p>21 Q And this was a meeting they convened to</p> <p>22 discuss the incident of the flyer, right?</p> <p>23 A Right.</p> <p>24 Q And did they record it?</p> <p>25 A No, I don't believe so.</p>
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<p>1 Q How did this transcript get prepared, then?</p> <p>2 A During the conversation between Jean and I,</p> <p>3 Jerry was writing down everything. And the</p> <p>4 discussion between Scott and I, that was done</p> <p>5 over the phone.</p> <p>6 Q Did they tell you that they were recording it</p> <p>7 over the phone?</p> <p>8 A I don't remember.</p> <p>9 Q So if you look at page 2 of that. You're</p> <p>10 looking at it, the backside of the page.</p> <p>11 A Uh-huh.</p> <p>12 Q So you gave whatever flyers you had left to</p> <p>13 Jerry, correct?</p> <p>14 A Yes.</p> <p>15 Q Who's Jay?</p> <p>16 A James Roman.</p> <p>17 Q Oh, okay. He goes by "Jay"?</p> <p>18 A Yes.</p> <p>19 Q So he was on that conversation too, even</p> <p>20 though he's not listed on page 1?</p> <p>21 A Yes. He was listening.</p> <p>22 Q This one is the phone conversation, right?</p> <p>23 A Yes.</p> <p>24 Q So he said I'll take them and shred them,</p> <p>25 right?</p>	<p>1 A Yes.</p> <p>2 MR. NEPPLE: Object to form.</p> <p>3 Go ahead.</p> <p>4 Q So then that all took place on April 11,</p> <p>5 2019, right?</p> <p>6 A Yes.</p> <p>7 Q And then there was another conversation on</p> <p>8 April 12, 2019. Was this also by telephone?</p> <p>9 A No. In person.</p> <p>10 Q And where did it take place?</p> <p>11 A In an office at our store.</p> <p>12 Q In Ohio, right?</p> <p>13 A Yes.</p> <p>14 Q And Ms. Chewning is not based there, is she?</p> <p>15 A I don't believe so. I don't know.</p> <p>16 Q So again look at this. And my question to</p> <p>17 you is, is it an accurate transcript of the</p> <p>18 conversation that took place?</p> <p>19 A It is, yes.</p> <p>20 Q And did you know it was being recorded?</p> <p>21 A No.</p> <p>22 Q Okay. Why was there need for a second</p> <p>23 conversation?</p> <p>24 A The first conversation was with Scott, and</p> <p>25 then since I was written up I needed to have</p>

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<p>1 a conversation with the human resource person</p> <p>2 also.</p> <p>3 Q So in the third colloquy there Jean says,</p> <p>4 "Did you notify your supervisor?"</p> <p>5 And you say, "We told Jay over the phone</p> <p>6 and Becky gave the flyer to Jay."</p> <p>7 Is that on the same day that you got the</p> <p>8 flyer you told Jay about it?</p> <p>9 A No. I don't remember.</p> <p>10 Q How is it that your management found out you</p> <p>11 were giving out these flyers?</p> <p>12 MR. NEPPLE: Object to form.</p> <p>13 Go ahead.</p> <p>14 A After the conversation with Scott, I told Jay</p> <p>15 about it.</p> <p>16 Q The conversation with Scott on April 11th</p> <p>17 that we've talked about?</p> <p>18 A Yeah. Mr. Parrish. What was his name?</p> <p>19 Q Oh, I'm sorry. You mean the conversation</p> <p>20 with Mr. Parrish. After that conversation</p> <p>21 you told Jay about it?</p> <p>22 A Yes.</p> <p>23 Q And then what did he do, report it to his</p> <p>24 superiors?</p> <p>25 A I don't know.</p>	<p>1 Q Look at the third-from-the-last colloquy</p> <p>2 there. And you say at one point, "I figured</p> <p>3 some of them are Windstream customers."</p> <p>4 How did you do that?</p> <p>5 A Well, typically in certain areas there's only</p> <p>6 two providers in an area, it's either us or</p> <p>7 Windstream. So if they don't have us, I</p> <p>8 assume they have Windstream.</p> <p>9 Q So in your particular geographic region that</p> <p>10 you sell to, there's just two providers?</p> <p>11 A Yes.</p> <p>12 Q And it's Charter and Windstream?</p> <p>13 A Yes.</p> <p>14 Q So you say here, "I didn't say we were</p> <p>15 helping Windstream"; is that right?</p> <p>16 A Right.</p> <p>17 Q You say, "I said Windstream sent out a list</p> <p>18 of other company names"; is that accurate?</p> <p>19 A Yes.</p> <p>20 Q So Windstream got you a -- is that a company</p> <p>21 name?</p> <p>22 MR. NEPPLE: Object to form.</p> <p>23 Go ahead.</p> <p>24 A No. When we were out knocking doors, I will</p> <p>25 always ask customers if they received</p>
Page 43	Page 44
<p>1 anything from Windstream. And a customer</p> <p>2 told me that they received a list of names of</p> <p>3 companies trying to help out with the</p> <p>4 bankruptcy.</p> <p>5 Q That was a different customer than the one</p> <p>6 who gave you the flyer?</p> <p>7 A Yes.</p> <p>8 Q It says at the bottom, "Do you have that</p> <p>9 list?"</p> <p>10 "No."</p> <p>11 I assume you don't have the list?</p> <p>12 A No.</p> <p>13 Q It says, it quotes you saying, "I don't even</p> <p>14 know about bankruptcy"; is that accurate?</p> <p>15 A Right.</p> <p>16 Q You don't really know what happens when a</p> <p>17 company goes into bankruptcy, correct?</p> <p>18 A No.</p> <p>19 Q Were there any other meetings besides these</p> <p>20 two on April 11th and April 12th of 2019</p> <p>21 regarding the incident of the flyer?</p> <p>22 A No other meetings.</p> <p>23 MR. ROSS: Can I have this</p> <p>24 marked as Walker Deposition Exhibit Number</p> <p>25 18.</p>	<p>1 -----</p> <p>2 (Walker Exhibit 18 was marked.)</p> <p>3 -----</p> <p>4 Q Mr. Walker, this appears to be again a</p> <p>5 transcript of a conversation that took place</p> <p>6 on April 12, 2019, with Rebecca Root, Jerry</p> <p>7 Hawthorne and Jean Chewning.</p> <p>8 Were you present for this meeting?</p> <p>9 A No.</p> <p>10 Q Did Ms. Root tell you about it?</p> <p>11 A No.</p> <p>12 Q Did anybody tell you about it?</p> <p>13 A No.</p> <p>14 Q Is this the first time you're seeing this</p> <p>15 document?</p> <p>16 A Yes.</p> <p>17 Q So do you want to take a minute to read it</p> <p>18 before I ask you questions?</p> <p>19 A Yes.</p> <p>20 I'm ready.</p> <p>21 Q So did Ms. Root ever talk to you about this</p> <p>22 conversation she had with Jerry Hawthorne and</p> <p>23 Jean Chewning?</p> <p>24 A No.</p> <p>25 Q Second line at the top of the transcript</p>

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<p>1 there's a reference to a Sandra Ley.</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q Does that refresh your recollection that</p> <p>5 that's the customer from whom the</p> <p>6 advertisement was obtained?</p> <p>7 A Yes.</p> <p>8 Q It says here, "She called me on Monday and</p> <p>9 she said she had gold for me."</p> <p>10 Do you know what that means?</p> <p>11 MR. NEPPLE: Object.</p> <p>12 A No.</p> <p>13 THE WITNESS: Oh.</p> <p>14 MR. NEPPLE: Object. Form</p> <p>15 and foundation.</p> <p>16 Go ahead.</p> <p>17 A No.</p> <p>18 Q It says here that "Emmitt and I went there</p> <p>19 and I saw the flyer and sent an e-mail to</p> <p>20 Jay."</p> <p>21 Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Were you there when she sent the e-mail to</p> <p>24 Jay?</p> <p>25 MR. NEPPLE: Object. Form</p>	<p>1 and foundation.</p> <p>2 Go ahead.</p> <p>3 A No.</p> <p>4 Q She didn't tell you she was sending an e-mail</p> <p>5 to Jay?</p> <p>6 MR. NEPPLE: Object. Form</p> <p>7 and foundation.</p> <p>8 Go ahead.</p> <p>9 A No.</p> <p>10 Q Does that refresh your recollection that Jay</p> <p>11 knew about this earlier than when you</p> <p>12 reported it to him?</p> <p>13 A Yes.</p> <p>14 MR. ROSS: Why don't we</p> <p>15 take -- we can take as long of a break as you</p> <p>16 want, but 10 minutes; is that fair?</p> <p>17 THE WITNESS: Yes. Please.</p> <p>18 MR. ROSS: Thank you.</p> <p>19 THE VIDEOGRAPHER: Off the record.</p> <p>20 The time is 10:59.</p> <p>21 (Recess taken.)</p> <p>22 THE VIDEOGRAPHER: Back on the</p> <p>23 record. The time is 11:08.</p> <p>24 BY MR. ROSS:</p> <p>25 Q Mr. Walker, prior to the incident with the</p>
Page 47	Page 48
<p>1 advertising flyer we've been discussing, had</p> <p>2 you already been put on some sort of</p> <p>3 performance improvement plan?</p> <p>4 A No.</p> <p>5 Q For the month of February 22nd to March 21,</p> <p>6 2019, you had missed your sales goal,</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q And you weren't put on a performance</p> <p>10 improvement plan as a result of that?</p> <p>11 A No.</p> <p>12 Q Is a performance improvement plan a form of</p> <p>13 disciplinary action within the company?</p> <p>14 A Yes.</p> <p>15 Q Can you just describe as a result of this</p> <p>16 incident what the discipline that was imposed</p> <p>17 upon you was?</p> <p>18 A Not any. I didn't get in trouble.</p> <p>19 Q Okay.</p> <p>20 A It was my third month in door to door, so I</p> <p>21 wasn't good at it.</p> <p>22 Q I'm sorry. I don't understand that.</p> <p>23 A Well, it was just when I transferred from</p> <p>24 inbound sales to door to door.</p> <p>25 Q You weren't meeting your sales goals?</p>	<p>1 A Only one time.</p> <p>2 Q One time.</p> <p>3 A Uh-huh.</p> <p>4 Q And they did not take corrective action</p> <p>5 because of that?</p> <p>6 A No.</p> <p>7 Q Now, earlier today you said that, and the</p> <p>8 testimony speak for itself and just correct</p> <p>9 me if am wrong, that you've been disciplined</p> <p>10 as a result of this flyer being handed out.</p> <p>11 Am I wrong about that?</p> <p>12 MR. NEPPLE: Object to form.</p> <p>13 Go ahead.</p> <p>14 A You're right.</p> <p>15 Q And what was that action taken against you by</p> <p>16 the company?</p> <p>17 A It was the corrective action and PIP.</p> <p>18 Q Which was what?</p> <p>19 A For using unauthorized material.</p> <p>20 Q No. What I'm asking you is, what was the</p> <p>21 PIP, as you put it?</p> <p>22 A I will have to meet my sales quota every</p> <p>23 month, which is eight.</p> <p>24 Q Or else what happens?</p> <p>25 MR. NEPPLE: Object to form.</p>

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<p>1 Foundation.</p> <p>2 Go ahead.</p> <p>3 A I will be terminated.</p> <p>4 Q And that was the result of this incident with</p> <p>5 the flyer, right?</p> <p>6 A Yes.</p> <p>7 Q And you still work for Charter, correct?</p> <p>8 A Yes.</p> <p>9 Q So I assume you have met your goal every</p> <p>10 month since then?</p> <p>11 A Yes.</p> <p>12 Q Is there a time limit for how long that</p> <p>13 corrective action plan lasts?</p> <p>14 A Six months.</p> <p>15 Q So it ends in October?</p> <p>16 A Yes.</p> <p>17 Q So I've shown you what we've marked as Walker</p> <p>18 Deposition Exhibit Number 3 for</p> <p>19 identification. Let me hand that back to</p> <p>20 you.</p> <p>21 Is this the performance improvement plan</p> <p>22 we've been talking about?</p> <p>23 A Yes.</p> <p>24 Q If you look at the last page of Exhibit 3, I</p> <p>25 think you'll see there's lines for</p>	<p>1 signatures. This document is not signed.</p> <p>2 Did you at some point sign this document?</p> <p>3 A Yes.</p> <p>4 Q So let me show you what we have marked as</p> <p>5 Walker Deposition Exhibit Number 11. This</p> <p>6 seems to be some sort of form dated April 15,</p> <p>7 2019 from Charter.</p> <p>8 I think you've already testified you</p> <p>9 haven't seen this before today, right?</p> <p>10 A Right. I don't remember.</p> <p>11 Q So again, on the last page there's a spot for</p> <p>12 employee signature.</p> <p>13 Do you recall signing this at some point?</p> <p>14 A If it was in the stack of papers when I</p> <p>15 received my PIP, then yes; if not, I don't</p> <p>16 remember signing anything like this.</p> <p>17 Q Look at the first page. Do you mind if I</p> <p>18 just lean over --</p> <p>19 A Yes.</p> <p>20 Q We don't have multiple copies.</p> <p>21 See here, "Performance Improvement</p> <p>22 Period"?</p> <p>23 A Yes.</p> <p>24 Q It's marked there "30 days."</p> <p>25 Was that changed to six months at some</p>
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<p>1 point, or have you misremembered?</p> <p>2 A I was under the impression it was for six</p> <p>3 months.</p> <p>4 Q Okay. So let me show you what we've marked</p> <p>5 as Plaintiff's Deposition Exhibit Number 12</p> <p>6 for identification. It's captioned at the</p> <p>7 top an "Incident Investigation Report." And</p> <p>8 I think you've already said you hadn't seen</p> <p>9 it before today.</p> <p>10 Again, take your time to look through</p> <p>11 whatever you need to read. I don't want you</p> <p>12 to -- since you haven't seen it today, I</p> <p>13 don't want you to be caught off guard.</p> <p>14 A Yes, I've never seen this.</p> <p>15 Q Okay. If you look on the next-to-last page,</p> <p>16 there appears to be a summary of the events</p> <p>17 that led up to your disciplinary action.</p> <p>18 Do you see that? Yes, I actually started</p> <p>19 talking -- yes, right there.</p> <p>20 So I'm looking at the entry marked for</p> <p>21 April 11, 2019. And it appears that James</p> <p>22 Roman, who you identified as your direct</p> <p>23 supervisor, notified Scott Collins, Jerry</p> <p>24 Hawthorne and Jean Chewning about this flyer</p> <p>25 incident, right?</p>	<p>1 A Yes.</p> <p>2 Q So does this refresh your recollection that</p> <p>3 the incident was before April 11, 2019?</p> <p>4 A Yes.</p> <p>5 Q In the next box there's reference to a</p> <p>6 temporary restraining order filed by</p> <p>7 Windstream against Charter.</p> <p>8 Do you see that?</p> <p>9 A Yes.</p> <p>10 Q Do you have any knowledge of a temporary</p> <p>11 restraining order?</p> <p>12 A No.</p> <p>13 MR. NEPPLE: Object to form.</p> <p>14 Go ahead.</p> <p>15 A No.</p> <p>16 Q Did there come a time when someone within the</p> <p>17 company either told you or sent you an e-mail</p> <p>18 that Windstream had obtained a temporary</p> <p>19 restraining order against Charter?</p> <p>20 MR. NEPPLE: Same objection.</p> <p>21 A No. We received an e-mail saying that we are</p> <p>22 not allowed to discuss at all about the</p> <p>23 Windstream bankruptcy.</p> <p>24 Q When did you receive that?</p> <p>25 A After the incident.</p>

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<p>1 Q During this week of April 11th-12th, 2019?</p> <p>2 A Yes.</p> <p>3 Q Was that directed to you specifically or to a</p> <p>4 broader group of people?</p> <p>5 A Everyone that's in direct sales. There was a</p> <p>6 big e-mail.</p> <p>7 Q Everyone in the Charter direct sales</p> <p>8 organization?</p> <p>9 A Yes.</p> <p>10 Q So not just Ohio, but everywhere?</p> <p>11 A Yes.</p> <p>12 Q Other than Rebecca Root -- okay? Other than</p> <p>13 Rebecca Root, have you heard of any other</p> <p>14 DSRs telling customers that Windstream was</p> <p>15 bankrupt and going out of business?</p> <p>16 A No.</p> <p>17 Q So in front of you is what we've marked for</p> <p>18 identification as Walker Deposition Exhibit</p> <p>19 Number 7. And looking at page 2.</p> <p>20 Prior to being given that by this</p> <p>21 customer, had you ever seen that flyer</p> <p>22 before?</p> <p>23 A No.</p> <p>24 Q Did you post a copy of that at your store in</p> <p>25 Ohio?</p>	<p>1 A No.</p> <p>2 Q Did you e-mail it to anyone?</p> <p>3 A No.</p> <p>4 Q Did you e-mail to any potential customers the</p> <p>5 information contained in the flyer without</p> <p>6 the flyer?</p> <p>7 A No.</p> <p>8 Q Do you know a person by the name of Stephen</p> <p>9 McCready?</p> <p>10 A No.</p> <p>11 Q We mentioned earlier this temporary</p> <p>12 restraining order you heard about through a</p> <p>13 mass e-mail, right?</p> <p>14 Did you also learn about a subsequent</p> <p>15 issuance by the court of a preliminary</p> <p>16 injunction against Charter by Windstream?</p> <p>17 A No.</p> <p>18 Q Prior to being given this PIP that we've been</p> <p>19 talking about, had any other disciplinary</p> <p>20 action been taken against you?</p> <p>21 A No.</p> <p>22 Q This is a document we've already marked for</p> <p>23 identification as Walker Deposition Exhibit</p> <p>24 Number 15. You looked at it earlier and you</p> <p>25 said you had not seen that before. But just</p>
Page 55	Page 56
<p>1 to confirm, is that correct, you have not</p> <p>2 seen that before today?</p> <p>3 A Right.</p> <p>4 Q So on that second page -- it's the only copy</p> <p>5 we have. But Scott Niles writes "Did we put</p> <p>6 him on corrective action, and if so, at what</p> <p>7 level?"</p> <p>8 Do you see that?</p> <p>9 A Yes.</p> <p>10 Q Do you have any understanding as to what that</p> <p>11 reference to "what level" means?</p> <p>12 A Like a final.</p> <p>13 Q And the disciplinary action taken against you</p> <p>14 was final, correct?</p> <p>15 A Yes.</p> <p>16 Q I don't know that you would know this, but</p> <p>17 I'll ask you anyway. Was the disciplinary</p> <p>18 action taken against Rebecca Root also final?</p> <p>19 MR. NEPPLE: Object. Form</p> <p>20 and foundation.</p> <p>21 Go ahead.</p> <p>22 A I don't know.</p> <p>23 Q Do you even know if she was disciplined?</p> <p>24 MR. NEPPLE: Same</p> <p>25 objections.</p>	<p>1 A I don't know.</p> <p>2 Q So you don't know that she did get</p> <p>3 disciplined?</p> <p>4 A Right. When I was disciplined, I was told</p> <p>5 not to talk to anyone about it.</p> <p>6 Q So I want to give this back to you.</p> <p>7 A Uh-huh.</p> <p>8 Q Let me hand you what we have marked for</p> <p>9 identification as Walker Deposition Exhibit</p> <p>10 Number 14. It looks very much like Exhibit</p> <p>11 12. So you want to read it, but recognize</p> <p>12 that it is different.</p> <p>13 A Yes. This is to Rebecca Root.</p> <p>14 Q Rebecca Root, right?</p> <p>15 A Yes.</p> <p>16 Q But you had not seen that before today?</p> <p>17 A No.</p> <p>18 Q And the information about the disciplinary</p> <p>19 action you had no knowledge of before you</p> <p>20 read that document, right?</p> <p>21 A Okay.</p> <p>22 Q Let me get you to look at what we've already</p> <p>23 marked as Walker Deposition Exhibit Number 2</p> <p>24 for identification. It would be in that</p> <p>25 stack. It's probably the thickest one.</p>

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<p>1 A Exhibit 2?</p> <p>2 Q Yes. About 13 to 14 pages into the document,</p> <p>3 it will be a color page.</p> <p>4 A Okay.</p> <p>5 Q Yes, you're there. At the bottom is the page</p> <p>6 number 13.</p> <p>7 Is that the flyer that you received from</p> <p>8 the customer and gave out in a color format?</p> <p>9 A No.</p> <p>10 Q This is a different one?</p> <p>11 A Different.</p> <p>12 Q Okay. Had you ever seen this one before</p> <p>13 today?</p> <p>14 A No.</p> <p>15 Q So next page over in Walker Exhibit Number 2</p> <p>16 for identification.</p> <p>17 Have you ever seen that flyer before</p> <p>18 today?</p> <p>19 A No.</p> <p>20 Q Let me get you to look at -- keep continuing</p> <p>21 backwards into that document and you'll come</p> <p>22 to a page that says Exhibit B and then it's</p> <p>23 two pages -- the other way.</p> <p>24 A Exhibit B.</p> <p>25 Q And turn the page one more time. Now, is</p>	<p>1 this a copy of that flyer that you were</p> <p>2 handed by the customer and gave out?</p> <p>3 A Yes.</p> <p>4 Q So it would seem -- I've just now shown you</p> <p>5 three different flyers, one of which you had</p> <p>6 seen before today, two you hadn't.</p> <p>7 Have you seen any other flyers similar to</p> <p>8 these?</p> <p>9 A No.</p> <p>10 Q Okay.</p> <p>11 MR. ROSS: Why don't we</p> <p>12 take a five-minute break. I'll go over my</p> <p>13 notes. We may be finished.</p> <p>14 THE VIDEOGRAPHER: Off the record.</p> <p>15 The time is 11:31.</p> <p>16 (Recess taken.)</p> <p>17 THE VIDEOGRAPHER: Back on the</p> <p>18 record. The time is 11:38.</p> <p>19 MR. ROSS: Mr. Walker,</p> <p>20 thanks for coming. I don't have any further</p> <p>21 questions for you at this time.</p> <p>22 MS. GREER: I have nothing</p> <p>23 further either.</p> <p>24 -----</p> <p>25</p>
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<p>1 EXAMINATION OF EMMITT WALKER</p> <p>2 BY MR. NEPPLE:</p> <p>3 Q Mr. Walker, we met before. I'm Mike Nepple.</p> <p>4 And you understand that I represent Charter,</p> <p>5 correct?</p> <p>6 A Yes.</p> <p>7 Q We just met for the first time face to face</p> <p>8 yesterday, correct?</p> <p>9 A Yes.</p> <p>10 Q You've given some testimony here and I want</p> <p>11 to ask you a few questions about that and</p> <p>12 maybe touch upon a few topics that you might</p> <p>13 not have talked about. Okay?</p> <p>14 A Okay.</p> <p>15 Q You're here pursuant to a subpoena, correct?</p> <p>16 A Yes.</p> <p>17 Q And that subpoena was served upon you and</p> <p>18 requested that you be here, correct?</p> <p>19 A Yes.</p> <p>20 Q And you complied with that subpoena?</p> <p>21 A Yes.</p> <p>22 Q Can you tell me what's your level of</p> <p>23 education? Did you graduate high school?</p> <p>24 A High school graduate.</p> <p>25 Q When did you graduate high school?</p>	<p>1 A In '09.</p> <p>2 Q How old of a man are you, sir?</p> <p>3 A 30.</p> <p>4 Q Do you have any training beyond high school,</p> <p>5 whether it's courses or online courses or</p> <p>6 classes you may have been to?</p> <p>7 A No.</p> <p>8 Q Do you have any legal training of any kind?</p> <p>9 A No.</p> <p>10 Q Do you have any familiarity with bankruptcy</p> <p>11 rules and regulations of any kind?</p> <p>12 A No.</p> <p>13 Q Let's talk a little bit about what you do</p> <p>14 from day to day. How is it in your current</p> <p>15 role and the role that you were in earlier</p> <p>16 this year, how is it that you go about your</p> <p>17 job?</p> <p>18 A Pretty much I get out to the field around</p> <p>19 1:00 p.m. I just knock on people's doors. I</p> <p>20 ask them if they have TV, internet or voice</p> <p>21 currently.</p> <p>22 If they say yes, I ask them how much</p> <p>23 they're paying, and then I pitch our price</p> <p>24 and then ask them is that something that</p> <p>25 they'd be interested in --</p>

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1 Q Okay.  
2 A -- switching.  
3 Q And how many doors do you knock on in an  
4 average day?  
5 A Between 30 to 40. It depends on how long I  
6 speak to people at the door.  
7 Q And how do you get that list of doors to  
8 knock on?  
9 A Well, at the beginning of every fiscal month,  
10 we get to choose our area where we want to  
11 knock doors at. And then my supervisor,  
12 James Roman, gives us a list of addresses of  
13 people who does not have our service.  
14 Q Okay. So the lists that you're given are  
15 provided by Charter is not current Charter  
16 subscribers, correct?  
17 A Correct. Yes.  
18 Q And I think you testified earlier that in  
19 your area, the places where your knock or  
20 that you knock that the only internet  
21 provider is Windstream, correct?  
22 A Yes.  
23 Q So when you get a list from your supervisor  
24 or you select an area to knock, you know  
25 you're going to Windstream customers,

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1 correct?  
2 A Yes.  
3 Q Okay. Now, this flyer that -- you can take a  
4 look at Exhibit 7, the flyer that we've been  
5 talking about and the one that got you into  
6 trouble here, can you take a look at that?  
7 Now, that was provided to you by a  
8 Windstream customer, correct?  
9 A Yes.  
10 Q Can you describe that process? Did you ask  
11 for it? Did your partner ask for it? Did  
12 that customer just give it to you?  
13 A She called Rebecca Root and told Rebecca that  
14 she received a flyer from us. And Rebecca  
15 asked her if we can come over and take a look  
16 at it.  
17 Q Okay. And did Rebecca know this customer,  
18 have a prior relationship with this customer?  
19 A Yes.  
20 Q Do you know the extent of that relationship?  
21 A From what Rebecca told me she used to be a  
22 bartender, and she used to come into the  
23 place where she used to bartend.  
24 Q Okay. And then you got possession of Exhibit  
25 7, the flyer, correct?

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1 A Yes.  
2 Q And then what did you do?  
3 A I made copies of it.  
4 Q Where did you make copies?  
5 A At the Spectrum store.  
6 Q How many copies did you make?  
7 A 10 to 15.  
8 Q Is that your best recollection?  
9 A Yes.  
10 Q How many of those 10 to 15 flyers did you  
11 hand out to people out in the field?  
12 A Not even five. I don't remember.  
13 Q And you still had some left when the issue  
14 arose with the phone call we talked about  
15 earlier and the whole incident where you  
16 ended up on a performance improvement plan,  
17 correct?  
18 A Yes.  
19 Q You still had copies left to give to Charter,  
20 correct?  
21 A Yes.  
22 Q Do you know how many copies you had left to  
23 give to Charter?  
24 A No.  
25 Q Okay. So your best estimate as you sit here

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1 on how many copies of the flyer reflected in  
2 Exhibit 7 that you gave out would be what  
3 number?  
4 A No more than five.  
5 Q Okay. Did anyone at Charter, and I'm talking  
6 about your management or from anyone that you  
7 considered a supervisor -- strike that.  
8 Did anyone from Charter, any person that  
9 you know to be employed by Charter, tell you  
10 to use that flyer?  
11 A No.  
12 Q Did they ever hint or intimate or give you  
13 the old nudge, nudge, wink, wink you need to  
14 use this flyer?  
15 A No.  
16 Q Who made the decision to use this flyer?  
17 A I did.  
18 Q As a result of that decision, what happened  
19 to you once Charter found out?  
20 A I was put on a final.  
21 Q Okay. Do you know what areas you handed out  
22 the five or so copies that you believe that  
23 you handed out?  
24 A In the Elyria area.  
25 Q Okay. Were you aware, as you sit here today,



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1 of anyone else who handed out copies of the  
2 flyer reflected in Exhibit 7?  
3 A No.  
4 Q Did any of the people, of the five or so  
5 flyers that you handed out, ever contact you  
6 and ask you questions about the flyer?  
7 A No. Just the one.  
8 Q Just the -- excuse me. Which one?  
9 A The Mr. Parrish guy.  
10 Q We'll get to Mr. Parrish in a moment here.  
11 Did anyone call you and ask you what this  
12 meant, what the flyer reflected in Exhibit  
13 Number 7 meant?  
14 A No.  
15 Q Did you get any sales or did you secure any  
16 sales from any of the five flyers that you  
17 handed out?  
18 A No.  
19 Q Did anyone explain to you that they were  
20 confused by the five or so flyers that you  
21 handed out?  
22 A No.  
23 Q At any point up until you were disciplined by  
24 Charter, did any of the people that you've  
25 knocked on doors with or contacted or

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1 otherwise, did they have any questions for  
2 you regarding Windstream's bankruptcy?  
3 A No.  
4 Q Did they ever -- any of these people talk to  
5 you about any mailings they may have received  
6 regarding Windstream's bankruptcy?  
7 A One did.  
8 Q Tell me about that. Do you know who that  
9 was?  
10 A No.  
11 Q Do you know if it was in your area?  
12 A It was in our area. It was someone that we  
13 spoke -- that I spoke to when knocking, when  
14 knocking.  
15 Q Okay. Face to face?  
16 A Yes.  
17 Q What did they say?  
18 A So one of the questions I always ask is like  
19 if they ever received anything from  
20 Windstream. And this one customer told me  
21 they did and it was a list of like other  
22 companies helping out with the bankruptcy.  
23 Q Okay. And they had received a notice in  
24 Windstream's bankruptcy with a list of  
25 companies?

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1 A Yes.  
2 Q And that person, what did they understand  
3 that list to be?  
4 A Just different providers that they can maybe  
5 switch to or just companies helping out with  
6 the bankruptcy.  
7 Q And did you ever see that list?  
8 A No.  
9 Q And given that you never saw the list, did  
10 you have that same belief about what that  
11 list meant?  
12 A Yes.  
13 Q Let's talk a little bit about the effect on  
14 you. You were put under a PIP, a performance  
15 improvement program, correct?  
16 A Yes.  
17 Q It's your recollection how long has that been  
18 in place?  
19 A Since April.  
20 Q Okay. And as I understood your prior  
21 testimony, there's two portions. One is they  
22 provided you some coaching or instruction on  
23 the use of flyers, correct?  
24 A Yes.  
25 Q And the other is they monitored your sales

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1 performance in the field, correct?  
2 A Yes.  
3 Q Was there anything else that you see as part  
4 of the performance improvement plan or the  
5 corrective action or anything else that arose  
6 as a result of this incident that you  
7 testified to earlier today?  
8 A I have to have the one-on-one with James  
9 Roman every week.  
10 Q Okay.  
11 A Concerning my performance over the week.  
12 Q And James Roman is your direct supervisor?  
13 A Yes.  
14 Q Do you believe -- what's your understanding --  
15 strike that.  
16 What's your understanding on whether that  
17 will continue, and if so, how long will that  
18 will continue?  
19 A Until October. For six months.  
20 Q Where did you obtain that understanding from,  
21 Mr. Roman or someone else?  
22 A Both Mr. Roman and Jerry Hawthorne.  
23 Q Okay. You at some point received a call from  
24 a Mr. Parrish, correct?  
25 A Yes.



1 Q At the start of that call, what did he  
2 identify himself as?  
3 A As a customer I spoke with.  
4 Q He said you and him had spoken in the field?  
5 A Yes.  
6 Q Did he disclose to you at the start of that  
7 call that he was employed by Windstream?  
8 A No.  
9 Q So he represented to you that he -- that you  
10 had spoken with him, correct?  
11 A Yes.  
12 Q As you sit here now, do you know whether you  
13 actually did speak with him in the field?  
14 A I spoke with maybe four, five people that  
15 day.  
16 Q Okay.  
17 A Maybe.  
18 Q Did he say he was a Windstream customer or  
19 that he was -- or that you had spoken in the  
20 field only?  
21 A That he was a Windstream customer.  
22 Q Did he tell you where his address was?  
23 A No.  
24 Q How long did this call with Mr. Parrish go  
25 on?

1 A Maybe like 10 minutes.  
2 Q At what point in the 10-minute period of this  
3 call with Mr. Parrish did he finally disclose  
4 to you that he was employed by Windstream?  
5 A Like seven to eight minutes into the call.  
6 Q Did you identify yourself as working for  
7 Charter?  
8 A Yes.  
9 Q Did Mr. Parrish, or the person who  
10 represented he was Mr. Parrish on the phone,  
11 inform you that there was any ongoing  
12 litigation between Windstream and Charter  
13 before you jumped into this discussion?  
14 A No.  
15 Q Did this person, Mr. Parrish or the person  
16 who represented he was Mr. Parrish, disclose  
17 to you that he was trying to secure evidence  
18 regarding a lawsuit between Windstream and  
19 Charter?  
20 A No.  
21 Q Did he ever explain to you, Mr. Parrish or  
22 the person who purports to be Mr. Parrish,  
23 why he thought it was appropriate for him to  
24 reach out to talk to you?  
25 A No.

1 Q Did he ever -- strike that.  
2 Did Mr. Parrish or the person purporting  
3 to be Mr. Parrish ever indicate to you that  
4 he was recording your conversation?  
5 A No.  
6 Q Did Mr. Parrish or the person purporting to  
7 be Mr. Parrish ever indicate to you that he  
8 was taking notes of your conversations?  
9 A No.  
10 Q As you sit here today, do you know or have  
11 any belief on whether Mr. Parrish either  
12 recorded you or took notes of your  
13 conversation?  
14 A No.  
15 Q You have no idea?  
16 A No.  
17 Q Am I correct you have no idea?  
18 A I have no idea.  
19 Q What did Mr. Parrish say how he got your name  
20 and business card?  
21 A He said that I spoke with him earlier that  
22 day. And usually when I spoke to people I  
23 always give them my business card.  
24 Q If Mr. Parrish was not located in Ohio that  
25 day and he was, in fact, in another state, he

1 lied to you, correct?  
2 MR. ROSS: So I'm going to  
3 object to that. It's assumes facts not in  
4 evidence. It's argumentative.  
5 Q You can go ahead and answer.  
6 A Yes.  
7 Q I want you to assume that Mr. Parrish for  
8 purposes of my question was not in Ohio that  
9 day.  
10 If you assume that to be true, did  
11 Mr. Parrish make any statements to you that  
12 would be a lie?  
13 MR. ROSS: So I'm going to  
14 object to that. It's argumentative, assumes  
15 facts not in evidence, and is asking for a  
16 hypothetical question to a nonexpert witness.  
17 Q Go ahead.  
18 A I don't understand.  
19 Q Sure. Let me repeat the question.  
20 You only knocked on doors in Ohio --  
21 A Yes.  
22 Q -- correct?  
23 A Uh-huh. Yes.  
24 Q The person who said he was Mr. Parrish either  
25 personally or purported to be Mr. Parrish,

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<p>1 said that he had talked to you that day, 2 correct? 3 MR. ROSS: No. That 4 misstates his testimony. 5 MR. NEPPLE: No. Just make 6 an objection, Counsel. 7 MR. ROSS: I just did. 8 Misstates his testimony. 9 MR. NEPPLE: Then just say 10 "form." 11 MR. ROSS: No. No. I'm 12 required by law to tell you my objection so 13 you have the opportunity to correct it and 14 can't later complain. You're misstating his 15 testimony. That's going to be on the record. 16 Now go ahead, Michael. 17 MR. NEPPLE: Well, thank 18 you. 19 Q Okay. What did the person who said he was 20 Mr. Parrish or Mr. Parrish say to you when he 21 had a conversation with you? 22 MR. ROSS: So objection. 23 Asked and answered. 24 MR. NEPPLE: Okay. 25 Q Go ahead.</p>	<p>1 A He said he was a person I talked to when I 2 was out knocking doors. 3 Q Did he say he was a person that was out 4 knocking doors that day? 5 A Yes. 6 Q If Mr. Parrish was not in Ohio on that day, 7 the conversation he had with you, then he 8 lied to you, correct? 9 MR. ROSS: Objection. 10 Argumentative, assumes a fact not in 11 evidence, and is asking for a hypothetical 12 from a witness who is not an expert. 13 Q Go ahead. You can answer. 14 A Yes. 15 Q Did Charter at any time ever provide you with 16 any talking points or notes or any written 17 communication regarding Windstream's 18 bankruptcy before you got in trouble with the 19 flyer set forth in Exhibit 7? 20 A No. 21 Q Why did you believe that the list of 22 companies, other providers, in the Windstream 23 bankruptcy notice were helping Windstream 24 out? 25 A Because I predicted that they were going out</p>
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<p>1 of business and that those companies was 2 going to help out with Windstream's 3 customers. 4 Q And why do you believe they were going to 5 help out with Windstream customers? 6 A Because they were filing for bankruptcy. 7 Q And what was your belief what -- at the time 8 of Exhibit 7, what was your belief of what 9 "filing for bankruptcy" meant? 10 A That they were going out of business. 11 Q Did you tell Mr. Parrish in this phone call 12 that they were definitely going out of 13 business? 14 A No. 15 Q What did you say? What exact words can you 16 recall as you sit here right now? 17 MR. ROSS: I'm going to 18 object. His prior testimony speak for 19 itself. He's already been asked this 20 question. 21 Q Go ahead. 22 A I told him I don't know, that he could maybe 23 lose his service in a month or two or maybe 24 years, that he will have to call Windstream. 25 Q And what did you base this prediction on?</p>	<p>1 A That I don't work for the company so I didn't 2 have an answer for him on whether or not he 3 was going to lose his service or not. 4 Q Do you know who a Lewis Langston is? 5 A No. 6 Q Have you ever had any conversations with a 7 person named Lewis Langston or a person who 8 purports to be Lewis Langston? 9 A No. 10 ----- 11 (Walker Exhibit 19 was marked.) 12 ----- 13 Q Mr. Walker, I've shown you what the court 14 reporter has marked as Exhibit 19 for 15 identification. I'll ask you to read that 16 carefully from start to finish and then I'm 17 going to ask you some questions. 18 A Okay. 19 Q Take a look at paragraph 6, please. Do you 20 have that in front of you? 21 A Yes. 22 Q The last sentence in that states, 23 "Mr. Walker's supervisor's name is John 24 Aaron." 25 Do you see that?</p>

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<p>1 A Yes.</p> <p>2 Q Is that correct?</p> <p>3 A No.</p> <p>4 Q Who was your supervisor at the time?</p> <p>5 A James Roman.</p> <p>6 Q Do you know anyone named John Aaron?</p> <p>7 A No.</p> <p>8 Q Okay. Let's look at paragraph 5. I'm going</p> <p>9 to walk you through that sentence by</p> <p>10 sentence.</p> <p>11 First sentence, "Immediately upon</p> <p>12 receiving copies of the flyers, Mr. Parrish</p> <p>13 called Mr. Walker at the phone number listed</p> <p>14 on his business card."</p> <p>15 Did you get a call from someone</p> <p>16 purporting to be Mr. Parrish or identifying</p> <p>17 himself as Mr. Parrish?</p> <p>18 A No. Well, at the beginning no. At the end</p> <p>19 of the call he told me.</p> <p>20 Q I understand. I thought you were confused.</p> <p>21 At some point during the call he</p> <p>22 identified himself as a Mr. Parrish, correct?</p> <p>23 A Yes.</p> <p>24 Q The next sentence, "Mr. Parrish asked</p> <p>25 Mr. Walker if his services would be</p>	<p>1 disconnected if he was a Windstream</p> <p>2 customer."</p> <p>3 Is that statement accurate in your view?</p> <p>4 A No.</p> <p>5 Q What's inaccurate in that statement in your</p> <p>6 view?</p> <p>7 A I didn't say, yes, that his service will be</p> <p>8 disconnected in a few months.</p> <p>9 Q Okay. So the next sentence, "He responded</p> <p>10 that 'yes' his services would be disconnected</p> <p>11 in a few months."</p> <p>12 Is that statement accurate in your view?</p> <p>13 A No.</p> <p>14 Q What's inaccurate about that statement?</p> <p>15 A I never said "yes." I didn't say "yes."</p> <p>16 Q Next sentence, "Mr. Walker then stated that</p> <p>17 Windstream had provided Spectrum with a list</p> <p>18 of Windstream's customers so that Spectrum</p> <p>19 could set up services to make it easier for</p> <p>20 Windstream's customers when Windstream went</p> <p>21 out of business."</p> <p>22 Is that sentence accurate?</p> <p>23 A No.</p> <p>24 Q What list of customers that had been provided</p> <p>25 to you were you trying to reference in talks</p>
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<p>1 with Mr. Parrish?</p> <p>2 A The list of customers -- I mean the list of</p> <p>3 addresses that we get for our assigned turf.</p> <p>4 Q And that list came from Charter?</p> <p>5 A Yes.</p> <p>6 Q Okay. The next sentence, "Mr. Parrish</p> <p>7 responded that Windstream had said that it is</p> <p>8 continuing service."</p> <p>9 Did Mr. Parrish or the person purporting</p> <p>10 to be Mr. Parrish say this?</p> <p>11 A No.</p> <p>12 Q What did he say? Did he say anything similar</p> <p>13 to this statement?</p> <p>14 A No.</p> <p>15 Q Next sentence, "Mr. Walker then stated that</p> <p>16 other companies get together to help out</p> <p>17 those who are in bankruptcy, and that</p> <p>18 Spectrum is helping Windstream."</p> <p>19 Is that statement accurate? And what was</p> <p>20 the basis of that statement?</p> <p>21 A Because typically when someone says they have</p> <p>22 like another provider, like Windstream, I'll</p> <p>23 tell them, like, that's the reason why I'm in</p> <p>24 the area because we have like special pricing</p> <p>25 available for you.</p>	<p>1 Q Okay. And then the next sentence,</p> <p>2 "Mr. Walker again stated that services with</p> <p>3 Windstream would definitely be disconnected</p> <p>4 in the near future and that [t]hey are going</p> <p>5 out of business."</p> <p>6 Did you say that? Did you say they're</p> <p>7 definitely going out of business?</p> <p>8 A No. I predicted that they were going out of</p> <p>9 business.</p> <p>10 Q Okay. Then the last sentence, "He also</p> <p>11 claimed that "Windstream over extended</p> <p>12 themselves trying to upgrade their network</p> <p>13 and never finished the job."</p> <p>14 Do you see that sentence?</p> <p>15 A Yes.</p> <p>16 Q Do you see that sentence is in quotes, in</p> <p>17 quotations?</p> <p>18 A Yes. Yeah. Uh-huh.</p> <p>19 Q Did you say that sentence?</p> <p>20 A Yes.</p> <p>21 Q And what was the basis of why you said that</p> <p>22 sentence?</p> <p>23 A Because typically I would think that</p> <p>24 companies are always trying to make their</p> <p>25 service better and that they were just trying</p>

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1 to upgrade their network and just never  
2 finished, hence why they went to bankruptcy.  
3 MR. NEPPLE: I think I'm  
4 close. I'll take five minutes to go over my  
5 notes. Can we go off the record, please?  
6 THE VIDEOGRAPHER: Off the record.  
7 The time is 12:05.  
8 (Recess taken.)  
9 THE VIDEOGRAPHER: We're back on  
10 the record. The time is 12:09.  
11 BY MR. NEPPLE:  
12 Q Mr. Walker, just a couple of last minute  
13 cleanup questions here.  
14 I think you testified earlier when I was  
15 asking you questions that you knock on 30 to  
16 40 doors a day, correct?  
17 A Yes.  
18 Q How long had you been doing that at the time  
19 this incident occurred in April of 2019?  
20 A Before the incident or after the incident?  
21 Q Your current position. When did you start in  
22 your current position?  
23 A In November.  
24 Q From November to say April of 2019, is that  
25 pretty consistent, that number of 30 to 40 a

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1 anyone at Charter who handed out the  
2 advertising reflected in Exhibit 7 other than  
3 you?  
4 A No.  
5 Q I am correct?  
6 A Yes.  
7 Q Did anyone at Charter ask you or tell you or  
8 instruct you or imply to you that you should  
9 hand out the advertisement reflected in  
10 Exhibit 7?  
11 A No.  
12 MR. NEPPLE: I don't have  
13 any further questions.  
14 MR. ROSS: So I've got a  
15 few questions by way of redirect.  
16 -----  
17 FURTHER EXAMINATION OF EMMITT WALKER  
18 BY MR. ROSS:  
19 Q Mr. Walker, you're aware you're appearing  
20 here today, you're testifying under oath  
21 subject to laws of criminal perjury, correct?  
22 A Yes.  
23 Q You took an oath at the beginning to tell the  
24 truth, right?  
25 A Yes.

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1 day?  
2 A No.  
3 Q Okay. Had it gone up or gone down?  
4 A Well, after today? Or today?  
5 Q Let's try again.  
6 The position that you hold today you  
7 started when?  
8 A In November.  
9 Q Of this year?  
10 A Yes.  
11 Q Okay. The position --  
12 A No. November of 2018.  
13 Q Okay. From November of 2018 to April of  
14 2019, is it fair to say that you knocked on  
15 about 30, 40 doors a day each business day;  
16 is that a fair statement?  
17 A No.  
18 Q What would be a fair statement of the number  
19 of doors you knocked on each business day?  
20 A 15 to 20.  
21 Q Okay. And as you sit here today, are you  
22 aware of anyone at Charter who handed out the  
23 exhibit reflected in Exhibit 7 -- strike  
24 that.  
25 As you sit here today, are you aware of

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1 Q So I want you to think very carefully about  
2 these questions I want to ask you.  
3 You got a call from Mr. Parrish, right?  
4 A Yes.  
5 Q At the start of the call he said he was a  
6 Windstream customer, correct?  
7 A Yes.  
8 Q From that you assumed that you must have  
9 talked to him, right?  
10 A Yes.  
11 MR. NEPPLE: Object to form.  
12 Q Now, he also said he received -- had gotten  
13 ahold of your business card, right?  
14 A Yes.  
15 Q And then he started talking to you about the  
16 bankruptcy situation at Windstream; isn't  
17 that right?  
18 A Not right away.  
19 Q Okay. What was the -- yes, you're right, not  
20 right away. Sorry.  
21 At some point he did talk to you about  
22 the bankruptcy situation at Windstream,  
23 right?  
24 A Yes.  
25 Q And you told him that Windstream was in

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1 bankruptcy and would go out of business at  
2 some point in the future?  
3 MR. NEPPLE: Object to form.  
4 Go ahead.  
5 A Yes.  
6 MR. ROSS: That's all I  
7 have for you.  
8 MR. NEPPLE: We'll read and  
9 sign.  
10 THE VIDEOGRAPHER: Off the record.  
11 The time is 12:13.  
12  
13 (Deposition concluded at 12:13 p.m.)  
14  
15  
16 -----  
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1 THE STATE OF )  
2 ) SS:  
3 COUNTY OF )  
4  
5 Before me, a Notary Public in and for said  
6 state and county, personally appeared the  
7 above-named EMMITT WALKER, who acknowledged that  
8 he did sign the foregoing transcript and that the  
9 same is a true and correct transcript of the  
10 testimony so given.  
11 IN TESTIMONY WHEREOF, I have hereunto  
12 affixed my name and official seal at  
13 this day of  
14 , 2019.  
15  
16  
17  
18 EMMITT WALKER  
19  
20  
21  
22  
23 Notary Public  
24  
25 My Commission expires:

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1 THE STATE OF OHIO, ) SS:  
2 COUNTY OF CUYAHOGA. )  
3  
4 I, Charles A. Cady, a Notary Public within  
5 and for the State of Ohio, duly commissioned and  
6 qualified, do hereby certify that EMMITT WALKER,  
7 was first duly sworn to testify the truth, the  
8 whole truth and nothing but the truth in the cause  
9 aforesaid; that the testimony then given by him  
10 was by me reduced to stenotypy in the presence of  
11 said witness, afterwards transcribed on a  
12 computer/printer, and that the foregoing is a true  
13 and correct transcript of the testimony so given  
14 by him as aforesaid.  
15 I do further certify that this deposition  
16 was taken at the time and place in the foregoing  
17 caption specified. I do further certify that I am  
18 not a relative, counsel or attorney of either  
19 party, or otherwise interested in the event of  
20 this action.  
21 IN WITNESS WHEREOF, I have hereunto set my  
22 hand and affixed my seal of office at Cleveland,  
23 Ohio, on this 24rd day of September, 2019.  
24  
25 Charles A. Cady, Notary Public  
within and for the State of Ohio  
My Commission expires November 3, 2019.

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1 ERRATA:  
2 Pg/Ln Correction Pg/Ln Correction  
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	_____ Witness	_____ Date
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**Debtor**



**Defendants' Designations and Counter Designations**



**Debtor Counter Designations**

Page 1	Page 2
<p>- Peter Maguire - UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK ----- X In Re: ) WINDSTREAM HOLDINGS, INC., et al., ) Case No: Debtors. ) 19-22312(RDD) _____) WINDSTREAM HOLDINGS, INC., et al., ) Plaintiffs, ) vs. ) CHARTER COMMUNICATIONS, INC., AND ) CHARTER COMMUNICATIONS OPERATING, LLC, ) Defendants. ) _____) X DATE: September 12, 2019 TIME: 9:44 a.m.  DEPOSITION OF RAPP WORLDWIDE, INC., by PETER MAGUIRE, a 30(b)(6) Witness, held at the offices of Katten Muchin Rosenman, 575 Madison Avenue, New York, New York, pursuant to Subpoena, before Hope Menaker, a Shorthand Reporter and Notary Public of the State of New York.</p>	<p>1 - Peter Maguire - 2 A P P E A R A N C E S 3 KATTEN MUCHIN ROSENMAN, LLP 4 Attorneys for Debtors in Possession - Windstream 5 2900 K Street NW 6 North Tower - Suite 200 7 Washington, D.C. 20007-5118 8 BY: MICHAEL JUSTUS, ESQ. GRACE A. THOMPSON, ESQ. (NY Office) 9 10 MORRISON &amp; FOERSTER, LLP 11 Attorneys for the Committee of Unsecured Debtors 12 250 West 55th Street 13 New York, New York 10019-9601 14 BY: JOCELYN E. GREER, ESQ. 15 16 THOMPSON COBURN, LLP 17 Attorneys for Defendants - Charter Communications 18 U.S. Bank Plaza 19 St. Louis, Missouri 63101 20 BY: JOHN KINGSTON, ESQ. 21 22 ALSO PRESENT: 23 Vincenzo Petulla - Videographer 24 25</p>
Page 3	Page 4
<p>1 - Peter Maguire - 2 THE VIDEOGRAPHER: This is the 3 videotaped deposition of Peter Maguire in the 4 matter of Windstream Holdings versus Charter 5 Communications in the United States 6 Bankruptcy Court, Southern District of New 7 York. Case number 19-22312(RDD). 8 This deposition is being held at 9 Katten Muchin Rosenman LLP, on September 10 12th, 2019. 11 My name is Vincenzo Petulla from U.S. 12 Legal Support and I am the video specialist. 13 The court reporter today is Hope 14 Menaker, also from U.S. Legal Support. 15 We're going on the record at 16 9:44 a.m. Would counsel please state their 17 appearances for the record, please. 18 MR. JUSTUS: Sure. Michael Justus of 19 Katten on behalf of Windstream Holdings and 20 its affiliated debtors and debtors in 21 possession. 22 MS. GREER: Jocelyn Greer, Morrison &amp; 23 Foerster, on behalf of the official committee 24 of unsecured creditors. 25 MR. KINGSTON: John Kingston on</p>	<p>1 - Peter Maguire - 2 behalf of the Defendants. 3 THE VIDEOGRAPHER: Will the court 4 reporter please swear in the witness. 5 PETER MAGUIRE, called as a witness, 6 having been duly sworn on September 12, 2019, 7 by a Notary Public, was examined and 8 testified as follows: 9 220 East 42nd Street 10 New York, New York 10017 11 (Business) 12 13 EXAMINATION BY MR. JUSTUS: 14 Q. Okay. Good morning. 15 A. Good morning. 16 Q. Can you please state your full name 17 for the record. 18 A. It is Peter Maguire. 19 Q. Can you spell the last name, please; 20 the surname? 21 A. Sure. It's M-A-G-U-I-R-E. 22 Q. Are you currently an employee of RAPP 23 Worldwide? 24 A. I am indeed. 25 Q. What is your job title at RAPP?</p>



Page 5	Page 6
Page 7	Page 8



Page 9	Page 10
<p>1 - Peter Maguire -</p> <p>2 business, just all as Charter. So I don't have to</p> <p>3 state all the entities all the time.</p> <p>4 A. Understood.</p> <p>5 Q. Actually, I should ask, is RAPP an</p> <p>6 outside advertising agency for Charter?</p> <p>7 A. Yes.</p> <p>8 Q. And what does that entail?</p> <p>9 A. So we have -- it entails many things.</p> <p>10 But we are primarily engaged in supporting direct</p> <p>11 marketing efforts for Charter Communications. By</p> <p>12 direct marketing efforts, I mean one-to-one</p> <p>13 targeted communications; be that e-mail, direct</p> <p>14 mail. It's not about brand advertising on TV.</p> <p>15 It's targeted one-to-one communications.</p> <p>16 Q. How long has RAPP served as an agency</p> <p>17 for Charter?</p> <p>18 A. Yeah. So our first project with</p> <p>19 Charter was in September 2016. It should be noted</p> <p>20 that previously we were working with Time Warner</p> <p>21 Cable which then became Charter Communications; it</p> <p>22 was purchased by Charter Communications. But our</p> <p>23 first project specifically with Charter was in</p> <p>24 September 2016.</p> <p>25 Q. Thank you.</p>	<p>1 - Peter Maguire -</p> <p>2 Okay. So the subpoena package,</p> <p>3 Exhibit 1, you understand that you were asked to</p> <p>4 provide some documents and then appear today for a</p> <p>5 deposition, right?</p> <p>6 A. Yes.</p> <p>7 Q. And earlier you provided me with a</p> <p>8 folder of documents and it's separated into three</p> <p>9 piles.</p> <p>10 A. Uh-huh.</p> <p>11 Q. Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And those three piles in that folder,</p> <p>14 those relate to three separate projects that RAPP</p> <p>15 has done for Charter?</p> <p>16 A. Specific to Windstream.</p> <p>17 Q. Specific to Windstream. Thank you.</p> <p>18 A. Yes.</p> <p>19 MR. JUSTUS: John, I'll give one of</p> <p>20 these. We made four copies.</p> <p>21 MR. KINGSTON: Thank you very much.</p> <p>22 MR. JUSTUS: Those were the documents</p> <p>23 provided pursuant to subpoena.</p> <p>24 Q. So if you could turn to Page 4 of</p> <p>25 Schedule A to the subpoena which is probably about</p>
Page 11	Page 12
<p>1 - Peter Maguire -</p> <p>2 the tenth page of the whole packet.</p> <p>3 So you've got it?</p> <p>4 A. Uh-huh.</p> <p>5 Q. At the bottom of Page 4, you see</p> <p>6 where it says, "Documents to be produced"?</p> <p>7 A. Yes.</p> <p>8 Q. And there's two categories, one at</p> <p>9 the bottom of Page 4 and another at the top of</p> <p>10 Page 5?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Did RAPP provide documents responsive</p> <p>13 to both of those documents requests?</p> <p>14 A. I believe we did, yes.</p> <p>15 Q. Then on Page 5 it says subject</p> <p>16 matters and it lists four topics.</p> <p>17 A. Uh-huh.</p> <p>18 Q. Those are the topics of testimony for</p> <p>19 the deposition here today.</p> <p>20 A. Uh-huh.</p> <p>21 Yes.</p> <p>22 Q. Sorry. Please say yes or no because</p> <p>23 she has to type the answer.</p> <p>24 A. Understood. Yes.</p> <p>25 Q. And you are the designee of RAPP to</p>	<p>1 - Peter Maguire -</p> <p>2 testify on all four of these topics today, right?</p> <p>3 A. I am, yes.</p> <p>4 Q. Okay. What did you do to prepare for</p> <p>5 the deposition?</p> <p>6 A. To prepare, I re-familiarized myself</p> <p>7 with the work that we had done pertinent to</p> <p>8 Windstream as it's been -- there has been a</p> <p>9 significant period of time passed and the pace of</p> <p>10 our work is incredibly fast and things turn very,</p> <p>11 very quickly.</p> <p>12 And so I've reminded myself through</p> <p>13 the collection of the documents on some of the</p> <p>14 specific details of the work that we did with --</p> <p>15 between Charter and Windstream.</p> <p>16 Q. And did that entail looking through</p> <p>17 the e-mails?</p> <p>18 A. It did, yes.</p> <p>19 Q. Anything other than e-mails?</p> <p>20 A. E-mails. We have some -- we use our</p> <p>21 project management tool called Base Camp which one</p> <p>22 of our clients only specifically uses. That's why</p> <p>23 when I provided documents for the three different</p> <p>24 projects, one of them you will notice has Base</p> <p>25 Camp and materials in there, that's a project</p>

Page 13	Page 14
<p>1 - Peter Maguire - 2 management tool. 3 So to answer your question, I also 4 looked through Base Camp and any printed documents 5 that we had pertinent to Windstream. 6 Q. So you have -- when you say "printed 7 documents," are there files of printed documents 8 for Charter as a client or per project? 9 A. So there are -- there are project 10 folders and -- which you will see some of the 11 copies of project materials with things like 12 scored outs on it with client direction, et cetera 13 -- you'll see that in the documents we've 14 provide -- with score outs, and those can be seen 15 in the examples that I provided. 16 Q. Are score outs handwritten notes 17 or -- 18 A. They can be either. So in some cases 19 they're handwritten notes. If we receive a 20 telephone call or an e-mail with direction, we 21 will sometimes score it out manually. Other times 22 we use PDF functionality to annotate specific 23 comments. 24 Q. Those would be comments or revisions 25 on draft creative?</p>	<p>1 - Peter Maguire - 2 A. Correct. 3 Q. Okay. Did you personally -- you said 4 you went back through e-mails, correct? 5 A. Yes. 6 Q. Did you also personally go through 7 Base Camp to collect documents? 8 A. So, Erin, who I mentioned, who works 9 on the team and was responsible for that specific 10 project collected all of the documents from Base 11 Camp that I reviewed. 12 Q. Okay. And how about the printed 13 documents, who reviewed and collected those? 14 A. I reviewed those. 15 Q. Okay. Other than the documents that 16 you brought with you and produced to us today, did 17 you review any other documents to prepare for the 18 deposition today? 19 A. No. Any documents that were provided 20 were the documents that I used to prepare. If 21 there's any other documents, I would have provided 22 if I had used them if -- if they were pertinent to 23 Windstream. 24 Q. Understood. 25 Did you speak with anyone to prepare</p>
Page 15	Page 16
<p>1 - Peter Maguire - 2 for the deposition? 3 A. Speak with anyone at all? 4 Q. Anyone at all to prepare for this 5 deposition. 6 A. I spoke to people on my team. We had 7 a discussion, again, to the previous point, to 8 refresh our memories of some of the specifics of 9 this case. I did not -- not specific to 10 preparing, but I did speak to a couple of very 11 day-to-day contacts at Charter to let them know in 12 the normal course of conversation that I would be 13 -- I had been subpoenaed and would be testifying 14 today. 15 Q. Okay. Who at Charter did you speak 16 to about that? 17 A. I spoke to Allison Novasel, who is 18 vice president of direct marketing and Jennifer 19 Smith who is senior director of direct marketing. 20 Q. What was the substance of those 21 discussions with Allison and Jennifer? 22 A. The substance was to make them aware 23 of this deposition and to let them know that I 24 would be appearing today, and that I was preparing 25 by refreshing my memory on some of the details of</p>	<p>1 - Peter Maguire - 2 the case. 3 I speak to both of those clients 4 very, very regularly, sometimes eight, nine, ten 5 times a day. So as I say, it was normal in the 6 course of conversation to mention that. 7 Q. Was that by e-mail, by phone? 8 A. It was actually in person. So the 9 client is based in Stamford, Connecticut. And so 10 again, I'm up there very regularly, so I had 11 chatted in person. 12 Q. Okay. Did you discuss the substance 13 of the testimony you plan to give today with 14 Allison or Jennifer? 15 A. I did not because I didn't know what 16 questions I was going to be asked, so I did not. 17 Q. That's quite fair. 18 Did you discuss with them documents 19 you plan to produce today? 20 A. No, because -- well, what I said was 21 we have been requested to provide any and all 22 documents relating to Windstream. Therefore, I 23 didn't discuss specific documents as it was all 24 documents. 25 Q. Did they ask you to not provide any</p>

1 - Peter Maguire -  
2 documents to us today?  
3 A. Absolutely not.  
4 Q. Did they ask you not to say anything  
5 specific at the deposition today?  
6 A. Absolutely not.  
7 Q. Great, thank you.  
8 Okay. So other than Allison and  
9 Jennifer at Charter and your own team that you  
10 mentioned previously, is there anyone else who you  
11 spoke to to prepare for the deposition today?  
12 A. There is nobody else that I spoke to  
13 to prepare for the deposition.  
14 Q. Okay. Thank you.  
15 So going back to Exhibit 1, this big  
16 package. If you go to what's around Page 20,  
17 which is also Page 9 at the bottom --  
18 A. Uh-huh.  
19 Q. -- of Windstream's Complaint in this  
20 legal proceeding.  
21 A. Yes.  
22 Q. You see on Page 9, you'll see it says  
23 Charter envelope at the top and it shows an  
24 envelope design.  
25 A. Yes.

1 - Peter Maguire -  
2 Q. Did RAPP design that envelope?  
3 A. RAPP did design that envelope on  
4 behalf of Charter.  
5 Q. Okay. Could you describe the role  
6 that RAPP played in designing the envelope?  
7 A. Absolutely. So we received a brief  
8 order request for Charter Communications to work  
9 on what is called incremental mail. And by  
10 incremental mail, I mean there are planned direct  
11 mail drops that happen very regularly, but also  
12 very regularly we receive a phone call or an  
13 e-mail to say there's an incremental need for  
14 something beyond business as usual.  
15 This was one of those cases where the  
16 client had requested -- had given us information  
17 and what we would call competitive information  
18 around Windstream and asked us to create a direct  
19 mail piece specifically to target Windstream  
20 customers and encourage them to switch to Spectrum  
21 Charter.  
22 Q. Do you remember when it was when  
23 Charter reached out to RAPP with that request that  
24 you're describing?  
25 A. I do not recall the specific date.

1 - Peter Maguire -  
2 Q. Okay. I think we have e-mails that  
3 you gave us. We'll bring those up later. That's  
4 fine.  
5 A. Sure.  
6 Q. If you turn forward a couple of pages  
7 to what is 13 and 14 of the Complaint, 13 and 14  
8 at the bottom. 13 at the top says, Charter  
9 advertisement; 14 at the top says Charter  
10 advertisement.  
11 You see those?  
12 A. I do.  
13 Q. Did RAPP design those advertisements  
14 or that one advertisements for Charter?  
15 A. RAPP did design the advertisement on  
16 behalf of Charter.  
17 Q. Is that one advertisement front and  
18 back?  
19 A. As indeed, and it's the advertisement  
20 that went inside the envelope that you showed me  
21 on the previous page.  
22 Q. Okay. Can you just talk generally  
23 about the process of working with Charter to  
24 design the envelope and this ad?  
25 A. In general terms?

1 - Peter Maguire -  
2 Q. Yes.  
3 What happened day-to-day as the two  
4 companies worked together to design and create  
5 these?  
6 A. Absolutely. So to reiterate a point  
7 that I made earlier, the pace of work is  
8 incredibly fast and in this specific case,  
9 specifically, when I said incremental mail,  
10 incremental equals shorthand for fast. So this  
11 project moved -- moved very quickly.  
12 And normal course of process is a  
13 mixture, there's two different ways generally that  
14 we would communicate about a project like this.  
15 We, one, would be we'd receive an e-mail with what  
16 we call a heads up and that will give us a line of  
17 sight that a project is coming and will probably  
18 need to happen quickly.  
19 And the second way, specifically for  
20 incremental mail, that we often brief discuss the  
21 requirements is by telephone.  
22 Q. Okay. And in this specific case,  
23 this envelope and this advertisement, there were  
24 communications by e-mail and by telephone?  
25 A. That is correct, both e-mail and

Page 21

1 - Peter Maguire -  
2 telephone.  
3 Q. And that was an ongoing creative  
4 process with many e-mails back and forth between  
5 chart and a RAPP and many telephone calls?  
6 A. Yes, it was a very fluid and agile  
7 process.  
8 Q. Okay. Do you remember the  
9 approximate length of the time period that all of  
10 that played out from when RAPP was first asked to  
11 work on this project until a final final creative  
12 was delivered?  
13 A. This would be approximate but my  
14 estimation would be somewhere in the two- to  
15 three-week region specific for this piece of  
16 communication.  
17 Q. Correct. Okay. Thank you.  
18 Were there any other final versions  
19 of this specific ad that RAPP created for chart?  
20 Is this the only final version of this ad that  
21 RAPP delivered to chart?  
22 A. The reason I'm hesitating is that  
23 there are at time requirements for two different  
24 what we call speed versions. It could -- it could  
25 be possible that there was a 100 mbps version of

Page 23

1 - Peter Maguire -  
2 letters I believe there may have been two. And  
3 most of the focus was on the outer envelope than  
4 the letter.  
5 Q. Okay. So the three different  
6 versions of the outer envelope --  
7 A. Yes.  
8 Q. -- do you recall what the differences  
9 were between the three versions?  
10 A. I do. I do. And that was specific  
11 design differences between the three versions;  
12 there is the one version which is the one you  
13 showed me that went into market, that had a  
14 purple-pink flap, what we call a flap on the back  
15 of the envelope. There was another option  
16 provided that had a solid green band on the back  
17 of the envelope. And there was a third option  
18 provided that did not have any color on the back  
19 of the envelope.  
20 Q. Okay. You said there were two  
21 different draft versions of the advertisement?  
22 A. As I recall.  
23 Q. As you recall.  
24 Do you recall what the differences  
25 are between the two versions?

Page 22

1 - Peter Maguire -  
2 this later. If that were the case, the only  
3 difference would be in the speed. So I'm --  
4 Q. The Internet speed?  
5 A. The Internet speed. That would have  
6 been the only difference if there was an  
7 additional version.  
8 Q. Fair enough.  
9 So throughout that fast-moving  
10 creative process that you described --  
11 A. Yes.  
12 Q. -- did RAPP provide clarity with a  
13 number of different draft versions to look at and  
14 then Charter eventually picked a final version?  
15 A. That is correct.  
16 Q. Okay. Do you recall how many  
17 versions of this particular advertisement RAPP  
18 proposed to Charter?  
19 A. I remember -- I recall that there was  
20 at least three -- three outer envelopes. So by  
21 outer envelope, again, I mean the envelope on the  
22 previous page.  
23 Q. Uh-huh.  
24 A. There were three different options  
25 for that for Charter to select from, and of the

Page 24

1 - Peter Maguire -  
2 A. The differences would have been both  
3 copy, so the actual words that set up about above  
4 the advertisement, and design layout.  
5 Q. Okay.  
6 A. From memory. I'm much clearer on the  
7 envelope but on the inside, that's from memory.  
8 Q. Okay. That is fair.  
9 MR. JUSTUS: Can we please mark this  
10 as Exhibit 2.  
11 (Whereupon, RAPP Exhibit 2 was marked  
12 at this time.)  
13 Q. You can go ahead and just take a look  
14 at that.  
15 A. Uh-huh.  
16 Q. So in Exhibit 2, do you see the two  
17 different versions of the draft advertisement?  
18 A. I do.  
19 Q. Okay. Could you tell me which page  
20 is the final version of the ad?  
21 A. So no page is the final version  
22 because these -- neither of these as are went into  
23 market. So no page is the final version.  
24 Q. Which page is the design that was  
25 eventually made into the final version as opposed

Page 25	Page 26
<p>1 - Peter Maguire - 2 to the copy and other things that you mention? 3 A. We used the first page as the version 4 that we were moving forward with to apply edits 5 to. 6 Q. Okay. 7 A. With the cross and archive wording 8 indicates that this option was not selected to 9 move forward with. 10 Q. Understood. 11 So everything crossed out was not 12 moved forward with? 13 A. Correct. 14 Q. Okay. So Page 1 is the draft of the 15 front of that advertisement -- 16 A. Yup. 17 Q. -- Page 2 the back draft? 18 A. That's correct. 19 Q. Page 3 is the envelope; 4 and 5 were 20 not used. 21 The last page, that's not crossed out 22 but it says archive. Is that -- 23 A. It should have been crossed out. 24 Archive indicates it's not moving forward. 25 Q. Understood, okay.</p>	<p>1 - Peter Maguire - 2 It's ultimately Charter's decision of 3 which draft they want to use, right? 4 A. Yes. 5 Q. When did Charter advise RAPP that it 6 had made a final decision of which version of the 7 ad and envelope it wanted to use? 8 Do you recall a date? 9 A. I do not recall a specific date. I 10 do know we were given specific direction because 11 we need to receive that direction to then upload 12 the files to the printer but I couldn't tell you 13 the specific date. But to your earlier point, 14 you'll have the document that shows that. 15 Q. Okay. So we can revisit that. 16 That's fine. 17 MR. JUSTUS: Can we please mark this 18 as Exhibit 3. 19 (Whereupon, RAPP Exhibit 3 was marked 20 at this time. 21 Q. So this is an e-mail from Arquimedes 22 Delacruz at RAPP -- 23 A. Uh-huh. 24 Q. -- From March 14th, right? 25 A. Yes.</p>
Page 27	Page 28
<p>1 - Peter Maguire - 2 Q. I don't remember you mentioning that 3 name. Is that someone on your team? 4 A. So, as I mentioned, there's an 5 extended team of designer and Arquimedes Delacruz 6 is a designer and no longer works at RAPP. He is 7 a designer -- was a designer. 8 Q. Okay. Is this e-mail -- sorry. 9 Strike that. 10 Who is CharterTeam@QG.com? 11 A. So that is what we call a 12 distribution list. So Charter@QDGraphic.com is -- 13 QD Graphics is called Graphic, QDAD graphic, who 14 are responsible for printing. 15 They're one of several vendors that 16 Charter uses to print things and 17 Charter@QDADgraphic.com is a distribution list 18 that goes to the whole team at QDAD. 19 Q. So what is Mr. Delacruz sending to 20 the CharterTeam@QG with this e-mail? 21 A. This e-mail is what we call a final 22 upload e-mail. So this is an e-mail that goes out 23 with final artwork and that would then be proofed 24 and printed by the printer. 25 So this e-mail indicates a hand-off</p>	<p>1 - Peter Maguire - 2 and the process between RAPP and the printer. 3 Q. So at this time Charter would have 4 already made a final decision of which version it 5 wants to use? 6 A. That is correct. 7 Q. Okay. 8 A. Now, I should clarify something on 9 that question. 10 Yes, they would have made a final 11 decision on the version they want to use, as 12 possible and it has happened before, that after 13 something goes to the printer, changes can be made 14 during that process. 15 Q. Did that happen in this case? 16 A. I don't know because we are not privy 17 to that information, if changes are made after the 18 release to the printer. That's the hand-off 19 between RAPP and the printer. 20 Q. So if at that point Charter wanted to 21 make changes, they'd have to reach out to the 22 printer directly and they would not involve RAPP? 23 A. It's unlikely. The only reason they 24 would involve RAPP is if there were significant 25 creative changes that required a redesign.</p>

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<p>1 - Peter Maguire -</p> <p>2 If it were small text changes, RAPP</p> <p>3 would not be involved at that stage.</p> <p>4 Q. Would they normally -- would Charter</p> <p>5 normally tell RAPP if there was a change to the</p> <p>6 copy within it?</p> <p>7 A. In normal conversations it would</p> <p>8 normally come up. As I said earlier, we speak</p> <p>9 several times day. So in the midst of everything</p> <p>10 happening, yes, it wouldn't be unusual for Allison</p> <p>11 or Jen to say we made a further change at the</p> <p>12 printer.</p> <p>13 Q. But in this case, Charter never told</p> <p>14 RAPP we made changes to the copy or made any</p> <p>15 changes to that?</p> <p>16 A. I do not recall that happening, no.</p> <p>17 Q. Okay. So we talked earlier about the</p> <p>18 fluid creative process back and forth between RAPP</p> <p>19 and Charter.</p> <p>20 Do you have any way of estimating the</p> <p>21 number of revisions -- rounds of revisions that</p> <p>22 went back and forth? Is it less than five or more</p> <p>23 than ten or is it many times a day throughout that</p> <p>24 two week period? Can you give me a sense of that?</p> <p>25 A. Specific to this Windstream</p>	<p>1 - Peter Maguire -</p> <p>2 communication?</p> <p>3 Q. Specific to this ad and envelope,</p> <p>4 yes.</p> <p>5 A. It was less than ten. I can say that</p> <p>6 with confidence. I don't know if I could say with</p> <p>7 confidence that it was less than five, 'cause</p> <p>8 there are varying degrees to which changes are</p> <p>9 required, sometimes it's what we called a</p> <p>10 quick-fire round; with a very small change, shoot</p> <p>11 it back over very quickly. Other rounds are more</p> <p>12 significant creative changes.</p> <p>13 Q. Okay. You said earlier that feedback</p> <p>14 can come by e-mail or by phone?</p> <p>15 A. Yes, correct.</p> <p>16 Q. Or in person, too?</p> <p>17 A. Yes. Absolutely, if we happen to be</p> <p>18 at Charter's offices on a day that we're scheduled</p> <p>19 to get feedback or a moment we're scheduled to get</p> <p>20 feedback, often it can be delivered in person.</p> <p>21 Q. Do you have regular meetings set up</p> <p>22 between RAPP and Charter, weekly meetings, et</p> <p>23 cetera?</p> <p>24 A. It's not a fixed cadence. I don't</p> <p>25 want the repeat myself, but it's very regular</p>
Page 31	Page 32
<p>1 - Peter Maguire -</p> <p>2 contact; but no -- for that reason, there is no</p> <p>3 fixed cadence as there is a need to chat several</p> <p>4 times a day. Therefore, there's no need for a</p> <p>5 every Tuesday at this time we chat.</p> <p>6 Q. Understood.</p> <p>7 So when Charter was proposing</p> <p>8 revisions to the drafts, would they contact you</p> <p>9 directly or would it be your team beneath you who</p> <p>10 Charter would contact?</p> <p>11 A. It could be both. So often, and in</p> <p>12 this specific case on the Windstream</p> <p>13 Communication, I was involved and -- in some of</p> <p>14 the communications, but you will see in the</p> <p>15 documents provided that there's a mix.</p> <p>16 So sometimes it was directly with</p> <p>17 Erin, who I mentioned on my team, other times it</p> <p>18 was directly with me.</p> <p>19 The normal course of a project would</p> <p>20 mean that I'm involved more at the start of the</p> <p>21 project, at the higher strategic discussions. As</p> <p>22 the project moves in life cycle to execution, Erin</p> <p>23 would be more involved.</p> <p>24 Q. Okay. And from the Charter side of</p> <p>25 things, were Allison and Jennifer that you</p>	<p>1 - Peter Maguire -</p> <p>2 mentioned earlier, are they normally involved in</p> <p>3 those conversations with respect to this ad and</p> <p>4 this envelope?</p> <p>5 A. Yes. Yes. So Jennifer primarily.</p> <p>6 Jennifer was the main point of contact and is</p> <p>7 generally the main point of contact on all</p> <p>8 creative efforts for RAPP.</p> <p>9 Q. Is there any chat program that allows</p> <p>10 Charter and RAPP to chat or instant message?</p> <p>11 A. There is not. So RAPP has one that</p> <p>12 it uses internally and Charter has one that it</p> <p>13 uses internally but they're not able to speak to</p> <p>14 each other.</p> <p>15 Q. Understood.</p> <p>16 Did Charter provide to RAPP any</p> <p>17 information or documents for RAPP to reference</p> <p>18 when it designed and created the envelope in this</p> <p>19 ad?</p> <p>20 A. Yes, and let me explain. There's two</p> <p>21 -- two parts to that. So there was one document,</p> <p>22 a PowerPoint document that we were provided and</p> <p>23 the -- it's in the documents that I gave you</p> <p>24 today. That was what's called competitive</p> <p>25 intelligence and that was specific to Windstream</p>



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1 - Peter Maguire -  
2 and some background information. That was  
3 provided to us by the small business team. So the  
4 business-to-business group, specific to one of the  
5 other asks that we've not discussed yet.  
6 So we were provided that four-page  
7 document. We were also provided some information  
8 on e-mail from Jennifer giving us information on  
9 the nature of the ask.  
10 Q. What do you mean by "the nature of  
11 the ask?" What types of information?  
12 A. Essentially what RAPP is being asked  
13 to do, what the key message for the communication  
14 was, and what the objective of the piece was.  
15 Q. Okay. What was the key message that  
16 you were asked to work on?  
17 A. So primarily we were looking to  
18 attract Windstream customers to switch to Spectrum  
19 services. And the new information, if you will,  
20 was around Windstream having filed for Chapter 11.  
21 Q. Okay. That was the key message or  
22 the objective?  
23 A. The objective -- I'm sorry, the  
24 objective was to attract new customers to switch  
25 to Windstream -- switch to Spectrum, and the key

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1 - Peter Maguire -  
2 message was around a Chapter 11. And  
3 specifically, around creating some uncertainty  
4 around that. Nobody was clear on what the outcome  
5 would be.  
6 But the ask was to use -- to leverage  
7 the message as a -- as a supporting point and  
8 encouraging people to switch to Charter.  
9 MR. JUSTUS: Can we please mark this  
10 as Exhibit 4.  
11 (Whereupon, RAPP Exhibit 4 was marked  
12 at this time.)  
13 MR. KINGSTON: Just for the record,  
14 when I look back at this transcript so I  
15 don't get lost, Exhibit 4 is a multipage  
16 document, the first page of which is an  
17 e-mail chain forwarding a Thursday, February  
18 28, 2019, e-mail to Peter Maguire on  
19 September 10 of 2019.  
20 And then the balance of Exhibit 4 is  
21 a multipage -- what appears to be a  
22 PowerPoint presentation.  
23 Counsel, I apologize for stepping on  
24 your examination.  
25 MR. JUSTUS: No problem.

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1 - Peter Maguire -  
2 Q. So you provided this document here  
3 today, right?  
4 A. Yes.  
5 Q. Is this the initial e-mail, this  
6 February 28 e-mail to you from Matt Bury at  
7 Charter, is that the initial ask to work on this  
8 project from Charter?  
9 A. It's the initial ask to work on it.  
10 So not the project we've been talking about, so  
11 not the outer envelope with the advertisement that  
12 you've already shown me. This was a different  
13 project. But, yes, this was the initial ask or  
14 e-mail with a supporting PowerPoint document.  
15 Q. The initial ask for the envelope and  
16 advertisement, did that happen before this or  
17 after this? "This" being February 28th e-mail.  
18 A. If memory serves me right, I believe  
19 that that was the first ask that we received. So  
20 the outer envelope and advertisement ask would  
21 have come after this.  
22 Q. So this was the first ask for any of  
23 the three projects relating to Windstream  
24 bankruptcy; is that right?  
25 A. If I recall correctly, yes.

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1 - Peter Maguire -  
2 Q. Okay. And the attachment, you said  
3 that's a PowerPoint presentation?  
4 A. It was.  
5 Q. Okay. So why was Charter sending the  
6 PowerPoint to RAPP?  
7 A. As background information to inform  
8 the creative execution.  
9 Q. And the next to the last page of the  
10 PowerPoint, do you see at the top it says; "Now is  
11 the time to move on from Windstream"?  
12 A. I do.  
13 Q. These are -- this was drafted by  
14 Charter?  
15 A. It was, yes.  
16 Q. And this meant to be suggestions for  
17 RAPP on how to design this campaign, the creative  
18 for this campaign?  
19 A. Yes. As stated in the e-mail from  
20 Matthew.  
21 Q. So once RAPP received these  
22 suggestions, what did it do next?  
23 A. So, the next step after receiving  
24 this initial e-mail, we went -- we were provided  
25 the flow chain but we went back to Matthew with

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1 - Peter Maguire -  
2 some questions on the brief that was received.  
3 We went back and forth and aligned on  
4 a SOW, by that I mean -- aligned on scope of work;  
5 by scope of work I mean agreed dollar amount to  
6 carry out this work. And RAPP then briefed their  
7 creative team. And based on the information  
8 received to come up with -- create a creative  
9 execution.  
10 Q. For the statement of work is there  
11 any written agreement?  
12 A. In the document provided there was --  
13 the dollar amount was very low. It was somewhere  
14 in the region of 7- to \$8,000, but -- and it's in  
15 the documentation provided.  
16 To clarify, that is specific to this  
17 ask; the outer envelope and flier was different.  
18 Q. Understood.  
19 You said RAPP briefed its creative  
20 team --  
21 A. I did.  
22 Q. -- is that right?  
23 Would that brief happen in person, by  
24 e-mail, by phone?  
25 A. That briefing would happen in person

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1 - Peter Maguire -  
2 Windstream's business customers?  
3 A. Exactly, specifically small business  
4 customers.  
5 Q. Small business customers, okay.  
6 In the creative briefing was there  
7 brainstorming of what copy to use and what the  
8 messaging should be?  
9 A. We -- the business leadership team  
10 that I'm in do not take part in brainstorming.  
11 Our role is to brief the creative team with the  
12 information available and the creative teams will  
13 then brainstorm.  
14 In the case of Charter, we tend to  
15 follow direction pretty closely in terms of what  
16 we provide back.  
17 Q. So when you were creating the sales  
18 flier that this PowerPoint related to, did you  
19 follow the direction pretty closely that's  
20 provided here on the next to the last page?  
21 A. We certainly used the direction as  
22 stimulus. Some of the wording was suggested to be  
23 different but heavily influenced the work that we  
24 created, yes.  
25 Q. Okay. How was the wording that you

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1 - Peter Maguire -  
2 in RAPP offices.  
3 Q. Were you at that briefing?  
4 A. I was.  
5 Q. What was discussed at that briefing?  
6 A. At that briefing we discussed the  
7 specific ask from the client, the details of the  
8 e-mail, and we shared with the creative team the  
9 background PowerPoint document and specific  
10 specification requirements for the piece that was  
11 being created.  
12 By specification requirements I mean  
13 the channel that we were executing in was a sales  
14 flier on the B-to-B side -- business-to-business.  
15 We provide to the creative team details on  
16 dimensions, sizing, et cetera.  
17 Q. When you say -- you said sales flier;  
18 is that right?  
19 A. Sales flier, yes.  
20 Q. Is that intended for person-to-person  
21 handouts, physically handing it to someone as  
22 opposed to mailing it in the mail?  
23 A. That is correct.  
24 Q. Okay. And you said it's for business  
25 customers; Charter's business customers or

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1 - Peter Maguire -  
2 created different than what was suggested here in  
3 this PowerPoint?  
4 A. I don't know the specific details but  
5 what I mean by that is often we will suggest  
6 grammar changes or positioning changes or  
7 hierarchy changes as part of the normal and  
8 standard creative process.  
9 Q. Did RAPP include in any draft  
10 creative for this project the words, "Now is the  
11 time to move on from Windstream"?  
12 A. I would have to look back at the  
13 specifics. I would have to look.  
14 Q. Do you know if you provided that in  
15 the set of documents?  
16 A. We provided multiple drafts of that  
17 sales flier --  
18 Q. Okay.  
19 A. -- so -- so you'll be --  
20 Q. So we can look at those?  
21 A. Yes. There's a lot of headlines go  
22 back and forth so --  
23 Q. Did RAPP's team spend any time  
24 discussing what Chapter 11 bankruptcy entails?  
25 A. We had a high-level discussion about



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<p>1 - Peter Maguire -</p> <p>2 what it entails. But to be clear, the nature of</p> <p>3 the relationship with Charter is that we follow</p> <p>4 direction pretty closely.</p> <p>5 Q. What directions was RAPP given with</p> <p>6 respect to messaging around the Chapter 11</p> <p>7 bankruptcy?</p> <p>8 A. In this specific case the direction</p> <p>9 is included in the PowerPoint.</p> <p>10 Q. Nothing other than what's here on the</p> <p>11 next to the last page of the PowerPoint?</p> <p>12 A. There were additional phone calls</p> <p>13 that were -- we discussed positioning and</p> <p>14 messaging. I don't recall the specific detail of</p> <p>15 all the phone calls, but I do know there were</p> <p>16 follow-up phones calls to discuss messaging.</p> <p>17 Q. In those follow-up phone calls or</p> <p>18 discussions with Charter, did Charter specifically</p> <p>19 say to use the word "uncertainty" in the</p> <p>20 advertisement?</p> <p>21 A. I don't recall if that was a specific</p> <p>22 request.</p> <p>23 Q. Do you know if any of the documents</p> <p>24 you gave us today refer to messaging or copy that</p> <p>25 includes the word uncertainty?</p>	<p>1 - Peter Maguire -</p> <p>2 A. I believe -- I believe an e-mail</p> <p>3 there was a mention of creating uncertainty, yes.</p> <p>4 Q. What did RAPP understand that to</p> <p>5 mean; creating uncertainty around the bankruptcy?</p> <p>6 A. I believe we were trying to get the</p> <p>7 attention of Windstream customers, inform them</p> <p>8 that Chapter 11 proceedings were underway, and</p> <p>9 encourage them to switch to Spectrum.</p> <p>10 Q. Why would there be uncertainty from</p> <p>11 the bankruptcy?</p> <p>12 A. The -- I'm not a lawyer so I don't</p> <p>13 want to answer that specifically. As I said, the</p> <p>14 specific ask around sort of creating an</p> <p>15 uncertainty and it was clear and that's what we</p> <p>16 executed against.</p> <p>17 Q. How did you execute on that directive</p> <p>18 from Charter?</p> <p>19 A. I think you can see in the final</p> <p>20 creative how that was executed which has been</p> <p>21 provided.</p> <p>22 Q. So RAPP felt that when it provided</p> <p>23 the creative to Charter, it had met that objective</p> <p>24 of creating uncertainty with the design of the</p> <p>25 advertisement and the envelope?</p>
Page 43	Page 44
<p>1 - Peter Maguire -</p> <p>2 A. The specific objective was not to</p> <p>3 create uncertainty; that was a mood -- M-O-O-D</p> <p>4 that we were trying to create around it. It</p> <p>5 wasn't a specific objective. I outlined the</p> <p>6 objective earlier for the piece.</p> <p>7 Q. What do you mean by mood? Is that a</p> <p>8 term of art that's in the advertising agency</p> <p>9 world?</p> <p>10 A. I don't know if it's a term of art.</p> <p>11 Art is in the eye of the beholder.</p> <p>12 I -- by create a mood, it's to</p> <p>13 communicate something in an implied fashion.</p> <p>14 Q. A mood would not be an objective?</p> <p>15 A. A mood is different from an</p> <p>16 objective, in my opinion.</p> <p>17 Q. So what -- the mood was to create</p> <p>18 uncertainty. What was the objective of this</p> <p>19 piece?</p> <p>20 A. To get Windstream customers to switch</p> <p>21 to Spectrum.</p> <p>22 Q. Understood.</p> <p>23 Does Charter ever use the word mood</p> <p>24 or is that just how you're referring to it?</p> <p>25 A. We use it at RAPP. It may be --</p>	<p>1 - Peter Maguire -</p> <p>2 you're calling to my attention to the fact that it</p> <p>3 may be a word in advertising. Apologies, if so.</p> <p>4 I don't recall if I specifically have</p> <p>5 used the word mood with Charter. I have certainly</p> <p>6 used the word mood internally at RAPP.</p> <p>7 Q. Okay. Did you receive -- did RAPP</p> <p>8 receive a PowerPoint similar to this one for the</p> <p>9 other project relating to the advertisement and</p> <p>10 the envelope?</p> <p>11 A. We did not.</p> <p>12 Q. So just take a step back. One</p> <p>13 project is the sales flier --</p> <p>14 A. Correct.</p> <p>15 Q. -- here. A second project is the</p> <p>16 envelope and advertisement that we talked about</p> <p>17 earlier?</p> <p>18 A. Correct.</p> <p>19 Q. What is the third project?</p> <p>20 A. The third project was also on the</p> <p>21 business-to-business, B-to-B side and it was to</p> <p>22 create an e-mail, and specifically with this</p> <p>23 messaging. That was the project that I was</p> <p>24 referring to that was managed via Base Camp, the</p> <p>25 project management tool, and those documents have</p>

1 - Peter Maguire -  
2 been provided.  
3 Q. Okay. So the envelope and  
4 advertisement was for residential?  
5 A. That is correct.  
6 Q. The other two are for business?  
7 A. That is correct. Small business.  
8 Q. Both -- small business?  
9 A. Correct.  
10 Q. Okay. Did Charter provide to RAPP  
11 any templates to use in creating any of those  
12 three projects?  
13 A. Templates meaning -- can you be more  
14 specific?  
15 Q. Sure.  
16 Did Charter provide RAPP with any  
17 information or documents relating to a Charter  
18 campaign involving Google and ask you to use that  
19 to inform your work --  
20 A. Yes --  
21 Q. -- involving --  
22 A. -- that is created specific to the  
23 residential ask.  
24 Q. The envelope --  
25 A. The envelope and the letter, yes.

1 - Peter Maguire -  
2 Q. Understood.  
3 So what did that involve? What did  
4 they give you -- what did Charter give to RAPP  
5 involving the Google campaign?  
6 A. So that was a campaign that RAPP had  
7 worked on previously for Google Fiber. We were  
8 asked to -- as you can see in the e-mail chain, we  
9 were asked to use that campaign as a starting  
10 point for the work we were to create for the  
11 Windstream incremental mail.  
12 Q. What was the general theme of that  
13 Google campaign?  
14 A. The Google campaign was a highly  
15 competitive campaign to encourage Google Fiber  
16 customers to switch from Google Fiber to Spectrum.  
17 Q. Did that campaign specifically  
18 reference to Google stopping services to its  
19 customers?  
20 A. It did.  
21 Q. Okay. So what aspect from the Google  
22 company did RAPP use in the Windstream campaign?  
23 A. As I said, it was used as a creative  
24 starting point in terms of the competitive  
25 approach both on the outer envelope and on the

1 - Peter Maguire -  
2 inside of the piece, but the core messages,  
3 reasons to believe, were different so that had to  
4 be updated. And in the case of Google, there was  
5 no mention of Chapter 11 as that wasn't relevant.  
6 Q. Okay. So let's talk about the  
7 envelope first. So RAPP designed an envelope for  
8 Charter for use in that Google campaign?  
9 A. It did.  
10 Q. And what elements of that envelope  
11 for the Google campaign were used or influenced  
12 the Windstream campaign envelope?  
13 A. If I recall correctly, the copy  
14 construct, the copy -- the words on the envelope  
15 was the same in terms of important information  
16 for, if I recall correctly.  
17 Q. And you're referring to in the case  
18 of the Windstream envelope it says, "Important  
19 information enclosed for Windstream customers"?  
20 A. Exactly, yes.  
21 Q. How about the design of the envelope,  
22 specifically to the colors; were there colors on  
23 the Google envelope?  
24 A. I don't recall. I do believe the  
25 Google envelope didn't use color but that was due

1 - Peter Maguire -  
2 to what we call printer color restrictions. So  
3 the job had been specified with the printer to  
4 only use one color, meaning use of color was  
5 impossible in the case of the Google mail.  
6 Q. Okay. In the case of the  
7 advertisement created for the Google campaign --  
8 A. Yes.  
9 Q. -- what elements were taken from or  
10 were an influence in the Windstream advertisement?  
11 A. The design construct was very  
12 similar. And by design construct, I mean the  
13 position of where everything is on the page.  
14 So primary headline, body copy, offer  
15 at the bottom, and a similar construct on the back  
16 of the letter.  
17 Q. The wording, "Goodbye Windstream,  
18 hello Spectrum" in the Google campaign, did it  
19 say, Goodbye Google, hello Spectrum, or something  
20 similar to that?  
21 A. If I'm honest, I don't recall  
22 specifically.  
23 Q. Okay. Did Charter provide RAPP with  
24 any samples of Windstream advertising to reference  
25 when RAPP was creating any of these three creative

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1 - Peter Maguire -  
2 projects relating to Windstream for Charter?  
3 A. I do not recall us being provided  
4 with specific examples, but I do recall during a  
5 telephone conversation with Jennifer that we  
6 together looked on the Windstream website, which  
7 would be normal practice in a competitive campaign  
8 to look at the competitor's website, so I do  
9 recall doing that.  
10 Q. What specifically were you looking at  
11 on the Windstream website?  
12 A. We were looking at the messaging that  
13 they led with and the general look and feel and  
14 tone of the website.  
15 Q. What do you mean by "look and feel"  
16 of the website?  
17 A. How it looks.  
18 Q. Does that include colors?  
19 A. It does.  
20 Q. Okay.  
21 MR. JUSTUS: I think we're at Exhibit  
22 5. Could you please mark this as Exhibit 5,  
23 please.  
24 (Whereupon, RAPP Exhibit 5 was marked  
25 at this time.)

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1 - Peter Maguire -  
2 Q. Feel free to flip through those  
3 e-mails, please. I'll ask you some questions  
4 about them.  
5 A. Sure.  
6 Q. Just let me know when you're done,  
7 take your time.  
8 A. Sure.  
9 Q. Okay?  
10 A. Yes.  
11 Q. Starting all the way at the back, the  
12 first e-mail dated February 28, from Jennifer  
13 Smith to yourself and Erin Mullane -- is it  
14 Mullane or Mullany?  
15 A. Mullane.  
16 Q. Some others are copied as well?  
17 A. Uh-huh.  
18 Q. Under the section of that e-mail that  
19 says message.  
20 A. Uh-hum.  
21 Q. It says, "Tone to be consistent with  
22 Google but we cannot say things like abandoned or  
23 going away."  
24 A. Yes.  
25 Q. What did that mean?

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1 - Peter Maguire -  
2 A. That was referring to the fact that  
3 in the case of the Google mail, we were talking  
4 about Google coming out of a market, a late thing  
5 to come out of a market which was a different  
6 circumstance than Windstream. Therefore, we  
7 couldn't say the same thing as it was different  
8 circumstances, different messaging.  
9 Q. How were the circumstances and  
10 messaging different with Windstream?  
11 A. So, the -- I mean, it's outlined  
12 here. The messaging for Windstream was focused on  
13 getting Windstream customers to switch to  
14 Spectrum, and mentioning that they've declared  
15 bankruptcy, so now may be the time to switch to  
16 Spectrum which is not the same message as Google.  
17 Q. Okay. So why would, as you said, now  
18 be the time to switch because of the Chapter 11  
19 bankruptcy? What's the message there?  
20 A. So I think that comes back to the  
21 point I was making earlier around the mood of  
22 uncertainty.  
23 Q. Okay. If you flip forward one page.  
24 It says Charter 938 at the bottom corner.  
25 A. Yup.

Page 52

1 - Peter Maguire -  
2 Q. I'm looking at the Monday, March 4th  
3 e-mail at 12:26 p.m.  
4 Do you see that?  
5 A. I do.  
6 Q. Okay. Apologies. The e-mail below  
7 that, March -- there's just a small header there,  
8 March 4th at 12:15.  
9 A. Yes.  
10 Q. That's an e-mail it says that you  
11 wrote; is that right?  
12 A. That's correct.  
13 Q. Okay. And you said in that e-mail,  
14 "We'll base the creative very closely on Google in  
15 terms of layout/tone but change the messaging as  
16 needed (per your direction below)."  
17 A. Yes.  
18 Q. So the, basing the creative very  
19 closely on Google in terms of layout and tone, is  
20 that what we already discussed in terms of the  
21 copy on the envelope and then the lay out of the  
22 advertisement?  
23 A. That's exactly what we discussed,  
24 yes.  
25 Q. Is there anything that we haven't

1 - Peter Maguire -  
2 discussed that would involve making the creative  
3 very closely based on Google?  
4 A. I don't believe so, no.  
5 Q. Okay. If you flip to Charter 937 at  
6 the bottom corner.  
7 A. Uh-huh.  
8 Q. That looks like a March 4th e-mail  
9 from Erin Mullane?  
10 A. Uh-huh.  
11 Q. And I believe that e-mail is Erin to  
12 Jennifer Smith at Charter and others.  
13 So is that her sending a draft of the  
14 creative to Charter?  
15 A. Yes. It says, "Please see attached."  
16 So, yes, that would be sending a draft of the  
17 creative.  
18 Q. Was that the first time that --  
19 A. This indicates it was round one  
20 creative, so the first draft.  
21 Q. Okay.  
22 A. The subject line says, "R1 creative"  
23 which would mean first draft.  
24 Q. Interesting, okay.  
25 In the first bullet of that e-mail,

1 - Peter Maguire -  
2 "We've leveraged the template creative look and  
3 feel from the Google Fiber incremental mailing  
4 that released last week."  
5 So the Google campaign had just  
6 released recently, a week before this it sounds  
7 like?  
8 A. Yes.  
9 Q. Okay. In the second bullet says,  
10 "Messaging has been aligned per your notes below  
11 about Windstream filing for Chapter 11."  
12 A. Yes.  
13 Q. So what did that mean? Was that the  
14 mood of uncertainty that you've been talking  
15 about?  
16 A. That is referring to the notes that  
17 Jen provided here, that Jennifer provided on the  
18 Thursday, February 28 e-mail. It's referring to  
19 aligning to the direction received in that e-mail.  
20 Q. How did RAPP ensure to align the  
21 messaging in the drafts to what Jennifer had  
22 proposed on that February 28 e-mail?  
23 A. So creative is apparently very  
24 subjective matter. So the point of the rounds of  
25 reviewing the drafts is for RAPP to give their

1 - Peter Maguire -  
2 point of view owned how we've aligned to the  
3 direction and the client will then in due course  
4 provide feedback and tell us if we have or haven't  
5 successfully aligned.  
6 Q. So at the point on March 4th when  
7 this round one creative is going out, Charter has  
8 not yet seen or made any proposed revisions?  
9 A. That is correct.  
10 Q. So the fifth bullet point just says  
11 OE.  
12 A. Uh-huh.  
13 Q. That's outer envelope?  
14 A. That's correct.  
15 Q. The bullet below that says, "Look and  
16 feel of the OE has been aligned with the  
17 Windstream website and current mail in market for  
18 Compr Media."  
19 A. Yes.  
20 Q. What is Compr Media?  
21 A. Compr Media is a competitive  
22 tracking tool that allows anybody that has a  
23 subscription to go on and search for specific  
24 channels; be it e-mail, direct mail, display  
25 advertising, et cetera.

1 - Peter Maguire -  
2 Q. Okay. What does it mean that the  
3 look and feel of the outer envelope has been  
4 aligned with the Windstream website and current  
5 mail?  
6 A. It means that the look and feel of  
7 the OE, the colors used on the OE, were not the  
8 same but similar to Windstream.  
9 Q. Did RAPP's internal design team  
10 create that color band that was put on the draft  
11 envelope?  
12 A. That's correct.  
13 Q. And they did that basically by  
14 looking at Windstream materials and trying to  
15 match the colors?  
16 A. So, the ask to the team was to take  
17 inspiration from the -- from the Windstream  
18 colors, with the objective being we were trying to  
19 grab attention of current Windstream customers.  
20 So it wasn't exactly the same because  
21 it couldn't be because we don't know the color  
22 pallet and the technical build of the Windstream  
23 colors, but the team took inspiration from the  
24 Windstream colors.  
25 Q. The team tried to make it as close as

1 - Peter Maguire -  
2 they could without knowing the exact Pantones?  
3 A. They took inspiration. I don't know  
4 if we can say they tried to make it as close as  
5 possible. They certainly took inspiration from  
6 the Windstream website.  
7 Q. The team wasn't directed to make it  
8 as close as possible?  
9 A. No, but the team -- in fairness, the  
10 team were given the Windstream website and said,  
11 please use this as inspiration for how we could  
12 incorporate some color onto the OE to make it pop  
13 and attract attention from Windstream customers.  
14 Q. So if you go down two more bullets,  
15 it says, "We have tried to align the fonts as  
16 close as possible to the font on the website and  
17 the DM."  
18 A. Uh-huh.  
19 Q. So that is aligning the font on the  
20 outer envelope as closely as possible to the font  
21 Windstream uses?  
22 A. That is correct.  
23 Q. Why did they do that? Why did the  
24 designers align the font as closely as possible to  
25 Windstream font?

1 - Peter Maguire -  
2 A. The objective, from discussions with  
3 Charter, was to grab attention from current  
4 Windstream customers and make the outer envelope  
5 pop as much as possible.  
6 Therefore, one way to do that is to  
7 attract attention using a pallet and a feel that  
8 Windstream customers may be accustomed to.  
9 Q. I think you said that one of the  
10 other drafts of the outer envelope had a green  
11 band on it?  
12 A. It did.  
13 Q. Was that also a way to try to make it  
14 pop, as you say?  
15 A. Exactly, yup; to grab attention.  
16 There was a third option that had no  
17 color, I think, of the image.  
18 Q. That doesn't sound like it would pop  
19 at all.  
20 A. It doesn't; but one of the premises  
21 of our relationship with Charter was to provide  
22 ranges and options at all times for consideration.  
23 It's easier to compare that way.  
24 Q. Obviously Charter eventually selected  
25 the option that had that color gradient band on

1 - Peter Maguire -  
2 it?  
3 A. They did.  
4 Q. Did Charter specify to RAPP why they  
5 chose that option?  
6 A. To overuse the word, they said it  
7 felt it popped the most and was the most attention  
8 grabbing.  
9 Q. Did they specify why they thought it  
10 would be attention grabbing --  
11 A. They did not specify. I do not  
12 recall them specifying why they thought it would  
13 be particularly attention grabbing.  
14 Q. If you go down a handful more  
15 bullets, you'll see OE option 1 and OE option 2?  
16 A. Yes.  
17 Q. Under OE option 1 it says, "Important  
18 information if you are a Windstream customer."  
19 A. Yes.  
20 Q. Under OE option 2 it says, "Important  
21 information enclosed for Windstream customers."  
22 A. Yes.  
23 Q. Did that wording come as a directive  
24 from Charter or did RAPP come up with that wording  
25 on its own?

1 - Peter Maguire -  
2 A. So if you remember the direction was  
3 to closely align with the work that we had done on  
4 Google Fiber. This was a very similar approach to  
5 the work done on Google Fiber; therefore, we were  
6 following that direction.  
7 Q. On the Google Fiber campaign, did  
8 RAPP propose the wording at that time or was that  
9 wording proposed to RAPP by Charter?  
10 A. I do not recall specifically on the  
11 Google Fiber copy.  
12 Q. If you go down another five or so  
13 bullets, it says, "CTA: Goodbye Windstream, hello  
14 Spectrum."  
15 Is CTA, call to action?  
16 A. That's correct.  
17 Q. So again, did RAPP come up with that  
18 wording or was that wording suggested by Charter?  
19 A. I don't recall specifically. As I  
20 said, there were telephone conversations; one in  
21 which I remember looking at the website. We did  
22 discuss copy in that call. I can't remember if  
23 that was a specific directive or if that was a  
24 RAPP suggestion. It could have been either.  
25 Q. But it would have come on a phone

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<p>1 - Peter Maguire -</p> <p>2 call, you think?</p> <p>3 A. If it was direction from Charter, I</p> <p>4 believe that would have come in a phone call, yes.</p> <p>5 Q. Do you normally take phone notes when</p> <p>6 you're having these phone calls with Charter?</p> <p>7 A. You may call them notes, you may call</p> <p>8 them scribbles, but yes.</p> <p>9 Q. Okay. How about the others on your</p> <p>10 team, as far as you know, do they typically take</p> <p>11 notes down when they're talking to Charter about</p> <p>12 revisions to creative?</p> <p>13 A. There is a convention that says that</p> <p>14 the more junior person on the call would take</p> <p>15 notes; therefore, if I was on the phone on my own</p> <p>16 with Charter, I would take notes. If I was on the</p> <p>17 phone with Erin, Erin would take notes.</p> <p>18 Q. Okay. And then the documents you</p> <p>19 gave to us today, are any of those phone notes in</p> <p>20 there?</p> <p>21 A. Phone notes are not something that we</p> <p>22 would retain in the medium term. They're used,</p> <p>23 they remain, as I stated, more of a scribble for</p> <p>24 what needs to be done right now and then move on.</p> <p>25 So I don't retain telephone notes of that nature.</p>	<p>1 - Peter Maguire -</p> <p>2 Q. You don't but does anyone on your</p> <p>3 team, the more junior person who takes the notes,</p> <p>4 et cetera?</p> <p>5 A. Maybe if it was a practice I had</p> <p>6 instilled, she would; but to my knowledge, no, she</p> <p>7 doesn't.</p> <p>8 Q. You didn't specifically look for</p> <p>9 phone notes when you were collecting documents to</p> <p>10 produce to us?</p> <p>11 A. No.</p> <p>12 Q. Okay. Is it possible that there are</p> <p>13 some phone notes that still exist from those</p> <p>14 calls?</p> <p>15 A. I don't believe it's possible because</p> <p>16 they happen -- it's a note pad that comes and goes</p> <p>17 very quickly.</p> <p>18 Q. They don't go in a file, a chrono</p> <p>19 file or anything like that?</p> <p>20 A. They don't.</p> <p>21 Q. Do you recall if in the Google</p> <p>22 campaign the outer envelope had Charter or</p> <p>23 Spectrum's name on it, the outer envelope?</p> <p>24 A. I don't believe it did.</p> <p>25 Q. Okay.</p>
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<p>1 - Peter Maguire -</p> <p>2 A. It did have -- as the Windstream one</p> <p>3 did, it did have Charter's return address in the</p> <p>4 top left corner.</p> <p>5 Q. Okay. So that's St. Louis, Missouri</p> <p>6 address --</p> <p>7 A. Yes.</p> <p>8 Q. -- that's Charter?</p> <p>9 A. Yes.</p> <p>10 Q. I thought they were in Stamford?</p> <p>11 A. The return address is a legal thing</p> <p>12 I'm not privy to, but we're given the specific</p> <p>13 return address to use.</p> <p>14 Q. Given to you by Charter.</p> <p>15 A. Yes.</p> <p>16 Q. You don't know if it's a Charter</p> <p>17 building at that address?</p> <p>18 A. Yes. We're told that that's the</p> <p>19 Charter return address to use.</p> <p>20 Q. Okay.</p> <p>21 MR. JUSTUS: Everything okay, John?</p> <p>22 MR. KINGSTON: It is. I didn't want</p> <p>23 to be insidious.</p> <p>24 MR. JUSTUS: Okay. Thanks,</p> <p>25 appreciate that.</p>	<p>1 - Peter Maguire -</p> <p>2 MR. KINGSTON: No problem.</p> <p>3 Q. Did RAPP have any discussions with</p> <p>4 Charter about whether or not to include the</p> <p>5 Charter or Spectrum name on the outer envelope?</p> <p>6 A. So, in this specific case the</p> <p>7 direction was to follow what we did on Google</p> <p>8 Fiber, and Google Fiber we didn't do it;</p> <p>9 therefore, I don't believe it was a discussion</p> <p>10 because we were following the model from Google</p> <p>11 Fiber.</p> <p>12 However, that is an approach that we</p> <p>13 have used several times across multiple clients is</p> <p>14 called blind OEs, B-L-I-N-D, outer envelopes.</p> <p>15 And what that means is that there's</p> <p>16 no local, it's used across industry and across</p> <p>17 verticals.</p> <p>18 Q. And blind OEs always have a different</p> <p>19 company's name on the outer envelope, in this case</p> <p>20 Windstream?</p> <p>21 A. No, that's not the case, no.</p> <p>22 Q. When we talked earlier about aligning</p> <p>23 the font as closely as possible to Windstream's</p> <p>24 font, does that include the font used on the outer</p> <p>25 envelope?</p>



1 - Peter Maguire -  
2 A. Yes, it did. It was specifically  
3 talking about the font on the outer envelope.  
4 Q. Okay. So that font was not also used  
5 on the advertisement inside?  
6 A. It was not.  
7 Q. All right, understood.  
8 Did Charter ever request or direct  
9 RAPP to make the outer envelope look like it was  
10 being sent by Windstream?  
11 A. Those specific words were not used  
12 that I recall, no.  
13 Q. Any similar words to the same effect?  
14 A. No. The conversation that we had  
15 that I recall was that in making outer envelope  
16 pop and attractive to Windstream customers making  
17 it stand out in the mail. The biggest barrier in  
18 direct mail is getting people to open it.  
19 The discussions we had were around  
20 how can we make that outer envelope upon and stand  
21 out for Windstream -- to attract Windstream  
22 customers.  
23 Q. Why would this color scheme on the  
24 outer envelope attract the attention of Windstream  
25 customers?

1 - Peter Maguire -  
2 A. It may or may not attract the  
3 attention of Windstream customers by being  
4 inspired by Windstream's colors.  
5 Q. So you're saying Windstream customers  
6 would see similar colors to Windstream colors?  
7 A. There may be a visual association  
8 between the two, yes.  
9 Q. Was that the goal of the goal to  
10 create a visual association between the two?  
11 A. The goal was not to do that  
12 specifically. The goal was to attract attention  
13 of Windstream customers and make this pop in the  
14 mail, so that they were more likely to open it.  
15 Q. But the main reason it would attract  
16 Windstream customers because they're familiar with  
17 those colors because Windstream uses those colors,  
18 right?  
19 A. It may or may not be that reason.  
20 The main objective was to grab the attention. The  
21 metric of success around this piece relied on  
22 getting Windstream customers' attention.  
23 Q. How did you measure that metric?  
24 A. Call volume.  
25 Q. Call volume to whom?

1 - Peter Maguire -  
2 A. Charter.  
3 So RAPP is not in any way responsible  
4 for measurement but the success of pieces is  
5 deemed on how many calls are received.  
6 Q. So, people who receive this mail  
7 piece would call Charter?  
8 A. There's a telephone number on the  
9 advertisement.  
10 Q. Okay. And Charter tracks the number  
11 of calls they get and they ask did you call in  
12 relation to the specific piece; that's how they  
13 measure that?  
14 A. I -- we are not responsible for  
15 tracking. So it would be --  
16 Q. Do you have an understanding of how  
17 they track --  
18 A. I have a limited understanding. And  
19 I know they're able to track calls to -- to direct  
20 mail pieces, yes.  
21 Q. Then they share those metrics with  
22 you?  
23 A. On an ad hoc basis not on a formal  
24 basis.  
25 THE VIDEOGRAPHER: Sorry to

1 - Peter Maguire -  
2 interrupt. You have two minutes.  
3 MR. JUSTUS: Do you want to just  
4 change now. That would be good, thanks.  
5 THE VIDEOGRAPHER: We're off the  
6 record at 10:55 a.m.  
7 (Whereupon, there was a brief recess  
8 in the proceedings.)  
9 THE VIDEOGRAPHER: This is Tape 2.  
10 We are now on the record at 11:02 a.m.  
11 BY MR. JUSTUS:  
12 Q. Okay. Back on the record.  
13 So, again, with the outer envelope  
14 that we have been talking about, so this is what  
15 you'd refer to as a blind OE which is when the  
16 company sending it doesn't have their name or logo  
17 on the outer envelope, right?  
18 A. Yes.  
19 Q. And it used fonts as closely as  
20 possible the Windstream's font, right?  
21 A. Yes.  
22 Q. And it uses the Windstream name --  
23 A. Uh-huh.  
24 Q. -- right?  
25 A. Yes.

1 - Peter Maguire -  
2 Q. And it used a color scheme that was  
3 similar to Windstream's color scheme?  
4 A. It was inspired by it, yes.  
5 Q. Did that ever concern RAPP using all  
6 of those elements together that there may be some  
7 legal concern?  
8 A. There has been in the past -- the  
9 practice of -- a similar practice to this is not  
10 uncommon in the direct marketing space, so it  
11 would not have been the first time that we used  
12 similar creative techniques. Therefore, there  
13 were no specific concerns raised.  
14 And to reiterate, we followed  
15 direction closely from Charter Communications and  
16 execute against what we were asked to do.  
17 Q. Did RAPP seek legal counsel with  
18 respect to the design of the envelope?  
19 A. RAPP provided the designs through  
20 Charter. If Charter Communications provides final  
21 solid sign off, then we will proceed.  
22 Q. Is that a no?  
23 A. A no to what question specifically?  
24 Q. Did RAPP seek legal counsel with  
25 respect to the design of the envelope?

1 - Peter Maguire -  
2 some pushed further; some didn't push as hard in  
3 terms of the objective for the piece.  
4 Q. Were there any discussions about --  
5 I'm sorry, I don't think that answered my  
6 question.  
7 A. Okay. Ask again, please.  
8 Q. Were there any discussions about --  
9 even if the word legal or law wasn't used, were  
10 there any concerns generally that were discussed  
11 between RAPP and Charter about using all of these  
12 different envelopes -- sorry -- using all these  
13 different elements on the envelope; the font --  
14 A. Not that I recall specifically. Not  
15 that I recall.  
16 Q. And that's by e-mail, by phone, in  
17 person, you recall no discussion about any  
18 concerns relating to the design of the envelope?  
19 A. Not that I recall.  
20 Q. Okay. So, I know you're not  
21 represented by counsel but this is a deposition of  
22 RAPP, not of you personally. So you're answering  
23 on behalf of the company.  
24 And so, you know, the notice topics,  
25 those two topics that we talked about, one is all

1 - Peter Maguire -  
2 A. We did not. We did not, no.  
3 Q. Did RAPP have any discussions with  
4 Charter about any legal concerns with the design  
5 of the envelope?  
6 A. We did not. We were following  
7 direction closely that we'd received from Charter  
8 Communications and executing against it. So no,  
9 we did not.  
10 Q. So there were no discussions between  
11 RAPP and Charter about any legal issues with the  
12 design of the envelope, none?  
13 A. There were not.  
14 Q. By e-mail, none?  
15 A. About legal issues? Not that I  
16 recall, no.  
17 Q. How about concerns generally with  
18 using font, colors, and name from Windstream on a  
19 blind OE?  
20 A. Part of the reason we provided a  
21 range of options was to be able to have points of  
22 reference and points of comparison. So there are  
23 degrees to which creative execution can push in a  
24 certain direction.  
25 We wanted to provide a range that

1 - Peter Maguire -  
2 communications between Charter and RAPP about the  
3 design, et cetera. So you're required to be  
4 prepared for and answer those types of questions.  
5 So it sounds like you're answering  
6 some things just on your personal knowledge, as  
7 opposed to having prepared to answer some of these  
8 questions. So we're going to have to think about  
9 what to do about that. Some of these things we  
10 need answers to, and so for this type of  
11 depositions you're required to actually learn the  
12 answers in advance and then come and share them.  
13 So we can discuss that after the next  
14 break, I'll have to think about that.  
15 A. Okay. I'm happy to discuss further.  
16 Q. You understand that when you're  
17 answering these questions, it's not on behalf of  
18 you personally, it's on behalf of RAPP?  
19 A. I do.  
20 Q. Did RAPP internally ever have any  
21 discussions about any concerns with using these  
22 various elements on the envelope; the name, the  
23 colors, the font, and the blind OE?  
24 A. When we briefed the creative team,  
25 the briefing I mentioned to you earlier on, we



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1 - Peter Maguire -  
2 did -- we did say there's a lot of different  
3 elements here; the elements that you just  
4 mentioned. But again, we were following direction  
5 closely from Charter which is essentially what  
6 we're paid to do. So we're paid to execute  
7 against specific requests from Charter.  
8 Q. So there was a concern that there  
9 were a lot of different elements; is that what  
10 you're saying?  
11 A. There was a discussion around it and  
12 -- there was a discussion and a remark around it.  
13 I don't know if I would call it a concern. But  
14 there was a discussion, yes.  
15 Q. What was the substance of the  
16 discussion?  
17 A. The substance of the discussion was  
18 there are a lot of different things happening here  
19 and is this the best way to make it pop for  
20 Windstream -- to grab attention from Windstream  
21 customers. And the resolution of that discussion  
22 was it's important to provide a range of options  
23 so that we have points of comparison.  
24 Q. Did anyone at that -- you said it was  
25 a brief?

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1 - Peter Maguire -  
2 A. Uh-huh.  
3 Q. Did anyone at that brief say, I'm  
4 concerned that we're using too many Windstream  
5 elements on this piece or something to that  
6 effect?  
7 A. Nobody said that, no.  
8 Q. Okay. So the discussion was, We're  
9 using a lot of different elements?  
10 A. Yes.  
11 Q. I don't understand why was that a  
12 discussion. What is it a discussion of then?  
13 A. So the discussion -- sorry, if I'm  
14 not being clear. The discussion was, we give the  
15 creative team direction for different elements of  
16 direction. Direction point number one is leverage  
17 the Google Fiber campaign as a starting point, as  
18 we discussed.  
19 Number two, is we're looking at the  
20 Windstream website and taking inspiration from the  
21 color scheme.  
22 Number 3 is around the copy, and  
23 there was a discussion that said this is -- this  
24 is a bold approach. I think the word bold may  
25 have been used, which we discussed internally and

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1 - Peter Maguire -  
2 aligned on. And as I said, it's important to  
3 provide a range of options to the Charter team so  
4 that they can make the final selection.  
5 Q. So what was the discussion around why  
6 it was a bold approach?  
7 A. It was a bold approach because it's  
8 highly -- it's a highly competitive approach.  
9 It's highly competitive.  
10 Q. Can you elaborate on that?  
11 A. So by highly competitive I mean it's  
12 very direct and pointed and that was the  
13 discussion that we had. It's -- as you can see  
14 from the piece, it's not an approach of soft  
15 selling. It's a very sort of hard-hitting piece  
16 of communication.  
17 Q. Hard-hitting meaning it has those  
18 elements of the Windstream font, color, name?  
19 A. Hard-hitting meaning, yes, there's a  
20 lot in play to grab the attention of Windstream  
21 customers, yes.  
22 Q. Of course, ultimately the goal was to  
23 have people open the envelope and see what's  
24 inside, right?  
25 A. Yes. Right. Absolutely, yes.

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1 - Peter Maguire -  
2 Q. And just to close the loop on that,  
3 during the discussion about it being a bold  
4 strategy, no one raised any concerns that it may  
5 be too bold or cross any lines; is that right?  
6 A. Not that I recall, no.  
7 MR. JUSTUS: Can we please mark this  
8 as Exhibit 6.  
9 (Whereupon, RAPP Exhibit 6 was marked  
10 at this time.)  
11 Q. Feel free to take a look at this and  
12 let me know when you're ready.  
13 Ready?  
14 A. Yep, sure. Yes.  
15 Q. In the Exhibit Number 6 marked  
16 Charter 6254, the e-mail dated March 22nd, from  
17 Jennifer Smith at Charterer to you, Erin and  
18 others copied.  
19 It says, "We need to update  
20 Windstream messaging on the 4/22 letter."  
21 Is that this letter we're talking  
22 about that went out with the envelope?  
23 A. It is that letter; a future version  
24 of it, yes.  
25 Q. So there was a future -- there were

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1 - Peter Maguire -  
2 more than one version, more than one final version  
3 that have letter advertisement?  
4 A. Yes, yes.  
5 Q. Okay. Is the version that I showed  
6 you in Exhibit 1 in this Complaint, is that the  
7 first version or a later version?  
8 A. What page was it on?  
9 Q. It's 13 and 14 of the Complaint which  
10 is somewhere in the mid-20s of the whole package.  
11 A. This was the final version I believe,  
12 so the date on that was 4/22.  
13 Q. 3/22.  
14 A. No, I'm sorry. I'm looking at the  
15 expiration date on the letter. It says 4/25.  
16 I would honestly have to double-check  
17 if this -- which version this one is.  
18 Q. Okay. Further down in that e-mail,  
19 turning back to the e-mail Exhibit 6.  
20 A. Yes.  
21 Q. It says, Summary: "We need to soften  
22 the 'uncertainty' claim for any future mailers."  
23 What is the referring to?  
24 A. The mood of uncertainty that I was  
25 talking about earlier is referring to that and

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1 - Peter Maguire -  
2 this idea of creating uncertainty around  
3 Windstream filing for Chapter 11.  
4 Q. Can you tell by looking at Exhibit 1,  
5 13 and 14 --  
6 A. This is what I was trying to do --  
7 Q. -- it has been softened with respect  
8 to the uncertainty claim?  
9 A. No, this is the original version  
10 before softening.  
11 Q. Okay. How were you able to determine  
12 that?  
13 A. A couple of things. So first of all,  
14 the opening paragraph clearly states Windstream  
15 has filed for Chapter 11 bankruptcy which means  
16 uncertainty. So the word uncertainty is still in  
17 there.  
18 And secondly, looking at the date  
19 quoting at the bottom which is the reference we  
20 use to identify the piece for printers, says 3/22.  
21 And this communication Jen is referring to 4/22 --  
22 3/25, sorry, she's referring to 4/22.  
23 Q. Okay. So the first point there,  
24 softening the uncertainty claims meant removing  
25 entirely the word uncertainty?

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1 - Peter Maguire -  
2 A. Uh-huh. Yes.  
3 Q. So then RAPP created a second version  
4 of this ad that no longer had the word  
5 uncertainty; is that right?  
6 A. If I recall correctly, yes.  
7 Q. Did Charter provide a reason for why  
8 the uncertainty claims needed to be softened?  
9 A. They did not. They did not. We were  
10 given direction to soften but they did not give us  
11 specific reason why.  
12 Q. RAPP did not ask why?  
13 A. Not that I recall, no.  
14 Q. Then the last sentence under that  
15 summary paragraph says, "Let customers draw their  
16 own conclusion about the impact of the filing on  
17 Windstream services."  
18 So what do you understand that to  
19 mean?  
20 A. My understanding of that is don't  
21 tell customers what the specific implications will  
22 be; state the fact that Chapter 11 is in progress  
23 and let them draw their own conclusion. That  
24 would be my interpretation.  
25 Q. Okay. Are those the only two

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1 - Peter Maguire -  
2 versions of this ad, the version in Exhibit 1 and  
3 then the later version after March 22nd, where you  
4 removed the word uncertainty and maybe made some  
5 other changes, are those the only two final  
6 versions of this ad?  
7 A. With the exception I mentioned  
8 earlier of speed diversioning --  
9 Q. Sure.  
10 A. -- with the exception of that as  
11 principal basis, yes.  
12 Q. Sorry. Going back to Exhibit 6 at  
13 the top e-mail from Erin on March 22nd says, "I'll  
14 bring the three 4/22 Windstream letters to the  
15 4:00 p.m. so we can chat."  
16 What does that mean; the three, 4/22  
17 Windstream letters?  
18 A. It would mean that there were three  
19 versions of the letter in play that were in  
20 progress at that time. So Erin was referring to  
21 bringing those to the discussion.  
22 Q. Okay. So three different drafts of  
23 the second version of this advertisement?  
24 A. Yes, but those drafts may or may not  
25 have been different creative approaches. It could

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<p>1 - Peter Maguire - 2 have been different offers -- 3 Q. Or speeds? 4 A. -- speeds, exactly. 5 Q. And the 4:00 p.m. is referring to a 6 4:00 p.m. -- 7 A. Phone call. 8 Q. -- call? Telephone call? 9 A. Yes. 10 Q. Were you on that call? 11 A. I don't think I was on that call. I 12 don't know. 13 Q. Did anyone brief you about what 14 happened on that call? 15 A. It may have happened at the time. 16 This was several months ago, so I don't 17 specifically remember. But Erin and I are very 18 close and have daily touch basis on everything 19 going on. So if there are calls that I'm not on, 20 she would let me know what's happened. So it's 21 very possible, but given it was several months ago 22 I don't remember the specific conversation. 23 Q. Fair enough. 24 So going back to the three projects 25 relating to Windstream bankruptcy.</p>	<p>1 - Peter Maguire - 2 A. Yes. 3 Q. The direct mail envelope and 4 advertisement that went in the envelope -- 5 A. Correct. 6 Q. -- which was sent by mail. 7 A. Uh-huh. 8 Q. Then there was the sales flier? 9 A. Yes. 10 Q. And that was distributed by hand by 11 salespeople? 12 A. Yes. 13 MR. KINGSTON: Objection. Just a 14 moment. Objection, lack of foundation. 15 Q. Your answer is yes? 16 A. To my knowledge, yes. 17 Q. Is that what it was designed for? It 18 was designed for the purpose of being delivered by 19 hand? 20 A. It was called a direct sales flier, 21 yes. 22 Q. What does that typically mean? 23 A. Direct sales flier would mean that 24 the door-to-door sales force have materials that 25 they're able to hand out, leave behind. I can't</p>
Page 83	Page 84
<p>1 - Peter Maguire - 2 confirm if that ever happened, but that's how it 3 was designed. 4 Q. You didn't design an envelope as part 5 of that project? 6 A. No, we did not. We did not. 7 Q. All right. Then the third project 8 was an e-mail? 9 A. Yes. Specifically for small 10 business. I am not aware if that e-mail ever 11 deployed. I know that we designed it but I 12 couldn't tell you if it deployed or not by 13 Charter. 14 Q. So RAPP delivered a final creative of 15 that e-mail -- 16 A. We did. 17 Q. -- to send Charter but you don't know 18 if Charter e-mailed it? 19 A. Yes. 20 Q. I think you already said this but 21 just to be clear, RAPP doesn't do mailing services 22 or actually distribute ads to customers -- 23 A. We do not. 24 Q. -- you just provide creative to 25 customers like Charter, and then Charter handles</p>	<p>1 - Peter Maguire - 2 how it gets mailed out, how it gets e-mailed out, 3 things like that? 4 A. So that process varies by client but 5 in the occasion of Charter, yes. 6 Q. Okay. As between the sales flier for 7 small business customers -- 8 A. Yes. 9 Q. -- and the envelope and advertisement 10 for residential customers -- 11 A. Yes. 12 Q. -- was there any difference in the 13 messaging between those two things? 14 A. The primary difference in messaging 15 between them was the audience was significantly 16 different. So the target audience was different, 17 therefore, the creative approach was different. 18 In terms of the actual messages 19 around Windstream and the competitive comparison, 20 they were largely similar -- the initial iteration 21 of the direct mail piece, yes. 22 The design and esthetic was clearly 23 very different. 24 Q. Okay. 25 MR. JUSTUS: Can we please mark this</p>

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1 - Peter Maguire -  
2 as Exhibit 7.  
3 (Whereupon, RAPP Exhibit 7 was marked  
4 at this time.)  
5 Q. Please go ahead and take a look and  
6 let me know when you're ready.  
7 Ready?  
8 A. Ready.  
9 Q. So this is Exhibit 7 is marked  
10 Charter 6103, it's a group of e-mails. Is this  
11 e-mail thread relating to the small business flier  
12 project that we have been talking about?  
13 A. That is correct.  
14 Q. Okay. If you go to a March 18  
15 e-mail, on the second page, 6104, e-mail from  
16 Erin, March 18 at 3:15 p.m., in the middle of the  
17 page.  
18 A. Uh-huh, yup.  
19 Q. The first bullet it says, "Do we need  
20 to use a footnote with corresponding legal copy if  
21 we are speaking against Windstream so  
22 competitively on the back of the flier?"  
23 A. Uh-huh.  
24 Q. What does that refer to?  
25 A. So on the back of the flier there was

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1 - Peter Maguire -  
2 A. Yup.  
3 Q. So Exhibit 8, e-mail thread starting  
4 with Charter 10013. If you flip all the way to  
5 the back, the very first e-mail on 10020.  
6 A. Yes.  
7 Q. Is that the same e-mail from Matt to  
8 you that we talked about earlier that's attached  
9 to PowerPoint deck?  
10 A. That's exactly the e-mail.  
11 Q. Okay. Does this whole e-mail thread  
12 relate to the sales flier for small businesses?  
13 A. It does. The whole thread does, yes.  
14 Q. Okay. In your -- at the top of that  
15 same page, 10020, it's an e-mail from you,  
16 correct?  
17 A. Yes, that's correct.  
18 Q. Okay. And in the next to the last  
19 bullet in that e-mail it says, "Should the  
20 bankruptcy be the lead message or a supporting  
21 message?"  
22 A. Yup. Yes.  
23 Q. Could you just tell me what you meant  
24 by that?  
25 A. So if you look at the e-mail below

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1 - Peter Maguire -  
2 a competitive comparison chart and which does a  
3 side-by-side comparison of Spectrum product  
4 benefits and Windstream product benefits. So  
5 that's what Erin is referring to by speaking  
6 competitively.  
7 I believe we also made a savings  
8 claim. So both of those things would be deemed  
9 competitive and would normally be disclaimed at  
10 the bottom in the disclaimer section.  
11 Q. If you go 6107, further back in this  
12 document. That's the ad you're referring to and  
13 the Charter you're referring to?  
14 A. That's correct. Correct. Correct.  
15 The savings claim I was referring to  
16 just sits below the chart.  
17 Q. Understood, okay.  
18 MR. JUSTUS: Please mark this as  
19 Exhibit 8.  
20 (Whereupon, RAPP Exhibit 8 was marked  
21 at this time.)  
22 Q. Feel free to flip through and let me  
23 know when you're ready.  
24 A. Ready.  
25 Q. Ready?

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1 - Peter Maguire -  
2 from Matt Bury, he specifically says, "They  
3 recently announced they would be filing Chapter 11  
4 bankruptcy and we want to use to drive new  
5 customer acquisitions."  
6 Therefore my clarifying question was  
7 -- and the attached PowerPoint. Therefore, my  
8 clarifying question was around the hierarchy of  
9 messaging that had been requested.  
10 Q. So what was the answer to that  
11 question?  
12 A. The e-mail did not answer this  
13 directly. But the focus -- a big focus is around  
14 price discrepancy, and was that the response that  
15 we received on the e-mail.  
16 Q. So when the final sales flier was  
17 created and delivered by RAPP to Charter, was  
18 bankruptcy the lead message or a supporting  
19 message?  
20 A. I'll give you my point of view on  
21 that by looking at the creative.  
22 I would say it was a prominent  
23 message.  
24 Q. Why do you say that?  
25 A. I say it's prominent message as the

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<p>1 - Peter Maguire -</p> <p>2 headline says, "Don't risk losing your Internet</p> <p>3 and phone services." And the sub head to pay that</p> <p>4 off says, "Windstream filed for Chapter 11. Their</p> <p>5 future is uncertain. Don't leave you business up</p> <p>6 to chance."</p> <p>7 Q. Okay.</p> <p>8 A. That is the front of a flier, which</p> <p>9 is why I would say it's a lead message.</p> <p>10 Q. Understood.</p> <p>11 If you go to Page 10018.</p> <p>12 A. Uh-huh.</p> <p>13 Q. At the bottom is an e-mail from you,</p> <p>14 March 4th.</p> <p>15 A. Yes.</p> <p>16 Q. The first bullet says, RAPP to</p> <p>17 concept minimum to creative options for review, et</p> <p>18 cetera. It says, "Same look/feel as our</p> <p>19 competitive campaign."</p> <p>20 A. Uh-huh.</p> <p>21 Q. What does that refer to, what</p> <p>22 competitive campaign?</p> <p>23 A. That refers to -- so when Q4 of last</p> <p>24 year we worked with the small business team to</p> <p>25 develop a new competitive campaign called We Mean</p>	<p>1 - Peter Maguire -</p> <p>2 Business, and that was a campaign against multiple</p> <p>3 competitors and it had a very specific messaging</p> <p>4 strategy and look and feel.</p> <p>5 So the question on my e-mail was to</p> <p>6 clarify whether we were leveraging the look and</p> <p>7 feel approach from that campaign to bring it</p> <p>8 through here or if we were looking for a totally</p> <p>9 unique approach.</p> <p>10 Q. Did the final version end up using</p> <p>11 that look and feel?</p> <p>12 A. It used the look and feel but the</p> <p>13 messaging was very different.</p> <p>14 Q. Of course. Because it related to</p> <p>15 Windstream and bankruptcy, of course?</p> <p>16 A. Yes, but the look and feel was</p> <p>17 similar, yes.</p> <p>18 Q. Thank you.</p> <p>19 So further up on that same page, I</p> <p>20 think again this is another e-mail from you,</p> <p>21 right?</p> <p>22 A. Uh-huh. Yes.</p> <p>23 Q. This appears to be an e-mail where</p> <p>24 you're providing four options for the sales flier;</p> <p>25 is that right?</p>
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<p>1 - Peter Maguire -</p> <p>2 A. Yes, that's correct.</p> <p>3 Q. Okay. So on Page 10017, the</p> <p>4 beginning of that e-mail, it's a rather long</p> <p>5 e-mail.</p> <p>6 A. Yes.</p> <p>7 Q. You say, "Given this is an unusual</p> <p>8 mix of messaging, we have provided four creative</p> <p>9 options," et cetera.</p> <p>10 A. Yes.</p> <p>11 Q. What did you mean by it's "an unusual</p> <p>12 mix of messaging"?</p> <p>13 A. It's very unusual that we're talking</p> <p>14 about bankruptcy and Chapter 11 and materials, it</p> <p>15 was unusual.</p> <p>16 Q. And "the mix" is because it referred</p> <p>17 to both bankruptcy and something else; is that</p> <p>18 what you meant by mix?</p> <p>19 A. By the mix, I mean the balance of</p> <p>20 that -- the competitive message which was tied to</p> <p>21 Windstream's product inferiority and the</p> <p>22 bankruptcy paired with the positive Spectrum story</p> <p>23 of the good things that Spectrum business can</p> <p>24 offer.</p> <p>25 Q. Understood.</p>	<p>1 - Peter Maguire -</p> <p>2 If you go down to the fifth bullet,</p> <p>3 it says, All competitive charts have used the</p> <p>4 Windstream logo, as we found this in residential</p> <p>5 to be powerful and resonate with the customer if</p> <p>6 they had the service with the completion --</p> <p>7 A. Competition.</p> <p>8 Q. -- competition. Sorry.</p> <p>9 So why are you referring to</p> <p>10 residential there? This is for business or small</p> <p>11 business, right?</p> <p>12 A. For small business. So we are</p> <p>13 encouraged to share learnings and base practices</p> <p>14 between the work that we do, although it's a</p> <p>15 different audience between the work that we do</p> <p>16 with small business and the work we do with</p> <p>17 residential.</p> <p>18 Here I'm not referring to the</p> <p>19 Windstream work with residential. I'm referring</p> <p>20 to the work we've done for residential in general.</p> <p>21 Q. So you learned from general work in</p> <p>22 residential that, including logo on a competitive</p> <p>23 chart is more powerful and so, therefore, you're</p> <p>24 suggesting to use it on this business piece?</p> <p>25 A. That is correct.</p>

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<p>1 - Peter Maguire -</p> <p>2 Q. How do you measure whether or not</p> <p>3 that's powerful and resonates with the customer?</p> <p>4 A. So I mentioned earlier that we're</p> <p>5 given ad hoc anecdotal information on results. So</p> <p>6 without going into detail, the residential team</p> <p>7 has got a very robust testing program. So there's</p> <p>8 a lot of testing that happens in marketing that</p> <p>9 gives us learnings on things like that.</p> <p>10 Q. Okay. Down another couple bullets</p> <p>11 under option 1.</p> <p>12 A. Uh-huh.</p> <p>13 Q. Second bullet under option 1. It</p> <p>14 says, "Powerful headline immediately grabs the</p> <p>15 customer in if they have existing Windstream</p> <p>16 service. Not sure if this will be a bit OTT but</p> <p>17 wanted to provide a range."</p> <p>18 So what does OTT mean?</p> <p>19 A. Yes, it's me being casual on e-mail.</p> <p>20 OTT means over the top.</p> <p>21 Q. Okay.</p> <p>22 A. So that ties to the point I was</p> <p>23 making earlier about ranges and we did feel that</p> <p>24 option 1 was a little pushy. But again, for the</p> <p>25 purposes of range and discussion and comparison,</p>	<p>1 - Peter Maguire -</p> <p>2 that's why we provided that first option.</p> <p>3 Q. If you go down another say five</p> <p>4 bullets or so there's an option 2.</p> <p>5 A. Yes.</p> <p>6 Q. Then the fourth bullet under option 2</p> <p>7 it says, "Within orange bar before the CTA we have</p> <p>8 included an additional Windstream competitive</p> <p>9 dig."</p> <p>10 A. Yes.</p> <p>11 Q. "Windstream's future is uncertain.</p> <p>12 Don't leave your business up to chance. Switch to</p> <p>13 Spectrum business."</p> <p>14 A. Yes.</p> <p>15 Q. So what did you mean by Windstream</p> <p>16 competitive dig?</p> <p>17 A. So, competitive digs is what we will</p> <p>18 -- so if we're working on an end-to-end marketing</p> <p>19 piece, whenever we mention the competitor</p> <p>20 specifically we'll call that a dig.</p> <p>21 Q. Regardless of the tone, it's always</p> <p>22 called a dig if someone mentions a competitor?</p> <p>23 A. Exactly.</p> <p>24 Q. Understood.</p> <p>25 Okay. Then flipping the next page</p>
Page 95	Page 96
<p>1 - Peter Maguire -</p> <p>2 towards the end of the same e-mail.</p> <p>3 A. Yes.</p> <p>4 Q. Now on 10018, the second bullet from</p> <p>5 the top says, "Below the price lockup we have</p> <p>6 included a powerful message to close the flier,</p> <p>7 'Don't put your business at risk. Think twice</p> <p>8 before renewing your contract with Windstream.'"</p> <p>9 A. Yes.</p> <p>10 Q. So what was the intention behind the</p> <p>11 wording "don't put your business at risk"?</p> <p>12 A. So the intention it was back to --</p> <p>13 which we've talked about a lot, but back to the</p> <p>14 mood of uncertainty. So specifically for small</p> <p>15 businesses, Internet and phone services are the</p> <p>16 life bloods; like business can't continue if</p> <p>17 there's no Internet and phone service. So that's</p> <p>18 what it was relating to uncertainty.</p> <p>19 Q. So in other words, the business</p> <p>20 customers might lose their Internet and phone</p> <p>21 service?</p> <p>22 A. It was creating uncertainty.</p> <p>23 Q. Then if you go to 10016, e-mail from</p> <p>24 Erin on March 8 at 12:52 p.m.</p> <p>25 A. Yes.</p>	<p>1 - Peter Maguire -</p> <p>2 Q. Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. It said, "Hi Matt" -- meaning Matt</p> <p>5 Bury, right?</p> <p>6 A. That's correct.</p> <p>7 Q. It says, "Thanks for popping by Jen's</p> <p>8 office to chat quick."</p> <p>9 Is that the Jennifer we talked about</p> <p>10 earlier at Charter?</p> <p>11 A. That's correct.</p> <p>12 Q. What is her surname again?</p> <p>13 A. Smith.</p> <p>14 Q. So Erin was in the Charter office</p> <p>15 that day --</p> <p>16 A. Yes.</p> <p>17 Q. -- having a meeting. Okay.</p> <p>18 If you go down one, two, three, four,</p> <p>19 six dashes. It says, "First headline is like the</p> <p>20 most aggressive but liked the most." Do you know</p> <p>21 a that means?</p> <p>22 A. That's referring to the headline</p> <p>23 options that I talked about in my previous e-mail.</p> <p>24 Q. So option 1?</p> <p>25 A. Yes.</p>

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<p>1 - Peter Maguire -</p> <p>2 Q. So it's saying option 1 is the most</p> <p>3 aggressive but liked the most?</p> <p>4 A. Yes.</p> <p>5 Q. If you flip to 10015, e-mail from</p> <p>6 Erin to you and Matt and copying others, March 8,</p> <p>7 5:05 p.m.</p> <p>8 Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. Okay. The third bullet, it says, "We</p> <p>11 have provided the alt headline, "Windstream</p> <p>12 customers, don't risk losing your Internet and</p> <p>13 phone services,' to align with the softer message</p> <p>14 used in residential."</p> <p>15 What is that referring to, "the</p> <p>16 softer message used in residential"?</p> <p>17 A. I do not off the top of my head know</p> <p>18 what specific message that's referring to.</p> <p>19 Q. So to find out we'd have to ask Erin,</p> <p>20 in other words?</p> <p>21 A. I would be able to find out, I just</p> <p>22 don't know the answer off the top of my head.</p> <p>23 Q. Could you call Erin and ask on a</p> <p>24 break today?</p> <p>25 A. I could.</p>	<p>1 - Peter Maguire -</p> <p>2 Q. If you wouldn't mind, that would be</p> <p>3 very helpful.</p> <p>4 A. Sure.</p> <p>5 Q. Going back to 10014, e-mail from Matt</p> <p>6 Bury at Charter to yourself, Erin, and others</p> <p>7 copied, March 8, 5:36.</p> <p>8 A. Yes.</p> <p>9 Q. First bullet it says, "Move the</p> <p>10 'Windstream filed for Chapter 11...' up to pay off</p> <p>11 the headline."</p> <p>12 A. Yes.</p> <p>13 Q. What does that mean, pay off the</p> <p>14 headline?</p> <p>15 A. So payoff the headline means -- so</p> <p>16 normally in direct response materials we would</p> <p>17 have a primary headline and a sub headline, those</p> <p>18 two work in conjunction. So whatever the message</p> <p>19 in the -- the main headline is has to be paid off</p> <p>20 by a sub headline. So that's what Matt's</p> <p>21 referring to.</p> <p>22 Q. So here if you look at 10015, the</p> <p>23 creative --</p> <p>24 A. Yes.</p> <p>25 Q. -- which is the main headline and</p>
Page 99	Page 100
<p>1 - Peter Maguire -</p> <p>2 which is the sub headline?</p> <p>3 A. So you can actually see from the</p> <p>4 annotation what the direction is. So the main</p> <p>5 headline is, "Don't risk losing your Internet and</p> <p>6 phone services." And the sub headline is,</p> <p>7 "Windstream filed for Chapter 11. Their future is</p> <p>8 uncertain. Don't leave your business up to</p> <p>9 chance."</p> <p>10 And you can see from the annotation</p> <p>11 that the direction is to move that up to become a</p> <p>12 sub head, sub headline.</p> <p>13 Q. Moving it up as a sub headline</p> <p>14 underneath --</p> <p>15 A. The main headline.</p> <p>16 Q. -- don't risk losing, et cetera?</p> <p>17 A. Yes.</p> <p>18 Q. So in the final version, that's how</p> <p>19 it was; there was the main heading and then the</p> <p>20 subheading underneath that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And Indeed, on 10013, the</p> <p>23 third bullet in this e-mail from Erin March 11,</p> <p>24 4:05 p.m.</p> <p>25 A. Uh-huh.</p>	<p>1 - Peter Maguire -</p> <p>2 Q. The third bullet says, "Move the</p> <p>3 subhead 'Windstream filed for Chapter 11. Their</p> <p>4 future is uncertain,' et cetera, et cetera, below</p> <p>5 the headline."</p> <p>6 A. Yes, correct.</p> <p>7 Q. Okay.</p> <p>8 MR. JUSTUS: I'm going to suggest we</p> <p>9 take a break for lunch. I need to look at</p> <p>10 some of the documents you brought and come</p> <p>11 back and I'll have some additional questions.</p> <p>12 THE WITNESS: Sure.</p> <p>13 MR. JUSTUS: So let's go with 45</p> <p>14 minutes. Is that enough for everyone or you</p> <p>15 do want to do an hour? I don't care.</p> <p>16 THE WITNESS: I would be happier with</p> <p>17 less, honestly, so whatever you want to do.</p> <p>18 THE VIDEOGRAPHER: Want to go off the</p> <p>19 record?</p> <p>20 MR. JUSTUS: Sure.</p> <p>21 THE VIDEOGRAPHER: We're now off the</p> <p>22 record at 11:44 a.m.</p> <p>23 (Whereupon, a lunch break was taken</p> <p>24 from 11:44 a.m. to 12:35 p.m.)</p> <p>25 THE VIDEOGRAPHER: We're now back on</p>



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1 - Peter Maguire -  
2 the record at 12:35 p.m.  
3 BY MR. JUSTUS:  
4 Q. In the morning session I think you  
5 mentioned, Peter, that you may try to call Erin  
6 about a question that we had regarding the softer  
7 messaging used in residential?  
8 A. Yes.  
9 Q. Were you able to get ahold of her?  
10 A. I was. I was.  
11 Q. What did she tell you about that?  
12 A. I think the answer is more obvious  
13 than I had thought. When they're referring to the  
14 old headline, "Windstream customers don't risk  
15 losing your Internet and phone services." She was  
16 referring to the headline that had been used or  
17 was being used on the residential piece.  
18 Q. Just to be clear, this is Exhibit 8  
19 page 10015 that we're talking about.  
20 A. Yes.  
21 Q. And the softer message was what, I'm  
22 sorry?  
23 A. The soft message is what was in  
24 inverted commas here. That is the softer message  
25 that she's referring to.

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1 - Peter Maguire -  
2 Q. There is a stack here that appears to  
3 be relating to the e-mail project?  
4 A. Yes.  
5 MR. JUSTUS: I'd like to mark this as  
6 Exhibit 9.  
7 THE WITNESS: Yes.  
8 (Whereupon, RAPP Exhibit 9 was marked  
9 at this time.)  
10 MR. KINGSTON: Exhibit 9 is the  
11 multipage document that starts with a -- sort  
12 of a printout in landscape mode and  
13 continues.  
14 MR. JUSTUS: It starts with  
15 EM2019-Windstream e-mail-RAPP on the top of  
16 the first page.  
17 MR. KINGSTON: Okay.  
18 Q. So Peter, you brought these documents  
19 today?  
20 A. Yes.  
21 Q. So you're familiar with these  
22 documents?  
23 A. Yes.  
24 Q. And these documents, Exhibit 9,  
25 relates to this e-mail project?

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1 - Peter Maguire -  
2 Q. Understood.  
3 So it no longer says the word  
4 uncertainty?  
5 A. Exactly.  
6 Q. Thank you. Okay. Thanks for doing  
7 that on the break. Appreciate it.  
8 A. No problem.  
9 Q. All right. So in our three projects  
10 that RAPP had done for Charter relating to the  
11 Windstream bankruptcy, the third one was an e-mail  
12 marketing campaign?  
13 A. Yes.  
14 Q. We've talked a little bit about that  
15 so far?  
16 A. Yes.  
17 Q. RAPP delivered a final e-mail  
18 creative to Charter, but RAPP does not know if  
19 Charter actually e-mailed it out --  
20 A. That is correct.  
21 Q. -- does that sound correct?  
22 Okay. And you -- the documents you  
23 provided this morning, you had separated them into  
24 three stacks for the three projects, right?  
25 A. Yes, that's correct.

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1 - Peter Maguire -  
2 A. That is correct.  
3 Q. Okay. Is somewhere in this package  
4 the final version of the e-mail ad that RAPP  
5 created?  
6 A. The final version is on -- I don't  
7 know if these are page numbered, they don't appear  
8 to be. But the final version is this one here and  
9 there is four pages from the end of the packet.  
10 Q. Okay.  
11 A. And the reason I know it's final is  
12 the client just after that says, Hi, Ed -- and  
13 we're fully approved, please proceed with mobile  
14 version.  
15 Q. You're referring to the page it says  
16 posted by Erin Mullane on April 4?  
17 A. That is correct.  
18 Q. It said, "Hi Matt and Cindy, Please  
19 see attached for Windstream e-mails," et cetera?  
20 A. Yes.  
21 Q. Okay. So obviously from the face of  
22 this creative here I can see that the e-mail  
23 campaign referred to the Chapter 11 bankruptcy; is  
24 that right?  
25 A. Yes, that's correct.



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<p>1 - Peter Maguire - 2 Q. Is the word uncertainty used anywhere 3 in the final e-mail campaign creative? 4 A. It does not appear to be, based on 5 what I'm looking at, no. 6 Q. Okay. Am -- 7 A. I'm sorry. 8 Q. Please finish. 9 A. I was just going to say keep in mind 10 that the timing of that came later and so some of 11 the discussions that I had uncertainty had been 12 ongoing. 13 Q. Understood. 14 Is this from a chat program or e-mail 15 program? 16 A. Base Camp. 17 Q. This is from Base Camp? 18 A. Which is a project management tool. 19 Q. You did tell me that. 20 So within Base Camp there is a 21 communication function? 22 A. Exactly. 23 Q. Is it a function like e-mail or chat? 24 A. Essentially -- it's not like chat, I 25 would say more like e-mail. It's essentially a</p>	<p>1 - Peter Maguire - 2 project repository where all of the assets 3 relating to a project are kept; e-mail 4 communications, creative files, anything 5 pertaining to that specific project. So it's all 6 in one place. 7 Q. Both Charter and RAPP have access to 8 that? 9 A. That is correct. But it's down to 10 the individual client preference. So we do not 11 use Base Camp for every single project, but the 12 client we work with on small business e-mails like 13 to use Base Camp which is why this project was 14 managed through Base Camp. 15 Q. Who is that client contact who 16 preferred to use Base Camp? 17 A. Cindy Fein. 18 Q. That's at Charter? 19 A. At Charter, that's correct. 20 Q. She is the point of contact for RAPP 21 only on small business e-mail? 22 A. That is exactly correct. She reports 23 to Matthew Bury. 24 Q. Okay. If there was a residential 25 e-mail campaign, would that also be Cindy or</p>
Page 107	Page 108
<p>1 - Peter Maguire - 2 totally different person? 3 A. Totally different person. 4 Q. Who would that be? 5 A. So we don't -- we have only worked on 6 one residential e-mail. We do not tend to work on 7 residential e-mails, but the one time we worked on 8 it it was with Jennifer Smith, and someone called 9 Sarah Blechner, S-A-R-A-H, B-L-E-C-H-N-E-R. 10 Q. And how about as between direct mail 11 pieces that will be sent out in the mail? 12 A. Yes. 13 Q. Do you have a different point of 14 contact at Charter for residential and small 15 business? 16 A. Yes, absolutely; it's two separate 17 teams. 18 Q. Okay. No person overlaps on both 19 teams? 20 A. They do at a very senior level, a 21 senior vice president level; they sit over both 22 small business and residential. But at the 23 day-to-day point of contact level, there's two 24 separate teams. 25 Q. And same for I believe we were</p>	<p>1 - Peter Maguire - 2 calling them sales fliers? 3 A. Yes. So that sits within the small 4 business team. And that's different from 5 residential. Yes, different point of contact. 6 Q. Understood. 7 Looks like the last communications 8 here are April 8. 9 A. Yes, that's correct. 10 Q. So your understanding would be April 11 8th, RAPP had done its work, delivered its final 12 creative and there was no further work on the 13 e-mail project after April 8th? 14 A. That is correct. The final 15 communication signals that the Charter should let 16 us know if they need any further assistance with 17 the e-mail project. 18 Q. And there was no further assistance 19 needed? 20 A. There was not. 21 Q. Okay. Did Charter inform RAPP that 22 Charter had been sued for false advertising by 23 Windstream? 24 A. I'm trying -- I'm trying to remember 25 if there was a discussion around that. We are</p>

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<p>1 - Peter Maguire -</p> <p>2 normally informed if there was a cease and desist</p> <p>3 which you'll be familiar with.</p> <p>4 I do not remember -- I do not believe</p> <p>5 we were told that they were being sued. No, I do</p> <p>6 not remember that conversations happening.</p> <p>7 Q. Were you told that there was a cease</p> <p>8 and desist?</p> <p>9 A. In this case I wasn't, actually. I</p> <p>10 wasn't aware -- I was aware that there was some</p> <p>11 sort of discussion happening in the background.</p> <p>12 And by in the background I mean between the first</p> <p>13 time we worked on direct mail and the second time</p> <p>14 where we had to quote/unquote soften the claims.</p> <p>15 I was aware that there must have been</p> <p>16 discussions happening in the background, but we</p> <p>17 were not specifically told that there had been a</p> <p>18 cease and desist, no.</p> <p>19 Q. Or a lawsuit?</p> <p>20 A. No.</p> <p>21 Q. So I think I asked you a long, long</p> <p>22 time ago in the beginning if there was a written</p> <p>23 agreement between Charter and RAPP and you</p> <p>24 described statements of work?</p> <p>25 A. Yes.</p>	<p>1 - Peter Maguire -</p> <p>2 Q. Which is more or less an exchange of</p> <p>3 e-mails with a price for a project?</p> <p>4 A. Yes. So it's complicated. So I'll</p> <p>5 explain the depth because there's a nuance between</p> <p>6 both sides of the business.</p> <p>7 So on the small business side, on the</p> <p>8 -- for the e-mail and for the sales flier, we did</p> <p>9 not have a retainer agreement. So all of the</p> <p>10 projects, the e-mail and the sales flier, are</p> <p>11 quoted as individual projects.</p> <p>12 On the residential side of the</p> <p>13 business, we operate on a retainer where we're</p> <p>14 paid a monthly fee against all of the deliverables</p> <p>15 that we work on.</p> <p>16 So on residential there is no</p> <p>17 specific statement of work against this individual</p> <p>18 project.</p> <p>19 Q. So for residential there's a</p> <p>20 retainer?</p> <p>21 A. Yes.</p> <p>22 Q. For small business there is not?</p> <p>23 A. Yes, it's project based on small</p> <p>24 business.</p> <p>25 Q. Okay. Is the retainer a written</p>
Page 111	Page 112
<p>1 - Peter Maguire -</p> <p>2 agreement?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And that was not provided to</p> <p>5 us, right?</p> <p>6 A. It was not as it was not specific to</p> <p>7 Windstream. It's a master agreement that was not</p> <p>8 specific to Windstream.</p> <p>9 Q. Okay. So it applies to all</p> <p>10 residential work that you do for Charter?</p> <p>11 A. Exactly, exactly.</p> <p>12 Q. Okay. Does that retainer agreement</p> <p>13 have any indemnification provision whereby either</p> <p>14 Charter or RAPP may be responsible for any legal</p> <p>15 claims arising from RAPP's work?</p> <p>16 A. The specifics -- sp there's what's</p> <p>17 called an MSA, a master service agreement. I am</p> <p>18 not a hundred percent certain of the positioning</p> <p>19 within that in terms of indemnity, as you asked.</p> <p>20 But, again, that's something that we could follow</p> <p>21 up on.</p> <p>22 I know that has part of the agreement</p> <p>23 we require full sign-off from Charter before</p> <p>24 releasing any files to a printer or e-mail vendors</p> <p>25 or whatever that may be, we require approval to --</p>	<p>1 - Peter Maguire -</p> <p>2 to release the work.</p> <p>3 Q. So who -- who would know the answer</p> <p>4 to whether or not there's an indemnification</p> <p>5 provision in the MSA?</p> <p>6 A. I would be able to speak to her -- so</p> <p>7 the person that leads that on the RAPP side was</p> <p>8 the MVP of finance who actually left RAPP last</p> <p>9 week, but he has he -- has a replacement, who I</p> <p>10 would be able to speak to and ask that specific</p> <p>11 question.</p> <p>12 Q. We'll take a short break in a little</p> <p>13 bit, would you mind trying to give him a call and</p> <p>14 him that question?</p> <p>15 A. It's a she, but yes.</p> <p>16 Q. Apologies.</p> <p>17 A. Yeah, I will certainly try. I may</p> <p>18 not be able to get a hold of them because they are</p> <p>19 in meetings but I can be sure to follow up on</p> <p>20 that.</p> <p>21 Q. Thank you.</p> <p>22 You've already said that Charter</p> <p>23 never specifically told RAPP that Charter had been</p> <p>24 sued for false advertising?</p> <p>25 A. Yes.</p>

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<p>1 - Peter Maguire -</p> <p>2 Q. So obviously my next question, I'll</p> <p>3 go ahead and ask it anyway, Charter never told</p> <p>4 RAPP that the court had entered an injunction</p> <p>5 against Charter and the advertisements we're</p> <p>6 talking about today?</p> <p>7 A. No, they did not.</p> <p>8 Q. Okay. Is RAPP currently working on</p> <p>9 any projects for Charter involving Windstream's</p> <p>10 bankruptcy?</p> <p>11 A. No, absolutely not. No.</p> <p>12 Q. Was the last project relating to</p> <p>13 Windstream's bankruptcy the e-mail project?</p> <p>14 A. The last project -- again, I would</p> <p>15 need to align on the timing of this stuff; April</p> <p>16 8th, it would either be e-mail or the other which</p> <p>17 was part of the package we sent you, the second</p> <p>18 directed mail which looked very different than the</p> <p>19 first. It would have been one of those two but I</p> <p>20 would have to align on the date.</p> <p>21 Q. Okay. But either way, all three of</p> <p>22 the projects we talked about are now closed?</p> <p>23 A. They are completely closed, yes.</p> <p>24 Q. You would suspect it's been -- it was</p> <p>25 sometime in April that all three were closed?</p>	<p>1 - Peter Maguire -</p> <p>2 A. Yes.</p> <p>3 Q. Is the residential retainer that we</p> <p>4 talked about, is that still active?</p> <p>5 A. That is, yes.</p> <p>6 Q. And the MSA, is that still active?</p> <p>7 A. Yes. The MSA -- the MSA is -- I'm</p> <p>8 using those words interchangeably. The MSA is the</p> <p>9 document I'm referring to. The SOW, from a dollar</p> <p>10 perspective, is agreed on a month-by-month basis</p> <p>11 depending on the work flow of the retainer.</p> <p>12 So we're given a purchase order for a</p> <p>13 certain amount money every month to reflect the</p> <p>14 deliverables for that specific month. But the MSA</p> <p>15 sits above and has been in place for two years or</p> <p>16 so, two or three years.</p> <p>17 Q. Okay. Just so to make sure I</p> <p>18 understand, the retainer is the MSA or are those</p> <p>19 two different things?</p> <p>20 A. No, I'm sorry. By retainer I'm</p> <p>21 talking about the fact that it is a monthly</p> <p>22 payment against an aggregate group of</p> <p>23 deliverables. It's not we quote for project A,</p> <p>24 project B, project C; it's a group sum of money</p> <p>25 against a large group deliverables.</p>
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<p>1 - Peter Maguire -</p> <p>2 Q. Retainer is money not an agreement?</p> <p>3 A. Yes.</p> <p>4 Q. The MSA is the agreement.</p> <p>5 A. Yes, yes, exactly.</p> <p>6 Q. Did RAPP provide to Charter any</p> <p>7 creative for the residential market that was not a</p> <p>8 direct mail piece; in other words, it was intended</p> <p>9 to be delivered other than through mail?</p> <p>10 A. Specifically for Windstream?</p> <p>11 Q. Correct.</p> <p>12 A. No.</p> <p>13 MR. JUSTUS: Can we mark this as</p> <p>14 Exhibit 11 -- I'm sorry, Exhibit 10, please.</p> <p>15 (Whereupon, RAPP Exhibit 10 was</p> <p>16 marked at this time.)</p> <p>17 MR. JUSTUS: Exhibit 10, for the</p> <p>18 record and for John, it's the big package</p> <p>19 that Peter produced today that relates to the</p> <p>20 flier.</p> <p>21 MR. KINGSTON: Mr. Maguire, do you</p> <p>22 mind if I just take a peek at Exhibit 10?</p> <p>23 THE WITNESS: Of course.</p> <p>24 MR. KINGSTON: Then I'll just hand it</p> <p>25 back to you. It may be the easiest way to do</p>	<p>1 - Peter Maguire -</p> <p>2 it. Okay.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 MR. KINGSTON: Thank you.</p> <p>5 Q. You want to go ahead and flip through</p> <p>6 or are you familiar?</p> <p>7 A. I'm familiar but let me refresh my</p> <p>8 memory on this one.</p> <p>9 Q. Of course.</p> <p>10 A. Okay.</p> <p>11 Q. Okay. So Exhibit 10 is the stack of</p> <p>12 documents relating to the small business flier?</p> <p>13 A. Yes.</p> <p>14 Q. Is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Apologies because there's obviously</p> <p>17 no page numbers on everything, so I'm looking at a</p> <p>18 March 25th, e-mail from Matt Bury to Erin, copied</p> <p>19 to you.</p> <p>20 A. March 25th.</p> <p>21 Q. March 25th at 6:55:00 p.m..</p> <p>22 A. Yes.</p> <p>23 Q. So it says, "I don't anticipate any</p> <p>24 changes from legal, 'famous last words..."</p> <p>25 Do you see that?</p>

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1 - Peter Maguire -  
2 A. Yes.  
3 Q. And it goes on to say, "It turns out  
4 that we really need to modify our headline and  
5 subhead."  
6 So what was that referring to?  
7 A. That was referring to Matt --  
8 Matthew's internal approvals process at Charter,  
9 and he was referring to head -- the legal team on  
10 the Charter side.  
11 Q. What modifications were made to the  
12 headline and sub head?  
13 A. At this point there were so many  
14 iterations of this I don't know what that one  
15 specifically is referring to. But around this  
16 time is when we were talking about removal of  
17 uncertainty. So it could be pertaining -- it  
18 could be, I'm not definitely sure, but it could be  
19 pertaining to that.  
20 Q. I think we talked earlier there was a  
21 March 22nd e-mail and it talked about softening  
22 the message around uncertainty --  
23 A. Yes. It's --  
24 Q. -- this is three days after that?  
25 A. It's likely that it was related to

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1 - Peter Maguire -  
2 A. At Charter?  
3 Q. Any lawyer. Did you speak with any  
4 lawyer about this deposition?  
5 A. No.  
6 Q. Today?  
7 A. No.  
8 Q. No.  
9 MR. JUSTUS: I must say you're a good  
10 witness.  
11 So subject to you calling and  
12 checking on the indemnification and the MSA,  
13 I have no further questions at this time,  
14 although reserve the right for redirect after  
15 John goes.  
16 THE WITNESS: Okay.  
17 MR. KINGSTON: Miss Greer, did you  
18 have anything?  
19 MS. GREER: I don't have any  
20 questions.  
21 MR. JUSTUS: Thanks, John.  
22 MR. KINGSTON: No problem at all.  
23 EXAMINATION BY MR. KINGSTON:  
24 Q. Mr. Maguire, I'm going direct your  
25 attention to Exhibit 5. Which, for the record, is

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1 - Peter Maguire -  
2 that.  
3 Q. Okay. Who is the Jen referred in  
4 this e-mail?  
5 A. Jen is Jennifer Smith on the  
6 residential team. So her and Matt Bury are peers  
7 on the small business and the residential side.  
8 Q. Okay. So Jen was making the changes  
9 to the small business flier, even though she's on  
10 residential?  
11 A. No, no. So what he's saying here is  
12 she's making this modification with some of other  
13 mail, so he's referring to changes that Jen is  
14 making to residential mail, that he is going to  
15 pull through to what he's doing small business.  
16 Q. To make the same change to both or to  
17 make them consistent?  
18 A. Yes.  
19 Q. Understood. Okay.  
20 I think you already answered this  
21 question but I'll ask one more time.  
22 You did not meet with legal counsel  
23 to prepare for this deposition today?  
24 A. Legal counsel?  
25 Q. Uh-huh.

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1 - Peter Maguire -  
2 a multipage document bearing the Bates numbers  
3 Charter 936 through Charter 941 consecutive.  
4 When lawyers give each other  
5 documents in lawsuit they always put little  
6 numbers in the corners and those are called Bates  
7 numbers.  
8 A. Sure.  
9 Q. I may refer to Bates numbers from  
10 time to time. That's what I'll be talking about.  
11 A. Okay.  
12 Q. If I can direct your attention to the  
13 page that's labeled Bates Charter 937.  
14 A. Yes.  
15 Q. I believe that you discussed this  
16 before. But about a third of the way from the  
17 bottom of the page I see a reference to "CTA:  
18 Goodbye Windstream hello Spectrum."  
19 Do you see that?  
20 A. I do.  
21 Q. What does CTA refer to?  
22 A. Call to action.  
23 Q. What is a call to action?  
24 A. A call to action is a closing line  
25 that's tied to a mechanic to get in touch. So

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1 - Peter Maguire -  
2 what I mean by that as it would normally set -- a  
3 call to action would normally set along decide a  
4 telephone number or a website URL.  
5 So in this case, this example that we  
6 provided, "Goodbye Windstream, hello Spectrum,"  
7 call 1-800, whatever the number was.  
8 Q. So is it fair to suggest that a call  
9 to action is calling on the reader of the mailer  
10 to take some action?  
11 A. That is correct.  
12 Q. A call to action is exhorting a  
13 reader to do something?  
14 A. Exhorting, I don't know if I would  
15 use that word. But encouraging a user to do  
16 something.  
17 Q. Let me take another run at that with  
18 your language. Is that all right, sir?  
19 A. Yes, sir.  
20 Q. It's fair to say the call to action  
21 is encouraging a reader to do something?  
22 A. That's correct.  
23 Q. That would be in contrast to  
24 predicting a future event; is that right?  
25 A. That's correct, yes.

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1 - Peter Maguire -  
2 there's not a lawyer here.  
3 Mr. Justus has been a gentleman in  
4 not taking advantage of the fact that you're not  
5 represented by counsel today and I'll try to do  
6 the same.  
7 Does that all make sense to you, sir?  
8 A. Yes. Thank you.  
9 Q. So the two references I see to  
10 "goodbye Windstream, hello Spectrum" are both on  
11 Exhibit 5 accompanied by the abbreviation CTA?  
12 A. Yes.  
13 Q. Does that mean call to action?  
14 A. It does.  
15 Q. Did anyone at Charter ever suggest to  
16 you that was some sort of a prediction as opposed  
17 a call to action?  
18 A. No, there was no suggestion it was a  
19 prediction. No.  
20 Q. Can I direct your attention, sir, to  
21 Exhibit 12. I misspoke, Mr. Maguire, Exhibit 2.  
22 A. Sure.  
23 Q. Which is a multipage document without  
24 Bates labels that appears to have a bunch of  
25 handwritten notations on draft mailers.

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1 - Peter Maguire -  
2 Q. So is it fair to suggest that the  
3 call to action, Goodbye Windstream, hello  
4 Spectrum, was in your view encouraging the reader  
5 to take some action as opposed to predicting the  
6 ultimate outcome of Windstream bankruptcy?  
7 MR. JUSTUS: Object to form.  
8 Q. You can answer.  
9 A. Okay. My understand -- the purpose  
10 of a call to action, to be very clear, in my -- in  
11 advertising, the purpose of a call to action is to  
12 encourage the recipient to do something. That's  
13 what the purpose of it is.  
14 Q. Okay. Something that -- that I  
15 should have mentioned earlier is that from time to  
16 time during my examination, my friend across the  
17 table may object or -- just as I objected during  
18 his on one or two occasions; when that happens,  
19 you still get the answer the question.  
20 A. Understood, okay.  
21 Q. If you were represented by counsel  
22 today, there could be a circumstance where that  
23 lawyer would instruct you not to answer in which  
24 case that would be the only time when you wouldn't  
25 answer. It's not really relevant here since

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1 - Peter Maguire -  
2 A. Yes.  
3 Q. Do you know who made those notations,  
4 Mr. Maguire?  
5 A. I do. That is Erin Mullane on my  
6 team, that is her handwriting.  
7 Q. Very good.  
8 One of the things that you deal with  
9 in the direct mail business, I take it, Mr.  
10 Maguire, is font?  
11 A. Font?  
12 Q. Yes.  
13 A. Yes.  
14 Q. And you're familiar that in some  
15 circumstances certain words or phrases are placed  
16 in bold font?  
17 A. That is correct, yes.  
18 Q. When a word or phrase is placed in  
19 bold font, what is your understanding of the  
20 purpose of doing that, sir?  
21 A. To place emphasis on what's being  
22 bolded or underlined or whatever it may be.  
23 Q. Do you see at the bottom of the first  
24 page of Exhibit 2, it looks like there was a  
25 substitution of one call -- there were notes that

1 - Peter Maguire -  
2 are not made that were consistent with  
3 substituting one call of action with another.  
4 Do you see that, sir?  
5 A. I do. Yeah, I do.  
6 Q. It looks like, as I read Exhibit 2,  
7 it looks like the call to action to make the  
8 switch to Spectrum today was going to be replaced  
9 by the call to action, goodbye Windstream, hello  
10 Spectrum.  
11 Do you see that, sir?  
12 A. I do.  
13 Q. And is there an indication on Exhibit  
14 2 as to whether a certain portion of that call to  
15 action was to be placed in bold font?  
16 A. Yes, that's the circle around hello  
17 Spectrum with the annotation bold.  
18 Q. The introduction was to place the  
19 hello Spectrum in bold?  
20 A. That's correct.  
21 Q. And was it your understanding that  
22 would be to emphasize the hello Spectrum portion  
23 of the call to action at the bottom of Exhibit 2?  
24 A. That's the standard purpose of  
25 bolding is to call attention and emphasize, yes.

1 - Peter Maguire -  
2 Q. And nobody at Charter ever told you  
3 that you, in fact, could say things like going  
4 away?  
5 A. That's correct.  
6 Q. Did anybody at Charter ever suggest  
7 to you that you can suggest that Windstream was  
8 going away?  
9 A. No.  
10 MR. JUSTUS: Object to form.  
11 Q. If you'll skip down to the next line,  
12 sir, I read that as follows: "Windstream has  
13 declared Chapter 11 but doesn't mean they wouldn't  
14 reorg to stay in business."  
15 Have I read that correctly?  
16 A. Yes, you have.  
17 Q. Did anybody at Charter ever tell you  
18 that they wanted to predict or convey the  
19 prediction that Windstream wouldn't ultimately be  
20 able to reorg -- reorganize and stay in business?  
21 A. No, we did not receive that specific  
22 direction, no.  
23 Q. Directing your attention, sir, to  
24 Exhibit 4.  
25 A. One second.

1 - Peter Maguire -  
2 Q. Returning your attention sir to  
3 Exhibit 5.  
4 A. 5, yeah. Yes.  
5 Q. Do you see on the page that bears the  
6 Bates number Charter 939, an electronic mail  
7 message from Jennifer Smith to a number of people  
8 including you?  
9 A. I do.  
10 Q. And I read -- about in the middle of  
11 the page under the heading, "Message"; "A tone to  
12 be consistent with Google but we cannot say things  
13 like abandoned or going away."  
14 Have I read that correctly, sir?  
15 A. Yes.  
16 Q. At any time after Ms. Smith sent the  
17 electronic mail message on July 28, did anybody at  
18 Charter indicate to you that you should create a  
19 mailer that somehow predicted that, in fact,  
20 Windstream would be going away?  
21 A. Prediction of going away, no.  
22 Q. So on February 28 of 2019, Miss Smith  
23 from Charter indicated that we cannot say things  
24 like abandoned or going away, true?  
25 A. She did.

1 - Peter Maguire -  
2 Q. Which is on electronic mail message  
3 with what appears to be a PowerPoint attached to  
4 it.  
5 A. Yes.  
6 Q. I'm looking at the first page of that  
7 PowerPoint, sir, where there's a competitive alert  
8 that's printed in landscape mode.  
9 A. Yes.  
10 Q. Are you familiar with One Touch  
11 Intelligence?  
12 A. We do not use One Touch Intelligence  
13 as a source. We were provided this document.  
14 Q. Do you know who one -- who or what  
15 One Touch Intelligence is, excuse me?  
16 A. It's a tracking service but beyond it  
17 being a tracking service, no, I don't know.  
18 Q. Okay. And there's an analyst contact  
19 down at the bottom of the competitive alert.  
20 Do you see that, sir?  
21 A. I do.  
22 Q. And the identification of Karen  
23 Brown, I take it, then, sir, you don't know Miss  
24 Brown either?  
25 A. I certainly do not, no.

Page 129	Page 130
<p>1 - Peter Maguire -</p> <p>2 MR. KINGSTON: I pass the witness.</p> <p>3 MR. JUSTUS: Why don't we take a</p> <p>4 five-minute break and you could try to make</p> <p>5 the phone call about the MSA and then I may</p> <p>6 have one more question after that.</p> <p>7 THE WITNESS: Okay. Can I -- so in</p> <p>8 very specific terms, what the question is?</p> <p>9 MR. JUSTUS: Is there an</p> <p>10 indemnification provision in the MSA; and if</p> <p>11 so, which party is indemnifying which party?</p> <p>12 So is RAPP indemnifying Charter? Is</p> <p>13 Charter indemnifying RAPP?</p> <p>14 And then: Does that relate to legal</p> <p>15 claims that would involve false advertising?</p> <p>16 Those are the questions.</p> <p>17 THE WITNESS: So I'll ask the</p> <p>18 question.</p> <p>19 THE VIDEOGRAPHER: We're off the</p> <p>20 record at 1:09 p.m.</p> <p>21 (Whereupon, there was a brief recess</p> <p>22 in the proceedings.)</p> <p>23 THE VIDEOGRAPHER: We are now back on</p> <p>24 the record at 1:15 p.m.</p> <p>25 MR. JUSTUS: Peter, were you able to</p>	<p>1 - Peter Maguire -</p> <p>2 get a hold of anyone about the question about</p> <p>3 the MSA we talked about?</p> <p>4 THE WITNESS: I phoned and the person</p> <p>5 did not answer. So no, I wasn't able to</p> <p>6 speak to anyone.</p> <p>7 MR. JUSTUS: Okay. Would you be</p> <p>8 willing to send me an e-mail with answers to</p> <p>9 those questions? If we conclude the</p> <p>10 deposition now, would you be willing to send</p> <p>11 a follow-up e-mail that answers my questions</p> <p>12 on the indemnification?</p> <p>13 THE WITNESS: Yeah, it would be</p> <p>14 helpful if you send me an e-mail with the</p> <p>15 specific questions and I'm happy to response</p> <p>16 to once I've spoken to the appropriate people</p> <p>17 at RAPP.</p> <p>18 MR. JUSTUS: I will do that and I</p> <p>19 think I have your e-mail hundreds of times on</p> <p>20 the documents --</p> <p>21 THE WITNESS: Sure do.</p> <p>22 MR. JUSTUS: -- but would you tell me</p> <p>23 again?</p> <p>24 THE WITNESS: It's Peter, P-E-T-E-R,</p> <p>25 dot Maguire M-A-G-U-I-R-E, at RAPP.com.</p>
Page 131	Page 132
<p>1 - Peter Maguire -</p> <p>2 R-A-P-P, dot com.</p> <p>3 MR. JUSTUS: Okay. No further</p> <p>4 questions.</p> <p>5 MR. KINGSTON: I would just ask that</p> <p>6 we be copied on this e-mail.</p> <p>7 MR. JUSTUS: Yes, absolutely.</p> <p>8 MR. KINGSTON: I have no further</p> <p>9 questions but I will ask you, Mr. Maguire,</p> <p>10 whether you want to read and sign your</p> <p>11 deposition transcript or whether you want to</p> <p>12 waive your signature.</p> <p>13 THE WITNESS: Yes, I'll read the</p> <p>14 transcript.</p> <p>15 MR. JUSTUS: Okay. So the witness</p> <p>16 will read and sign. We're done.</p> <p>17 Off the record.</p> <p>18 THE VIDEOGRAPHER: This concludes</p> <p>19 today's deposition of Peter Maguire. We're</p> <p>20 now off the record at 1:17 p.m.</p> <p>21 (Whereupon, the deposition concluded</p> <p>22 at 1:17 p.m.)</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2 A C K N O W L E D G E M E N T</p> <p>3</p> <p>4 S T A T E O F N E W Y O R K )</p> <p>5 ) s s .</p> <p>6 C O U N T Y O F N E W Y O R K )</p> <p>7</p> <p>8 I, PETER MAGUIRE, hereby certify that I have</p> <p>9 read the transcript of my testimony taken under</p> <p>10 oath in my deposition of September 12, 2019; that</p> <p>11 the transcript is a true, complete and correct</p> <p>12 record of my testimony, and that the answers on</p> <p>13 the record as given by me are true and correct.</p> <p>14</p> <p>15 _____</p> <p>16 PETER MAGUIRE</p> <p>17</p> <p>18 Subscribed and sworn</p> <p>19 to before me on this the</p> <p>20 _____ day of _____, 2019.</p> <p>21 Notary Public, State of New York</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 133</p> <p>1</p> <p>2                   C E R T I F I C A T E</p> <p>3   STATE OF NEW YORK    )</p> <p>4                   ) ss.</p> <p>5   COUNTY OF NEW YORK   )</p> <p>6</p> <p>7       I, HOPE LYNN MENAKER, a Notary Public within</p> <p>8   and for the State of New York, do hereby certify:</p> <p>9       That PETER MAGUIRE, the witness whose</p> <p>10   deposition is hereinbefore set forth, was duly</p> <p>11   sworn by me and that such deposition is a true</p> <p>12   record of the testimony given by the witness.</p> <p>13       I further certify that I am not related to</p> <p>14   any of the parties to this action by blood or</p> <p>15   marriage, and that I am in no way interested in</p> <p>16   the outcome of this matter.</p> <p>17       IN WITNESS WHEREOF, I have hereunto</p> <p>18   set my hand this 24th day of September, 2019.</p> <p>19</p> <p>20                   _____</p> <p>21                   HOPE LYNN MENAKER</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 134</p> <p>1</p> <p>2                   I N D E X</p> <p>3                   WITNESS: PETER MAGUIRE</p> <p>4                   EXAMINATION BY                   PAGE</p> <p>5                   MR. JUSTUS                               4</p> <p>6                   MR. KINGSTON                           119</p> <p>7                   EXHIBITS FOR IDENTIFICATION</p> <p>8                   NUMBER       DESCRIPTION                   PAGE</p> <p>9                   1       Complaint &amp; Subpoena               8</p> <p>10                  2       Charter_000942 - 946               24</p> <p>11                  3       Charter_00147 - 408               26</p> <p>12                  4       PowerPoint                       34</p> <p>13                  5       Charter_000936 - 941               49</p> <p>14                  6       Charter_006254 - 255               76</p> <p>15                  7       Charter_006103 0- 104               85</p> <p>16                  8       Charter_010013_ 021               86</p> <p>17                  9       EM2019-Winstream               103</p> <p>18                  10       E-mails                       115</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 135</p> <p>1</p> <p>2                   E R R A T A   S H E E T</p> <p>3   CASE NAME: Windstream v Charter</p> <p>4   DATE OF DEPOSITION: September 12, 2019</p> <p>5   WITNESS' NAME: Peter Maguire</p> <p>6   PAGE/LINE(S)/ CHANGE REASON</p> <p>7   ____/____/_____/_____</p> <p>8   ____/____/_____/_____</p> <p>9   ____/____/_____/_____</p> <p>10   ____/____/_____/_____</p> <p>11   ____/____/_____/_____</p> <p>12   ____/____/_____/_____</p> <p>13   ____/____/_____/_____</p> <p>14   ____/____/_____/_____</p> <p>15   ____/____/_____/_____</p> <p>16   ____/____/_____/_____</p> <p>17   ____/____/_____/_____</p> <p>18   ____/____/_____/_____</p> <p>19   ____/____/_____/_____</p> <p>20   ____/____/_____/_____</p> <p>21   ____/____/_____/_____</p> <p>22</p> <p>23</p> <p>24   Date    Signature</p> <p>25</p>	<p style="text-align: center; font-size: 2em; opacity: 0.5;">DRAFT COPY</p>





**Debtor**



**Defendants' Designations and Counter Designations**



**Debtor Counter Designations**

Page 1	Page 2
<p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>CHAPTER 11 CASE NO. 19-22312(RDD) ----- /</p> <p>In re:</p> <p>WINDSTREAM HOLDINGS, INC., et al.,</p> <p>Debtors,</p> <hr/> <p>WINDSTREAM HOLDINGS, INC., et al., Plaintiffs,</p> <p>vs.</p> <p>CHARTER COMMUNICATIONS, INC., and CHARTER COMMUNICATIONS OPERATING, LLC,</p> <p>Defendants. ----- /</p> <p>The videotaped 30(b)(6) deposition of KELLY CHRISTINE ATKINSON, in her capacity as designated corporate representative for defendants, was taken at the law offices of Wiggin and Dana, LLP, Two Stamford Plaza, Stamford, Connecticut, before Mercedes Marney-Sheldon, CT-LSR #530, a registered professional reporter in the state of Connecticut and a notary public for the State of Connecticut, on Thursday, September 19, 2019, at 9:25 a.m.</p>	<p>1 oOo</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 REPRESENTING THE DEBTORS/PLAINTIFFS:</p> <p>5 KATTEN MUCHIN ROSENMAN, LLP</p> <p>6 2900 K Street NW</p> <p>7 North Tower - Suite 200</p> <p>8 Washington, D.C. 20007-5118</p> <p>9</p> <p>10 BY: MICHAEL R. JUSTUS, ESQ.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 REPRESENTING THE DEFENDANTS:</p> <p>15 THOMPSON COBURN, LLP</p> <p>16 One US Bank Plaza</p> <p>17 St. Louis, Missouri 63101</p> <p>18</p> <p>19 BY: JOHN KINGSTON, ESQ.</p> <p>20</p> <p>21 BY: NINO PRZULJ, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 oOo</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 REPRESENTING THE OFFICIAL COMMITTEE and UNSECURED CREDITORS:</p> <p>5</p> <p>6 MORRISON &amp; FOERSTER, LLP</p> <p>7 250 West 55th Street</p> <p>8 New York, New York 10019-9601</p> <p>9</p> <p>10 BY: JOCELYN E. GREER, ESQ.</p> <p>11</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 SERENA PARKER</p> <p>15 Charter Communications, Inc.</p> <p>16 ADAM VENURINI, Videographer</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 oOo</p> <p>2 ----- I N D E X -----</p> <p>3 TESTIMONY OF: KELLY CHRISTINE ATKINSON</p> <p>4 EXAMINATIONS PAGE</p> <p>5 Direct examination by Mr. Justus 19</p> <p>6 Cross-examination by Mr. Kingston 152</p> <p>7 Redirect examination by Mr. Justus 220</p> <p>8 Recross-examination by Mr. Kingston 235</p> <p>9</p> <p>10 ----- INFORMATION REQUEST -----</p> <p>11 INSTRUCTION TO WITNESS: (None)</p> <p>12 REQUEST FOR PRODUCTION: (None)</p> <p>13 INFORMATION TO BE FURNISHED: (None)</p> <p>14 STIPULATIONS: (None)</p> <p>15 MOTIONS: (None)</p> <p>16 MARKED FOR RULING: (None)</p> <p>17</p> <p>18 ----- E X H I B I T S -----</p> <p>19 MARKED FOR IDENTIFICATION PAGE</p> <p>20 Defendants' Exhibit 1 14</p> <p>21 Second amended notice</p> <p>22 Defendants' Exhibit 2 38</p> <p>23 Public copy of the complaint filed by Windstream in the adversary proceeding</p> <p>24 involving Charter's advertising</p> <p>25</p>

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2	----- INDEX CONTINUED -----	2	----- INDEX CONTINUED -----
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4	MARKED FOR IDENTIFICATION PAGE	4	MARKED FOR IDENTIFICATION PAGE
5	Defendants' Exhibit 3 49	5	Defendants' Exhibit 10 107
6	E-mail string initiated by John Hargis, to Kelly Atkinson, dated April 5; Bates-stamped Charter 031754	6	Charter's answer file in this on May 8
7	Defendants' Exhibit 4 61	7	Defendants' Exhibit 11 150
8	E-mail string, with top e-mail dated March 27 from Matt Bury; Bates-stamped Charter -29749, through -29756 inclusive	8	Composite exhibit. A document Bates-stamped Charter -4484, and a document Bates-stamped Win -2064 through -2071
9	Defendants' Exhibit 5 71	9	
10	E-mail string, starting with Bates Number Charter -6319	10	Plaintiffs' Exhibit 12 155
11		11	Document titled "TELCOTRAK, a service of One Touch Intelligence competitive monitoring and analysis of telco broadband and wireless activities," dated February 16 through 28 of 2019;
12	Defendants' Exhibit 6 81	12	Bates-stamped Charter -836 through -847
13	E-mail string, starting with Bates Number Charter -626	13	Plaintiffs' Exhibit 13 167
14	Defendants' Exhibit 7 85	14	Document titled "Competitive Alert," from One Touch Intelligence, dated February 25
15	E-mail string, starting with Bates Number Charter -1217	15	
16		16	Plaintiffs' Exhibit 14 170
17	Defendants' Exhibit 8 89	17	
18	E-mail string, with top e-mail dated April 2, from Kelly Atkinson to Keith Dardis; Bates-stamped Charter -7830 through -31	18	Multi-page document consisting of a stamped envelope with only a return address (no company name), and a Windstream Kinetic TV mailing piece
19	Defendants' Exhibit 9 92	19	Plaintiffs' Exhibit 15 173
20	E-mail dated February 22, from John Hargis to Kelly Atkinson, David Andreski, Keith Dardis, and Scott Niles; Bates-stamped Charter -514	20	E-mail chain; Bates-stamped Charter -936 through Charter -941 (Document previously marked as Chart 7 in May 1, 2019, deposition of Kelly Atkinson)
21		21	
22		22	
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5	Plaintiffs' Exhibit 16 178	5	Plaintiffs' Exhibit 24 195
6	Windstream direct-mail offer related to Kinetic TV	6	Screenshot of the Xfinity website
7	Plaintiffs' Exhibit 17 179	7	Plaintiffs' Exhibit 25 198
8	Another Windstream direct-mail piece	8	Copy of a FirstNet advertisement
9	Plaintiffs' Exhibit 18 181	9	Plaintiffs' Exhibit 26 199
10	A Windstream direct mailer, and an envelope	10	Marketing material for Revenge Body with Khloe Kardashian
11	Plaintiffs' Exhibit 19 182	11	Plaintiffs' Exhibit 27 203
12	Marked-up draft of the March 2019 direct mail	12	Exemplar of Windstream direct-mail piece obtained by Charter Communications in March to April 2019 time period
13	Plaintiffs' Exhibit 20 186	13	Plaintiffs' Exhibit 28 204
14	Exemplar of the envelope for the March 2019 direct mail	14	A Kinetic direct-mail piece by Windstream
15	Plaintiffs' Exhibit 21 189	15	Plaintiffs' Exhibit 29 205
16	E-mail chain, dated March 5, 2019; Bates-stamped Charter -1005	16	A Kinetic and DirecTV mailing
17	Plaintiffs' Exhibit 22 193	17	Plaintiffs' Exhibit 30 206
18	A representation of the distinctive Instagram logo	18	"Kinetic Internet by Windstream" direct-mail sample
19	Plaintiffs' Exhibit 23 194	19	Plaintiffs' Exhibit 31 207
20	An advertisement for Lyft	20	A sample of Windstream's direct mailer obtained by Charter Communications in March to April 2019 time period
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25		25	

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<p style="text-align: right;">Page 11</p> <p>1 oOo</p> <p>2</p> <p>3 S T I P U L A T I O N S</p> <p>4</p> <p>5 It is stipulated by counsel for the parties 6 that all objections are reserved until the time of 7 trial, except those objections as are directed to 8 the form of the question.</p> <p>9</p> <p>10 It is stipulated and agreed between counsel 11 for the parties that the proof of the authority of 12 the notary before whom this deposition is taken is 13 waived.</p> <p>14 It is further stipulated that any defects 15 in the notice are waived.</p> <p>16</p> <p>17 It is further stipulated that the reading and 18 signing of the deposition transcript by the witness 19 may be signed before any notary public.</p> <p>20 * * * * *</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 12</p> <p>1 K.C. Atkinson - 09/19/19</p> <p>2 THE VIDEOGRAPHER: This is Tape 1.</p> <p>3 We are now on the record at</p> <p>4 9:25 a.m., Thursday, September 19, 2019.</p> <p>5 This is the 30(b)(6) deposition of</p> <p>6 Kelly Atkinson, in the matter of</p> <p>7 Windstream Holdings v. Charter.</p> <p>8 This deposition is being held at the</p> <p>9 offices of Wiggin and Dana, LLP, located</p> <p>10 at Two Stamford Plaza, Stamford,</p> <p>11 Connecticut 06901.</p> <p>12 The court reporter is Mercedes Marney</p> <p>13 with U.S. Legal.</p> <p>14 I'm the legal videographer,</p> <p>15 Adam Venturini, also with U.S. Legal.</p> <p>16 Will counsel please introduce</p> <p>17 themselves and state whom they represent.</p> <p>18 MR. JUSTUS: Sure.</p> <p>19 Michael Justice from Katten, on</p> <p>20 behalf of Windstream Holdings and the</p> <p>21 affiliated debtors and debtors in</p> <p>22 possession.</p> <p>23 MS. GREER: Jocelyn Greer, Morrison &amp;</p> <p>24 Foerster, on behalf of the official</p> <p>25 committee of unsecured creditors.</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. KINGSTON: John Kingston on</p> <p>3 behalf of Charter. And with me is</p> <p>4 Nino Przulj and Serena Parker.</p> <p>5 THE VIDEOGRAPHER: Will the court</p> <p>6 reporter please swear in the witness.</p> <p>7 (The witness was duly sworn by the</p> <p>8 court reporter.)</p> <p>9 MR. JUSTUS: Well, John, you and</p> <p>10 I talked before we got on the record.</p> <p>11 I think there's going to be four different</p> <p>12 witnesses called today, at least that's</p> <p>13 the expectation.</p> <p>14 Exhibit 1 is just going to be the</p> <p>15 second amended 30(b)(6) notice.</p> <p>16 So it may be easier for you and I to</p> <p>17 talk about those topics first, and who is</p> <p>18 going to be put forth on what topic.</p> <p>19 MR. KINGSTON: I think that that's</p> <p>20 perfect.</p> <p>21 MR. JUSTUS: Okay.</p> <p>22 MR. KINGSTON: If you want to --</p> <p>23 MR. JUSTUS: So we had marked as</p> <p>24 Exhibit 1, the second amended notice.</p> <p>25</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 (Defendants' Exhibit Number 1 was</p> <p>3 marked for identification as of this</p> <p>4 date.)</p> <p>5 MR. JUSTUS: So you want to just go</p> <p>6 topic by topic right now?</p> <p>7 MR. KINGSTON: Sure.</p> <p>8 And maybe the most efficient way is,</p> <p>9 I'll kind of just walk through the topics,</p> <p>10 and advise who will be appearing on what</p> <p>11 topic.</p> <p>12 MR. JUSTUS: Okay.</p> <p>13 MR. KINGSTON: Ms. Atkinson,</p> <p>14 Kelly Atkinson, will be appearing for --</p> <p>15 on Topics 1, 2, and 3, and, in part, for</p> <p>16 Topic 4.</p> <p>17 Latisha Truong, T-R-U-O-N-G, will be</p> <p>18 appearing also on Topic 4, to discuss</p> <p>19 Charter's training and directions.</p> <p>20 Ms. Atkinson will be appearing on</p> <p>21 Topics 5, 8, 9, and 10.</p> <p>22 Matt Kardos --</p> <p>23 MR. JUSTUS: Hold on, I'm sorry.</p> <p>24 Okay.</p> <p>25 MR. KINGSTON: Matthew Kardos will be</p>
Page 15	Page 16
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 appearing on Topic 7.</p> <p>3 Rick Gunzel, his name is spelled,</p> <p>4 G-U-N-Z-E-L. And I think it's</p> <p>5 Frederick Gunzel.</p> <p>6 MR. KINGSTON: So it's Frederick, not</p> <p>7 Richard, Gunzel, will be appearing on</p> <p>8 Topic 11.</p> <p>9 Ms. Atkinson, Ms. Atkinson will be</p> <p>10 appearing on Topics 12, 13, 14, and -- 15,</p> <p>11 and 16.</p> <p>12 Mr. Kardos will be appearing on</p> <p>13 Topic 17.</p> <p>14 With respect to Topic 20,</p> <p>15 Ms. Atkinson is available to testify to</p> <p>16 facts related to the topics on which she's</p> <p>17 appearing.</p> <p>18 MR. JUSTUS: Okay.</p> <p>19 MR. KINGSTON: Ms. Truong, likewise,</p> <p>20 will be made available to testify on the</p> <p>21 facts related to the topics on which she's</p> <p>22 appearing.</p> <p>23 And, Mr. Kardos, again, will be</p> <p>24 appearing to provide testimony related to</p> <p>25 the -- on the facts related to the</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 topics -- the other topics on which he's</p> <p>3 appearing.</p> <p>4 And, finally, Mr. Gunzel will also be</p> <p>5 made available to testify related to facts</p> <p>6 that are related to the topics on which he</p> <p>7 is appearing.</p> <p>8 MR. JUSTUS: How about the facts in</p> <p>9 the pleadings?</p> <p>10 MR. KINGSTON: I think that those --</p> <p>11 I think that the topics cover the --</p> <p>12 the -- I think the -- the Windstream</p> <p>13 corporate-rep topics, to which Charter has</p> <p>14 not objected, cover the -- the front of</p> <p>15 the topics of the facts related to the</p> <p>16 pleadings.</p> <p>17 To the extent there are facts that</p> <p>18 are beyond those, I think those would</p> <p>19 probably be on Ms. Atkinson.</p> <p>20 MR. JUSTUS: Okay.</p> <p>21 MR. KINGSTON: Does it make it easy</p> <p>22 with the -- like, I'm envisioning sort of</p> <p>23 the (indiscernible cross-talking) --</p> <p>24 MR. JUSTUS: More or less</p> <p>25 (indiscernible cross-talking) --</p>

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1 K.C. Atkinson - 09/19/19  
2 MR. KINGSTON: -- (indiscernible  
3 cross-talking) --  
4 THE COURT REPORTER: All right, one  
5 at a time, please.  
6 MR. KINGSTON: That's a good --  
7 that's a good interruption.  
8 MR. JUSTUS: Yeah, I -- I, more or  
9 less, understand I'll start with  
10 Ms. Atkinson. And, of course, there's  
11 three other people if there's some things  
12 she's not prepared for.  
13 MR. KINGSTON: Okay. Very good.  
14 And Ms. Atkinson will be testifying  
15 on Topics 21, 22, 23, and 24.  
16 Mr. Gunzel will be testifying on  
17 Topic 25.  
18 And Ms. Atkinson will be testifying  
19 on Topic 26.  
20 Ms. Atkinson is here now.  
21 MR. JUSTUS: Uh-huh.  
22 MR. KINGSTON: After she finishes,  
23 Ms. Truong, we'd like to get her on,  
24 because we'd like to get her on a flight  
25 to get back to Ohio.

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1 K.C. Atkinson - 09/19/19  
2 KELLY CHRISTINE ATKINSON,  
3 called as a witness, having been first  
4 duly sworn in by the court reporter,  
5 a notary public of the State of Connecticut,  
6 is examined and testifies as follows:  
7  
8 - - -  
9 DIRECT EXAMINATION  
10 - - -  
11 BY MR. JUSTUS:  
12 Q. Can you please state your full name  
13 for the record?  
14 A. Kelly Christine Atkinson.  
15 Q. And you're currently an employee of  
16 Charter; right?  
17 A. I am.  
18 Q. And what's your job title?  
19 A. I'm head of marketing for consumer,  
20 and small and medium business.  
21 Q. And how long have you been in that  
22 role?  
23 A. It will be one year, September 28th.  
24 Q. And how long have you been employed  
25 by Charter in total in any role?

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1 K.C. Atkinson - 09/19/19  
2 MR. JUSTUS: That's fine.  
3 MR. KINGSTON: And then Mr. Kardos  
4 and Mr. Gunzel are both available this  
5 afternoon.  
6 I think we were looking at doing  
7 Mr. Kardos first, but I think there is  
8 some flexibility there, and I'm happy to  
9 talk about it with you on a break.  
10 MR. JUSTUS: But they'll be available  
11 starting at a certain time this afternoon?  
12 MR. KINGSTON: I would say, I think  
13 they would be available anytime after  
14 noon, but, I'm not positive on that.  
15 MR. JUSTUS: Okay.  
16 MR. KINGSTON: But my suspicion is,  
17 my hope is, that we'll be finished with  
18 Ms. Atkinson by noon. We'll see.  
19 MR. JUSTUS: Okay.  
20 All right, we'll see how it goes.  
21 All right. Well, thank you for that,  
22 John.  
23 MR. KINGSTON: My pleasure.  
24  
25

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1 K.C. Atkinson - 09/19/19  
2 A. The same period of time.  
3 Q. The same period. Okay.  
4 A. Uh-huh.  
5 Q. And are you based in Charter's  
6 Stamford office?  
7 A. I am.  
8 Q. Okay.  
9 So there's two Charter entities that  
10 are defendants in this case.  
11 Just to streamline things, I'm going  
12 to refer to them both as "Charter."  
13 A. Okay.  
14 Q. Okay?  
15 Okay. And you were deposed earlier  
16 in this case; right?  
17 A. Yes.  
18 Q. That was back, I think, it was  
19 May 1st. Does that sound right?  
20 A. May. I can't remember the exact  
21 date.  
22 Q. Okay.  
23 And you have Exhibit 1 in front of  
24 you?  
25 THE THE COURT REPORTER: Uh-uh.

Page 21	Page 22
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. JUSTUS: No.</p> <p>3 THE THE COURT REPORTER: One moment.</p> <p>4 BY MR. JUSTUS:</p> <p>5 Q. And we just talked, I just spoke with</p> <p>6 your counsel, about the topics you're going to</p> <p>7 testify here today.</p> <p>8 Were you following along with his</p> <p>9 comments on which topics you're going to be</p> <p>10 testifying here today?</p> <p>11 A. I was. I just don't have them</p> <p>12 marked, exactly.</p> <p>13 Q. Right, but they sounded right to you</p> <p>14 as he read them to me?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 So what did you do to prepare for</p> <p>18 this deposition?</p> <p>19 A. I had a meeting with my attorneys</p> <p>20 last week, and yesterday.</p> <p>21 Q. Okay. Did you speak with anyone</p> <p>22 other than your attorneys?</p> <p>23 A. No.</p> <p>24 Q. Okay. No employees at Charter who</p> <p>25 are not attorneys?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. No.</p> <p>3 Q. Okay.</p> <p>4 Did you review any documents to</p> <p>5 prepare?</p> <p>6 A. Yes, I did.</p> <p>7 Q. Which documents did you review?</p> <p>8 A. I have copies of Keith Dardis and</p> <p>9 Scott Niles' e-mails. And there were various</p> <p>10 marketing materials that I had looked at, just</p> <p>11 general industry marketing materials.</p> <p>12 Q. Okay. Starting with the e-mails,</p> <p>13 were those e-mails produced to Windstream in this</p> <p>14 case?</p> <p>15 A. My understanding is yes.</p> <p>16 Q. Okay. And they have little Bates</p> <p>17 numbers at the bottom?</p> <p>18 A. I don't know what Bates numbers --</p> <p>19 Q. There's numbers that says "Charter,"</p> <p>20 and then some numbers after that, or --</p> <p>21 A. Oh, yes.</p> <p>22 It says "Charter," and then it has</p> <p>23 six-digit numbers.</p> <p>24 Q. Okay. I would expect those to be the</p> <p>25 Bates numbers.</p>
Page 23	Page 24
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Okay.</p> <p>3 Q. That's fine.</p> <p>4 A. I wasn't familiar with the term.</p> <p>5 Q. So you brought those documents with</p> <p>6 you?</p> <p>7 A. Yes.</p> <p>8 Q. Those are the only two e-mails that</p> <p>9 you looked at to prepare?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 A. For this topic.</p> <p>13 Q. Right.</p> <p>14 And you mentioned you looked at</p> <p>15 marketing materials; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Are those Charter's marketing</p> <p>18 materials?</p> <p>19 A. They were industry marketing</p> <p>20 materials, just general visuals, because I was</p> <p>21 looking at -- and Windstream's. I was looking at</p> <p>22 past communications that Windstream had done.</p> <p>23 Q. When you say "industry," you mean not</p> <p>24 Charter?</p> <p>25 A. Not Charter. Not Windstream.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Just general. Pharmaceutical, Lyft,</p> <p>3 Instagram; basically, just coloring.</p> <p>4 Q. "Coloring"?</p> <p>5 A. Coloring.</p> <p>6 Q. What do you mean by "coloring"?</p> <p>7 A. I know that one of the topics that</p> <p>8 I had been deposed on before was about the use of</p> <p>9 the color on the envelope.</p> <p>10 And so I was looking at this</p> <p>11 particular color pallet, which is a gradation,</p> <p>12 which is more than frequently used in the</p> <p>13 industry.</p> <p>14 Q. Oh, okay.</p> <p>15 And when you say "industry," you</p> <p>16 mean --</p> <p>17 A. Marketing.</p> <p>18 Q. -- Internet and phone and TV --</p> <p>19 A. Marketing. Just overall marketing.</p> <p>20 Q. Oh, used in marketing across</p> <p>21 (indiscernible cross-talking) --</p> <p>22 A. Just overall marketing across --</p> <p>23 THE THE COURT REPORTER: Please,</p> <p>24 please, one at a time.</p> <p>25 THE WITNESS: -- overall marketing</p>

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1 K.C. Atkinson - 09/19/19  
2 across, probably, 12 to 15 different  
3 industry segments.  
4 BY MR. JUSTUS:  
5 Q. Okay.  
6 So we've talked about all the  
7 documents that you looked at to prepare?  
8 A. Yes.  
9 Q. Okay.  
10 All right. So one of the things --  
11 do you know that we took the deposition of  
12 RAPP Worldwide last week? Are you aware that?  
13 A. I am aware of that.  
14 Q. Okay. One of the things we talked to  
15 RAPP about was how many different advertisements  
16 did they actually create for Charter, because  
17 that was not clear to us.  
18 A. Uh-huh.  
19 Q. And the witness for RAPP testified  
20 that there were three separate projects.  
21 One was a residential mailer and  
22 envelope;  
23 Two, was a "direct-sales flyer," he  
24 referred to it as;  
25 And three was an e-mail campaign.

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1 K.C. Atkinson - 09/19/19  
2 A. Yes.  
3 Q. And one of the basic facts that  
4 I want to try to get to, without -- I have a  
5 bunch of exhibits. I hope I don't need them.  
6 I'm just trying to figure, out of  
7 those three, which ones actually went out the  
8 door; which ones were actually sent out to  
9 customers, potential customers, the public.  
10 The residential mailer and envelope  
11 was sent out the door; right?  
12 A. Yes.  
13 Q. To, I think, over 800,000 people;  
14 right?  
15 A. Yes.  
16 Q. The second project, the direct-sales  
17 flyer, did that actually go out the door to  
18 customers, potential customers, or the public?  
19 A. No.  
20 Q. Never went out the door?  
21 A. It did not go out the door. It was  
22 paused. So it was not an authorized  
23 distribution.  
24 Q. So you're saying there may have been  
25 distribution that was unauthorized?

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1 K.C. Atkinson - 09/19/19  
2 A. I'm aware that there were a few  
3 instances where it was. And those employees are  
4 on corrective action right now, because it states  
5 in our employee handbook that that's not  
6 authorized.  
7 MR. KINGSTON: I don't want to step  
8 on your record, Counsel, but I -- you --  
9 I understood counsel's question to be  
10 directed to the flyer that was being  
11 prepared at RAPP, pursuant to the  
12 instructions of Mr. Bury.  
13 And the witness may have been talking  
14 past you to -- about distributions made by  
15 Mr. Walker that were not the "Bury"  
16 flyers.  
17 I'm not sure you guys are on the same  
18 page.  
19 I will not interrupt again.  
20 BY MR. JUSTUS:  
21 Q. Do you need to change anything you've  
22 testified based on your counsel's comments?  
23 A. My understanding, and what I had  
24 testified on, what went out was the direct  
25 mailing.

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1 K.C. Atkinson - 09/19/19  
2 Q. Uh-huh?  
3 A. That was the eight-hundred --  
4 Q. Yes.  
5 A. -- -and-some-thousand.  
6 Q. And then the second project, which  
7 was the direct-sales flyer?  
8 A. And that was not distributed.  
9 Q. Not -- it was not authorized to be  
10 distributed, but it may have been distributed --  
11 A. It was not --  
12 Q. -- on an unauthorized basis, is that  
13 what you said?  
14 A. It was not authorized to be  
15 distributed. In fact, the program was canceled.  
16 Q. And I think you said you're aware of  
17 instances where it was distributed, but it was  
18 not authorized. So it was distributed in a way  
19 that was, I think you said, contrary to Charter  
20 policy. Is that right?  
21 A. Yes.  
22 Q. Okay. And how many instances are you  
23 aware of where that sales flyer was distributed?  
24 A. I'm aware of two, of Charter  
25 employees;



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1 K.C. Atkinson - 09/19/19  
2 And one third party, a Walmart  
3 employee, that just came to light. But I have no  
4 background on that.  
5 Q. A Walmart employee, you say?  
6 A. Yes, it was a Walmart employee.  
7 Q. Okay.  
8 And the two Charter employees, was  
9 one Mr. Sites?  
10 A. Let me just -- let me just validate  
11 my names.  
12 Andrew Sites.  
13 Q. And the other?  
14 A. Rebecca Root.  
15 Q. Okay. So that's, Sites, S-I-T-E-S,  
16 and, Root, R-O-O-T. Right?  
17 A. Yes.  
18 Q. What about a Mr. Emmitt Walker?  
19 A. He made copies of the direct mailing  
20 and distributed less than 10 of those.  
21 And he is also on probation, and  
22 potential termination.  
23 Q. Okay. And what do you know about the  
24 Walmart employee?  
25 A. Nothing, actually, other than there

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1 K.C. Atkinson - 09/19/19  
2 A. Not to my knowledge.  
3 That wouldn't my role.  
4 Q. Okay. Whose role would that be to  
5 follow up on this?  
6 A. It would be, the leader of that team  
7 is Patty Eliason.  
8 Q. Okay. Is she on Mr. Dardin's (sic)  
9 team?  
10 A. No. She's on -- she runs our third  
11 parties and stores.  
12 Q. Okay.  
13 A. She doesn't report to Keith.  
14 We all report to John Hargis.  
15 Q. Okay. And she's on the direct sales  
16 side?  
17 A. She's on the sales channel side.  
18 Q. Sales channel side.  
19 Okay, I got it.  
20 A. Not direct sales.  
21 Q. Okay. And then the third project was  
22 e-mail marketing.  
23 Did any e-mail marketing, referencing  
24 Windstream's bankruptcy, actually go out the door  
25 to customers, potential customers, or the public?

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1 K.C. Atkinson - 09/19/19  
2 was an unidentified individual.  
3 That we utilized third parties as  
4 resellers, it's a common practice.  
5 And this employee, apparently, made  
6 reference to this. But I have no other details.  
7 Q. So Walmart is an authorized reseller  
8 of Charter services?  
9 A. Yes.  
10 Q. But it would actually be Walmart  
11 employees who do the selling activities?  
12 A. Yes.  
13 Q. Are they given a handbook or any  
14 direction on how to sell Charter services?  
15 A. I don't actually have the details of  
16 what they're done --  
17 Q. Okay.  
18 A. -- or, what they're provided.  
19 Q. And how did you become aware of that  
20 Walmart employee?  
21 A. Yesterday, with discussion with my  
22 counsel.  
23 Q. Okay.  
24 And has anyone at Charter attempted  
25 to identify the Walmart employee?

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1 K.C. Atkinson - 09/19/19  
2 A. No.  
3 Q. No.  
4 But there was an e-mail campaign that  
5 was created by RAPP --  
6 A. Yes.  
7 Q. -- is that right?  
8 It just never went out the door?  
9 A. Yes.  
10 It's common practice that they  
11 prepare various tactics for us. It doesn't mean  
12 that we actually implement them.  
13 Q. Okay.  
14 So going back to the first project,  
15 the direct-mail piece that did go out the door,  
16 what geographic markets was that mailed in?  
17 A. It was designed to go to the  
18 Windstream markets. It was through -- we utilize  
19 models that help us determine, is this a  
20 Windstream customer or not?  
21 It's not 100 percent accurate, it's  
22 an assumption, based on the service providers in  
23 the area.  
24 And from that, we send out mailings  
25 that may be generic or may be specific to the

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 customers.</p> <p>3 And there's always the chance that a</p> <p>4 Windstream mailing goes to someone who has no</p> <p>5 Windstream service. They could have Verizon</p> <p>6 services.</p> <p>7 But it's an opportunity to try to</p> <p>8 make the communication a little more relevant so</p> <p>9 that it can -- the call to action can be taken.</p> <p>10 Q. Okay. And the models, I think you</p> <p>11 said they try to determine where Windstream</p> <p>12 customers are located? Is that what you said?</p> <p>13 A. Windstream, and over 300 different</p> <p>14 competitors that we track.</p> <p>15 Q. Right.</p> <p>16 How do the models work?</p> <p>17 A. I don't actually know. I don't run</p> <p>18 the models.</p> <p>19 Q. Okay, who would know the answer to</p> <p>20 that?</p> <p>21 A. That would be David Andreski's team.</p> <p>22 He runs the different modeling and segmentation</p> <p>23 for our business.</p> <p>24 Q. Is anyone from his team going to be</p> <p>25 testifying here today, Ms. Truong or Mr. Gunzel</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 or Mr. Kardos?</p> <p>3 A. Matt Kardos reports to</p> <p>4 David Andreski.</p> <p>5 Q. And so do you know the specific</p> <p>6 geographic areas where the mailer was sent;</p> <p>7 states, for instance?</p> <p>8 A. Not really.</p> <p>9 We track over 300 competitors.</p> <p>10 And Windstream is a very small</p> <p>11 competitor in our over 50-million passing.</p> <p>12 Q. But this -- this specific residential</p> <p>13 mailer, do you know the states it was mailed to,</p> <p>14 in fact?</p> <p>15 A. Not directly, no.</p> <p>16 Q. Okay.</p> <p>17 MR. JUSTUS: Counsel, is there one of</p> <p>18 these witnesses who can tell us that?</p> <p>19 MR. KINGSTON: Well, I --</p> <p>20 MR. JUSTUS: It's not a trick. It's</p> <p>21 just -- I just which states.</p> <p>22 MR. KINGSTON: Well, I mean, the --</p> <p>23 so --</p> <p>24 MR. JUSTUS: I mean, we can have</p> <p>25 someone call on a break if we have to do</p>
Page 35	Page 36
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 that. But, it's just a basic fact we need</p> <p>3 today.</p> <p>4 THE WITNESS: So --</p> <p>5 MR. KINGSTON: The topic is</p> <p>6 Number 5 -- as I understand it, the</p> <p>7 question relates to Topic Number 5, which</p> <p>8 is: The intended or actual recipients of</p> <p>9 the advertisements, including areas in</p> <p>10 which the advertisements were distributed</p> <p>11 or used.</p> <p>12 The direct mail went out to some</p> <p>13 800,000 people.</p> <p>14 The complete list of those 800,000</p> <p>15 people, with names and addresses and</p> <p>16 ZIP codes, which would tell you the</p> <p>17 geographic region, has been produced.</p> <p>18 But this witness, obviously, hasn't</p> <p>19 memorized that list.</p> <p>20 MR. JUSTUS: Right. I'm just asking</p> <p>21 the states. It was a handful, I think,</p> <p>22 maybe. But...</p> <p>23 THE WITNESS: I -- St. Louis.</p> <p>24 I really don't have the details of</p> <p>25 the states.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 BY MR. JUSTUS:</p> <p>3 Q. Okay.</p> <p>4 A. It's -- literally, we do over</p> <p>5 60 million pieces of mail a month.</p> <p>6 MR. JUSTUS: But, Counsel, you're</p> <p>7 representing that we have a document where</p> <p>8 we can deduce the states and the</p> <p>9 locations?</p> <p>10 MR. KINGSTON: Yes. There is an</p> <p>11 Excel spreadsheet that does have everybody</p> <p>12 to whom the direct mail was directed.</p> <p>13 And I believe that that spreadsheet</p> <p>14 was actually the basis for a corrected</p> <p>15 mailer that Windstream sent in connection</p> <p>16 with the preliminary injunction.</p> <p>17 MR. JUSTUS: Okay.</p> <p>18 MR. KINGSTON: So I think you have</p> <p>19 that list, and I think that you've used</p> <p>20 it.</p> <p>21 MR. JUSTUS: Okay, that's fine.</p> <p>22 BY MR. JUSTUS:</p> <p>23 Q. When was the residential direct mail</p> <p>24 piece sent out, the date?</p> <p>25 A. The first mailing happened in March.</p>

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1 K.C. Atkinson - 09/19/19  
2 Q. Do you know the exact date?  
3 A. Mid-March. I actually don't recall  
4 the exact date.  
5 Q. And was there more than one mailing?  
6 A. There was a second mailing.  
7 We mail every two weeks, so there was  
8 a second mailing.  
9 Q. And when was that?  
10 A. That would have been in early April.  
11 Q. Do you know the date?  
12 A. I do not.  
13 Q. And that was the same exact  
14 direct-mail piece, both times, both batches?  
15 A. No.  
16 Q. Okay, what were the differences  
17 between those two mailers?  
18 A. The first mailing went out, and it  
19 had a statement, it said, "uncertainty."  
20 And we received a communication from  
21 our legal that Windstream had, I guess,  
22 complained about that from a cease-and-desist.  
23 And so we corrected that and took it  
24 out.  
25 That was the only thing that they

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1 K.C. Atkinson - 09/19/19  
2 stated they wanted changed.  
3 So the mailing, with the exception of  
4 that line removed, went out again.  
5 Q. The line being -- relating to  
6 "uncertainty" --  
7 A. Correct.  
8 Q. -- you said?  
9 Okay.  
10 MR. JUSTUS: Please mark this as  
11 Exhibit 2.  
12 (Defendants' Exhibit Number 2 was  
13 marked for identification as of this  
14 date.)  
15 BY MR. JUSTUS:  
16 Q. And I'll represent, this is the  
17 complaint that Windstream filed in this adversary  
18 proceeding involving Charter's advertising.  
19 Some of the pages are redacted. This  
20 is the public copy. But I'm not going to ask you  
21 about anything that's redacted.  
22 And if you would turn to page 13,  
23 please?  
24 Do you recognize that as the front  
25 page of the direct-mail piece we've been

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1 K.C. Atkinson - 09/19/19  
2 discussing?  
3 A. Yes.  
4 Q. And on page 14, do you recognize that  
5 as the back page of the direct-mail piece we've  
6 been discussing?  
7 A. Yes.  
8 Q. And so back on page 13, I see a line  
9 that says, "Windstream has filed for Chapter 11  
10 bankruptcy, which means uncertainty."  
11 So is that the line you're  
12 referencing that was removed for the April  
13 mailing?  
14 A. Yes.  
15 Q. That whole sentence?  
16 A. I don't actually recall the exact  
17 words. I never saw the creative. It was all  
18 conversation; a quick conversation.  
19 MR. JUSTUS: Counsel, do you know if  
20 the revised version was ever produced to  
21 us?  
22 MR. KINGSTON: It was, it was.  
23 And I don't want to put words in the  
24 witness's mouth, but I think that there  
25 was a reference to a March mailing and an

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1 K.C. Atkinson - 09/19/19  
2 April mailing.  
3 The March mailing was attached to  
4 Windstream's motion for a TRO.  
5 There was an April mailing that was  
6 produced, that speaks for itself, that --  
7 but it doesn't exclude the reference to  
8 "uncertainty."  
9 The April mailing was an attachment  
10 to Charter's opposition to Windstream's  
11 TRO, and was, I believe, destroyed after  
12 the TRO was entered.  
13 But there -- so I know that the --  
14 I know that the April mailing was produced  
15 for sure, as an attachment to a pleading.  
16 And I -- I believe it was produced in  
17 part of the document production.  
18 MR. JUSTUS: Okay.  
19 MR. KINGSTON: I think when we -- we  
20 produced everything Windstream-related.  
21 BY MR. JUSTUS:  
22 Q. And so that second mailer, that  
23 change was made to remove the line about  
24 "uncertainty."  
25 Is that the mailer that was on

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 pallets that were destroyed?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 Was there any other mailing?</p> <p>6 It was just those two, one in March,</p> <p>7 one in April, is that it?</p> <p>8 A. Those two mailings.</p> <p>9 But we -- we mail to all of our</p> <p>10 customers -- all of our prospects in our</p> <p>11 50-plus-million homes passed.</p> <p>12 So there were subsequent mailings,</p> <p>13 but they didn't have anything to do with this</p> <p>14 creative. They would have just been our general</p> <p>15 templates.</p> <p>16 Q. They didn't mention Windstream's</p> <p>17 bankruptcy?</p> <p>18 A. Correct, no, they did not.</p> <p>19 Q. That's fine. Thank you.</p> <p>20 So how would we be able to find out</p> <p>21 the exact dates in March and April that those</p> <p>22 mailings went out?</p> <p>23 A. I can -- on my staff I have a</p> <p>24 gentleman who would have the exact dates.</p> <p>25 I just don't recall them.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Q. Could you --</p> <p>3 A. Did you get my --</p> <p>4 Q. Could you call the gentleman --</p> <p>5 A. -- first deposition --</p> <p>6 Q. Sorry, sorry to interrupt.</p> <p>7 Could you call the gentleman on a</p> <p>8 break and just ask those two dates?</p> <p>9 A. Yes.</p> <p>10 Q. Just a basic fact that we need for</p> <p>11 the record today.</p> <p>12 A. Yes.</p> <p>13 Q. Thank you very much.</p> <p>14 Did Charter run any TV ads relating</p> <p>15 to Windstream's bankruptcy?</p> <p>16 A. No.</p> <p>17 Q. How about radio ads relating to the</p> <p>18 bankruptcy?</p> <p>19 A. No.</p> <p>20 Q. How about Internet or online ads</p> <p>21 relating to Windstream's bankruptcy?</p> <p>22 A. No.</p> <p>23 Q. So other than the residential</p> <p>24 direct-mail piece that we've talked about, no</p> <p>25 other ads went out the door that referenced</p>
Page 43	Page 44
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Windstream's bankruptcy; is that right?</p> <p>3 A. That is correct.</p> <p>4 Q. Okay.</p> <p>5 All right. So turning back to the</p> <p>6 direct-mail piece on page 13 in Exhibit 2, what</p> <p>7 was Charter's factual basis for saying that</p> <p>8 Chapter 11 bankruptcy meant uncertainty?</p> <p>9 A. We directly -- we track over</p> <p>10 300 different competitors in our footprint.</p> <p>11 One Touch is a third party that the</p> <p>12 company has utilized for years, that assesses</p> <p>13 competitive market -- markets.</p> <p>14 And they had a specific write-up that</p> <p>15 said Windstream was going into bankruptcy, and</p> <p>16 the uncertainty surrounding it.</p> <p>17 And it was a direct to Lyft.</p> <p>18 (Clarification requested by the</p> <p>19 court reporter.)</p> <p>20 THE WITNESS: Direct Lyft of their</p> <p>21 positioning, from the third-party --</p> <p>22 BY MR. JUSTUS:</p> <p>23 Q. And what does that mean?</p> <p>24 A. It means that the phrasing that they</p> <p>25 utilized was, this bankruptcy -- the bankruptcy</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 means uncertainty.</p> <p>3 And that was utilized as part of the</p> <p>4 creative approach that was provided to RAPP for a</p> <p>5 brief.</p> <p>6 Q. Was there any detail in that</p> <p>7 One Touch piece explaining what "uncertainty"</p> <p>8 meant?</p> <p>9 A. It went into some detail. I don't</p> <p>10 have the document with me right now. But it is</p> <p>11 through our competitive analysis, and it talked</p> <p>12 about just the overall bankruptcy position, and</p> <p>13 that it's -- it means uncertainty to consumers.</p> <p>14 Q. Okay. Did Charter do anything to</p> <p>15 verify that there would be uncertainty</p> <p>16 surrounding Windstream's bankruptcy?</p> <p>17 A. The third party that provides this to</p> <p>18 us is really a third party that just gives us the</p> <p>19 information. We don't do any specific background</p> <p>20 on that.</p> <p>21 The assumption is, if we checked</p> <p>22 anything with regard to offers or different</p> <p>23 situations with any competitor, AT&amp;T, for</p> <p>24 example, that they are validating it in the</p> <p>25 industry.</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 And that's part of a research firm --</p> <p>3 competitive research firm, that's part of how</p> <p>4 they position themselves. So Charter just --</p> <p>5 sorry. Go ahead.</p> <p>6 A. We pay them for that.</p> <p>7 And our team, before we would put</p> <p>8 anything into market, obviously, we go through</p> <p>9 the appropriate legal reviews of the documents.</p> <p>10 Q. Okay. So Charter relied on the</p> <p>11 statements in the One Touch piece. Charter did</p> <p>12 not separately verify any facts surrounding</p> <p>13 uncertainty with Windstream's bankruptcy. Is</p> <p>14 that right?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. And Charter has -- let me make sure</p> <p>17 you're the witness for this topic.</p> <p>18 Charter has filed for Chapter 11</p> <p>19 bankruptcy in the past; is that right?</p> <p>20 A. That is my understanding.</p> <p>21 Q. And Charter did not go out of</p> <p>22 business as a result; right?</p> <p>23 A. That's my understanding.</p> <p>24 Q. Because you're sitting here today;</p> <p>25 right?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Correct.</p> <p>3 Q. Okay.</p> <p>4 Was there a lot of uncertainty</p> <p>5 surrounding Charter's business operations at the</p> <p>6 time it filed for Chapter 11 bankruptcy?</p> <p>7 A. I actually wasn't even in the</p> <p>8 industry, so I didn't have any knowledge of it</p> <p>9 until this particular case came up.</p> <p>10 Q. Well, you are designated to testify</p> <p>11 on this topic.</p> <p>12 So, just on behalf of Charter, is</p> <p>13 Charter's position that there was a lot of</p> <p>14 uncertainty around Charter at the time it filed</p> <p>15 its own Chapter 11 bankruptcy?</p> <p>16 MR. KINGSTON: I will object.</p> <p>17 I know that the witness has been</p> <p>18 produced, subject to objections, and those</p> <p>19 objections include that Charter will</p> <p>20 produce a witness to testify about the</p> <p>21 Chapter 11 bankruptcy in 2019, to the</p> <p>22 extent that that bankruptcy had any impact</p> <p>23 on the decision to run the advertising.</p> <p>24 THE WITNESS: It had no impact on my</p> <p>25 decisioning because I didn't have</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 background on Charter's bankruptcy.</p> <p>3 MR. KINGSTON: I made a poor</p> <p>4 objection, and I stepped on your question,</p> <p>5 and I'm sorry.</p> <p>6 I object on the basis of foundation</p> <p>7 as to the question that I think was posed.</p> <p>8 And the reason why Ms. Atkinson --</p> <p>9 the reason why I'm lodging that foundation</p> <p>10 objection is, Ms. Atkinson can talk to and</p> <p>11 speak to the extent to which the</p> <p>12 Chapter 11 bankruptcy impacted decisions</p> <p>13 related to the advertising.</p> <p>14 It has not been reached generally on</p> <p>15 that topic.</p> <p>16 MR. JUSTUS: Okay.</p> <p>17 BY MR. JUSTUS:</p> <p>18 Q. So did Charter's 2009 Chapter 11</p> <p>19 bankruptcy filing affect the decision by Charter</p> <p>20 to run the advertisements relating to</p> <p>21 Windstream's bankruptcy?</p> <p>22 A. No.</p> <p>23 Q. Did Charter seek advice of counsel</p> <p>24 with respect to its own bankruptcy in relation to</p> <p>25 the new campaign relating to Windstream's</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 bankruptcy?</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. Were there any discussions internally</p> <p>5 at Charter when the Windstream bankruptcy</p> <p>6 campaign was being designed, with someone saying,</p> <p>7 well, Charter has filed bankruptcy. This seems</p> <p>8 similar to what we went through; were there any</p> <p>9 discussion along those lines?</p> <p>10 A. No.</p> <p>11 Q. And I think you're also designated</p> <p>12 for Topic 24, Charter's false-advertising claims</p> <p>13 against DirecTV or other third parties relating</p> <p>14 to Charter's 2009 Chapter 11 bankruptcy; is that</p> <p>15 right?</p> <p>16 A. Yes.</p> <p>17 Q. So I have similar questions.</p> <p>18 Did Charter's previous lawsuit</p> <p>19 against DirecTV affect decisions relating to the</p> <p>20 campaign relating to Windstream's bankruptcy?</p> <p>21 A. No.</p> <p>22 Q. Did Charter seek legal counsel with</p> <p>23 respect to how its own lawsuit against DirecTV</p> <p>24 could impact the legality of its campaign</p> <p>25 involving Windstream's bankruptcy?</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. Did anyone at Charter go back and</p> <p>4 review documents from the DirecTV case during the</p> <p>5 period of time when it was considering and</p> <p>6 creating the campaign relating to Windstream's</p> <p>7 bankruptcy?</p> <p>8 A. Not to my knowledge.</p> <p>9 MR. JUSTUS: Can we please mark this</p> <p>10 as Exhibit 3?</p> <p>11 (Defendants' Exhibit Number 3 was</p> <p>12 marked for identification as of this</p> <p>13 date.)</p> <p>14 BY MR. JUSTUS:</p> <p>15 Q. Have you seen Exhibit 3 before?</p> <p>16 A. Yes.</p> <p>17 MR. JUSTUS: Counsel?</p> <p>18 MR. KINGSTON: Yeah, we're going to</p> <p>19 take a break, for the purpose of</p> <p>20 discussing whether or not to assert a</p> <p>21 privilege. It will be a short one.</p> <p>22 I just want to make sure</p> <p>23 I understand, with somebody being referred</p> <p>24 to in this e-mail as -- so we'll go off</p> <p>25 for just a moment to talk about whether or</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 not to assert a privilege.</p> <p>3 MR. JUSTUS: That's fine.</p> <p>4 THE VIDEOGRAPHER: We are off the</p> <p>5 record at 10:02 a.m.</p> <p>6 (Off the record.)</p> <p>7 (Back on the record.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record at 10:08 a.m.</p> <p>10 MR. JUSTUS: Okay. I had a</p> <p>11 discussion with counsel for Charter.</p> <p>12 Charter would like to claw back as</p> <p>13 privileged, the second sentence on</p> <p>14 document -- it's Exhibit 3,</p> <p>15 Charter 031754, on privilege grounds, for</p> <p>16 purposes of this deposition.</p> <p>17 We'll stipulate to that, but reserve</p> <p>18 our right to revisit when I have a chance</p> <p>19 to analyze it more fully.</p> <p>20 MR. KINGSTON: That's fine, Counsel.</p> <p>21 And thank you for the courtesy.</p> <p>22 MR. JUSTUS: Thank you.</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 - - -</p> <p>3 DIRECT EXAMINATION CONTINUED</p> <p>4 - - -</p> <p>5 BY MR. JUSTUS:</p> <p>6 Q. So, Ms. Atkinson, have you seen</p> <p>7 Exhibit 3 before, before today?</p> <p>8 A. When it was sent to me.</p> <p>9 Q. Okay. And this was sent to you on</p> <p>10 April 5th; right?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And in the e-mail to you, from</p> <p>13 Mr. Hargis, on April 5th, it says "I would like</p> <p>14 to know when we get these."</p> <p>15 What is that referring to?</p> <p>16 A. That any communication from</p> <p>17 competitors that we receive, to our legal, he</p> <p>18 wants to be aware of them.</p> <p>19 Q. From competitors to your legal</p> <p>20 department, is that what you said?</p> <p>21 A. A cease and desist, as example.</p> <p>22 Q. Okay. Is this relating to</p> <p>23 Windstream's cease-and-desist letters?</p> <p>24 A. That, and any other competitors.</p> <p>25 Q. And the sentence, "I would like to</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 vote on when we take a risk," what is that</p> <p>3 referring to?</p> <p>4 A. I report to John. And, typically,</p> <p>5 any changes to plan would go directly to him.</p> <p>6 But with my joining Charter, they</p> <p>7 come to me now.</p> <p>8 So he is referencing that he would</p> <p>9 like to be part of that conversation.</p> <p>10 Q. And what risk is being discussed</p> <p>11 here?</p> <p>12 A. When we do a competitive claim</p> <p>13 against any of the 300-plus companies that</p> <p>14 compete in our footprint, we are factual and</p> <p>15 straightforward on what we receive from the</p> <p>16 third party, One Touch, that I mentioned.</p> <p>17 It could pertain to offers, or other.</p> <p>18 And we will often use those in our competitive</p> <p>19 messaging to customers.</p> <p>20 Q. And this specific e-mail string, the</p> <p>21 subject line is: Re Windstream.</p> <p>22 Are you discussing Windstream</p> <p>23 specifically in this e-mail?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. What was the risk specific to</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Windstream that's being discussed here?</p> <p>3 A. He thought that I had perhaps stopped</p> <p>4 mailings.</p> <p>5 Q. Is that the direct-mail pieces that</p> <p>6 we talked about earlier?</p> <p>7 A. Yes.</p> <p>8 Q. And so there was -- he's saying there</p> <p>9 may be a risk with continuing to send out the</p> <p>10 mailings?</p> <p>11 A. I'm not really sure how he thought of</p> <p>12 it. We didn't have a direct conversation on</p> <p>13 that, other than this e-mail.</p> <p>14 Q. Was there ever a vote relating to</p> <p>15 that risk, as he is asking for here?</p> <p>16 A. There was never a vote, no.</p> <p>17 Q. Was there ever further discussion</p> <p>18 about the risk that he's asking for here?</p> <p>19 A. Not on this, no.</p> <p>20 Q. And then the final sentence in that</p> <p>21 e-mail, "I could also help influence a more</p> <p>22 marketing-friendly outcome," what does that</p> <p>23 relate to?</p> <p>24 A. Oftentimes, when our attorneys will</p> <p>25 provide us counsel on, there is a risk associated</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 with doing or saying something.</p> <p>3 MR. KINGSTON: Just a -- I'm going to</p> <p>4 instruct the witness to answer the</p> <p>5 question, to the extent that she can do</p> <p>6 so, without disclosing confidential</p> <p>7 communications with your lawyers.</p> <p>8 So if you can answer the question --</p> <p>9 THE WITNESS: Yes.</p> <p>10 MR. KINGSTON: -- without disclosing</p> <p>11 confidential communications with your</p> <p>12 lawyers, you can answer.</p> <p>13 If you can't, I would instruct you</p> <p>14 not to answer.</p> <p>15 I'm sorry, Counsel. I didn't</p> <p>16 understand the question to be asking that,</p> <p>17 so I -- that's why I interrupted in the</p> <p>18 middle of her response rather than after</p> <p>19 your question.</p> <p>20 MR. JUSTUS: I don't know what the</p> <p>21 sentence means, that's why I'm asking.</p> <p>22 But if the sentence is relating to</p> <p>23 substantive legal advice, then</p> <p>24 I understand the objection.</p> <p>25 But I don't know.</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. KINGSTON: Maybe the better</p> <p>3 objection I should have made is, lack of</p> <p>4 foundation as to what Mr. Hargis was</p> <p>5 referring to.</p> <p>6 BY MR. JUSTUS:</p> <p>7 Q. Well, if you know, you can answer</p> <p>8 then.</p> <p>9 MR. KINGSTON: If you know, and you</p> <p>10 know that it's not -- actually, if you</p> <p>11 know, and you know that it's -- if the</p> <p>12 witness knows that Mr. Hargis was</p> <p>13 referring to conversations with counsel,</p> <p>14 she can disclose that.</p> <p>15 She can't disclose the substance of</p> <p>16 any confidential communications with</p> <p>17 counsel.</p> <p>18 THE WITNESS: I had never actually</p> <p>19 heard that term before.</p> <p>20 BY MR. JUSTUS:</p> <p>21 Q. Which term?</p> <p>22 A. "Marketing-friendly outcome."</p> <p>23 Q. So you had no follow-up discussions</p> <p>24 with Mr. Hargis about getting a more</p> <p>25 marketing-friendly outcome?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. No.</p> <p>3 Q. Okay, fair enough.</p> <p>4 So this is dated April 5th, and</p> <p>5 you're saying you had not stopped sending the</p> <p>6 mailer yet; right?</p> <p>7 A. Yes.</p> <p>8 Q. And so one of the things you were</p> <p>9 going to check on a break was the date of that</p> <p>10 second batch of mailers.</p> <p>11 So it's obviously after April 5th;</p> <p>12 right?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 Okay, you can set that aside.</p> <p>16 So going back to Exhibit 1 again, the</p> <p>17 list of topics, do you have that in front of you?</p> <p>18 A. Yes.</p> <p>19 Q. If you turn to page 4, Topic 8?</p> <p>20 I understood from counsel that you're</p> <p>21 prepared to testify on Topic 8; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 Is Charter aware of any Windstream</p> <p>25 customers who have contacted Charter and</p>



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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 expressed a belief that Charter's direct-mail</p> <p>3 piece was sent by Windstream?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Well, to Charter's knowledge, not to</p> <p>6 your personal knowledge.</p> <p>7 A. Not to my personal knowledge.</p> <p>8 Q. Okay. Well, since it's a deposition</p> <p>9 of the corporation, you're designated for that</p> <p>10 topic.</p> <p>11 A. Uh-huh.</p> <p>12 Q. I'm not asking for your personal</p> <p>13 knowledge; I'm asking for Charter's response on</p> <p>14 that issue.</p> <p>15 Is Charter aware of any Windstream</p> <p>16 customers who have contacted Charter and</p> <p>17 expressed a belief that Charter's direct-mail</p> <p>18 piece was sent by Windstream?</p> <p>19 A. I don't know how to answer that,</p> <p>20 other than saying I don't know personally if any</p> <p>21 customers contacted us and specifically</p> <p>22 referenced that communication.</p> <p>23 Q. Well, so what did you do to prepare</p> <p>24 to testify on Topic Number 8?</p> <p>25 A. I understand the direct-mail pieces</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 that we sent out.</p> <p>3 And I understand the materials that</p> <p>4 RAPP created, which were never utilized.</p> <p>5 And I'm aware of the</p> <p>6 eight-hundred-and-some --</p> <p>7 eight-hundred-plus-thousand customers on the mail</p> <p>8 file that we provided, that were mailed this</p> <p>9 particular creative. And I'll get the exact</p> <p>10 dates.</p> <p>11 MR. JUSTUS: Well, John, I think you</p> <p>12 know what I'm asking about.</p> <p>13 And it sounds like (indiscernible</p> <p>14 cross-talking) --</p> <p>15 MR. KINGSTON: I think the answer is,</p> <p>16 that we don't -- the -- the -- I can't</p> <p>17 speak for the company.</p> <p>18 I think the company's answer is, that</p> <p>19 we don't know of any.</p> <p>20 We can -- if Ms. Atkinson can do</p> <p>21 something over a break, to allow her to</p> <p>22 give that answer on behalf of the company,</p> <p>23 as opposed to answering on personal</p> <p>24 knowledge, we'll try and do that over the</p> <p>25 break.</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 But I don't think --</p> <p>3 MR. JUSTUS: Yeah, I had a -- you</p> <p>4 know, a number of questions about that,</p> <p>5 that's obviously important to us, whether</p> <p>6 or not Windstream customers are calling up</p> <p>7 Charter, expressing confusion about</p> <p>8 various aspects.</p> <p>9 And, you know, that's obviously</p> <p>10 within Topic 8.</p> <p>11 So, we're going to need testimony</p> <p>12 from someone about that.</p> <p>13 MR. KINGSTON: I think that what --</p> <p>14 I think the -- what you're talking about</p> <p>15 would also be included in -- or, the</p> <p>16 answer to your question would also be</p> <p>17 included in Topic 4, because I think what</p> <p>18 you're describing is Windstream customers</p> <p>19 calling Charter customer service</p> <p>20 representatives.</p> <p>21 And Ms. Atkinson can speak to that,</p> <p>22 and I think that that would -- that would</p> <p>23 maybe give -- put some meat on the bone as</p> <p>24 to why Charter is just not aware of any</p> <p>25 Windstream customers calling and saying,</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 We're worried about Windstream.</p> <p>3 MR. JUSTUS: Good.</p> <p>4 BY MR. JUSTUS:</p> <p>5 Q. So, Ms. Atkinson, did you check with</p> <p>6 anyone within the call center function of Charter</p> <p>7 to check if any Windstream customers had called</p> <p>8 in and expressed that belief?</p> <p>9 A. Not specifically on this, no.</p> <p>10 Q. Did you do -- you said "not</p> <p>11 specifically."</p> <p>12 Did you do anything generally?</p> <p>13 A. Generally, we look across all of our</p> <p>14 markets in terms of sales, and we see sales</p> <p>15 coming in. But, I don't listen to phone</p> <p>16 recordings on these to know if any customers</p> <p>17 specifically asked about that.</p> <p>18 MR. JUSTUS: Well, John, I don't know</p> <p>19 what to say. We need that testimony.</p> <p>20 MR. KINGSTON: We'll either prepare</p> <p>21 Ms. -- or, excuse me, Ms. Atkinson, but --</p> <p>22 we'll provide a witness who can -- I --</p> <p>23 I -- I think that -- we will get you a</p> <p>24 witness who can do that, or we will</p> <p>25 prepare this witness to give it to you.</p>



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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. JUSTUS: Today, you mean?</p> <p>3 MR. KINGSTON: Yes.</p> <p>4 MR. JUSTUS: Okay.</p> <p>5 Can we please mark this as Exhibit 4?</p> <p>6 (Defendants' Exhibit Number 4 was</p> <p>7 marked for identification as of this</p> <p>8 date.)</p> <p>9 BY MR. JUSTUS:</p> <p>10 Q. Exhibit 4, for the record, is</p> <p>11 e-mails, with -- starting with Bates,</p> <p>12 Charter 029749.</p> <p>13 So go ahead and read through that,</p> <p>14 and let me know when you're ready, Ms. Atkinson.</p> <p>15 A. (Witness reviews document.)</p> <p>16 MR. KINGSTON: Once again, going to</p> <p>17 take a break, for the purpose of</p> <p>18 discussing whether or not to assert a</p> <p>19 privilege.</p> <p>20 MR. JUSTUS: Okay.</p> <p>21 THE VIDEOGRAPHER: We are going off</p> <p>22 the record at 10:20 a.m.</p> <p>23 (Off the record.)</p> <p>24 (Back on the record.)</p> <p>25 THE VIDEOGRAPHER: We are back on the</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 record at 10:31 a.m.</p> <p>3 MR. KINGSTON: Just for the record,</p> <p>4 Charter is requesting to claw back the</p> <p>5 first sentence on Exhibit 4, which is</p> <p>6 Bates-labeled Charter -29749, through</p> <p>7 -29756 inclusive.</p> <p>8 And Charter has also requested, and</p> <p>9 with counsel discussed this earlier, to</p> <p>10 claw back the second sentence on</p> <p>11 Exhibit -- on the first page of Exhibit 3,</p> <p>12 which is Bates-labeled Charter 31754.</p> <p>13 Counsel, as I understand it, has</p> <p>14 agreed to forgo questioning related to</p> <p>15 those sentences that Charter has requested</p> <p>16 to claw back for this deposition,</p> <p>17 reserving all rights to (1) challenge</p> <p>18 Charter's claw back, and (2) ask questions</p> <p>19 related to the claw-back sentences should</p> <p>20 that -- should that challenge prevail.</p> <p>21 And we would -- the intent of the</p> <p>22 parties is to provide the court reporter</p> <p>23 with redacted versions of the exhibits,</p> <p>24 consistent with Charter's claw-back</p> <p>25 request, with the understanding that those</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 could be substituted for unredacted</p> <p>3 versions with the same Bates numbers at a</p> <p>4 later date.</p> <p>5 MR. JUSTUS: Agreed.</p> <p>6 MR. KINGSTON: Great.</p> <p>7 - - -</p> <p>8 DIRECT EXAMINATION CONTINUED</p> <p>9 - - -</p> <p>10 BY MR. JUSTUS:</p> <p>11 Q. Okay, so, Ms. Atkinson, turning back</p> <p>12 to Exhibit 4, at the top you have a March 27th</p> <p>13 e-mail from Matt Bury, B-U-R-Y. Right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Is this e-mail string relating</p> <p>16 to the second project we talked earlier, which</p> <p>17 was the direct-sales flyer?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And that -- that flyer was</p> <p>20 created by the RAPP agency; correct?</p> <p>21 A. Yes.</p> <p>22 Q. And how was this flyer intended to be</p> <p>23 distributed?</p> <p>24 A. It's a website that -- called</p> <p>25 "Badger," where they post it for our direct field</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 sales reps.</p> <p>3 And in the case of this particular</p> <p>4 flyer, posting occurred, but we can track that</p> <p>5 there were absolutely no downloads; meaning it</p> <p>6 was never accessed --</p> <p>7 Q. Okay.</p> <p>8 A. -- before it was removed.</p> <p>9 Q. So RAPP provided the final creative</p> <p>10 to Charter, Charter uploaded it onto the Badger</p> <p>11 system, but Charter's records show there were no</p> <p>12 downloads of this the piece from the Badger</p> <p>13 system?</p> <p>14 A. Correct. And we removed it.</p> <p>15 Q. And how long was it up on the Badger</p> <p>16 system?</p> <p>17 A. I believe it might have been a day or</p> <p>18 two. I don't actually have the specific dates.</p> <p>19 Q. Okay.</p> <p>20 In the previous 30(b)(6) deposition</p> <p>21 on May 1st, Mr. Dardis testified that the Badger</p> <p>22 system does not tell you whether or not someone</p> <p>23 could have downloaded the flyer locally.</p> <p>24 Do you understand what he meant by</p> <p>25 that?</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. KINGSTON: Objection, lack of</p> <p>3 foundation.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. JUSTUS:</p> <p>6 Q. Are you aware of any way someone</p> <p>7 could have gotten this flyer off of Badger in a</p> <p>8 way that your systems would not track?</p> <p>9 A. I do not. I don't have the explicit</p> <p>10 understanding of the working platform.</p> <p>11 Q. And who would know the answer to</p> <p>12 that?</p> <p>13 A. Matt Bury and the team. He works for</p> <p>14 me.</p> <p>15 Q. Could you try to call Matt on a break</p> <p>16 and ask him that question, whether or not it's</p> <p>17 possible someone could have downloaded the flyer</p> <p>18 off of Badger without it being tracked in your</p> <p>19 system?</p> <p>20 MR. KINGSTON: We can -- we can reach</p> <p>21 out to Matt Bury, or we can answer that</p> <p>22 question for you.</p> <p>23 I mean, I --</p> <p>24 MR. JUSTUS: In Mr. Dardis's</p> <p>25 testimony, and that point is pretty clear,</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 he said, it's not imp -- it's not possible</p> <p>3 for Charter to know if someone got it</p> <p>4 locally.</p> <p>5 MR. KINGSTON: I don't think that</p> <p>6 this witness disputes that testimony.</p> <p>7 MR. JUSTUS: Okay.</p> <p>8 MR. KINGSTON: I think that</p> <p>9 there's -- the -- I think there was a --</p> <p>10 this witness doesn't know anything beyond</p> <p>11 what Mr. Dardis testified to, which</p> <p>12 I think was -- I mean, I thought it -- as</p> <p>13 I recall his testimony, it speaks for</p> <p>14 itself.</p> <p>15 But I thought there was a</p> <p>16 professional printing option that we could</p> <p>17 track. And there was an individual</p> <p>18 option -- there was a kind of an</p> <p>19 individual download option that was not</p> <p>20 trackable.</p> <p>21 And I don't think that --</p> <p>22 MR. JUSTUS: Okay.</p> <p>23 MR. KINGSTON: -- we can -- you</p> <p>24 probably want that from this witness, and</p> <p>25 not me. So we'll get you that information</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 on a break.</p> <p>3 MR. JUSTUS: Okay, that would be</p> <p>4 great.</p> <p>5 And from my point of view, if the</p> <p>6 answer is just the same as what Mr. Dardis</p> <p>7 said, which is that that cannot be</p> <p>8 tracked, the individual downloads, then</p> <p>9 we're fine with that.</p> <p>10 MR. KINGSTON: I do -- I -- we'll --</p> <p>11 we'll confirm that.</p> <p>12 MR. JUSTUS: Okay. Thank you.</p> <p>13 BY MR. JUSTUS:</p> <p>14 Q. So you if you turn, Ms. Atkinson, to</p> <p>15 page -29753?</p> <p>16 A. Yes.</p> <p>17 Q. So I understand that to be a draft</p> <p>18 version of the flyer which was later revised. Is</p> <p>19 that right?</p> <p>20 A. Yes.</p> <p>21 Q. You see the wording in that flyer, on</p> <p>22 -29753, "Windstream customers: Don't risk losing</p> <p>23 your Internet and phone services. Windstream</p> <p>24 filed for Charter 11. Their future is uncertain.</p> <p>25 Don't leave your business up to chance"?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Yes, I see it.</p> <p>3 Q. And what did the wording, "Don't</p> <p>4 leave your business up to chance," refer to?</p> <p>5 A. I don't really have the details on</p> <p>6 that particular phrase.</p> <p>7 I know this was a draft. So I did</p> <p>8 not see the progression of the creative.</p> <p>9 But I know that the communication of</p> <p>10 "future uncertain" was the complaint filed. And</p> <p>11 that was communicated to the teams that we were</p> <p>12 not phrasing it that way.</p> <p>13 Q. Okay. And so, not on your personal</p> <p>14 knowledge, but just Charter's -- Charter's</p> <p>15 understanding of what it meant by that wording,</p> <p>16 do you know what Charter meant when it said,</p> <p>17 "Don't leave your business up to chance"?</p> <p>18 A. It was a creative draft from the RAPP</p> <p>19 agency that came in, initially, on March 11th.</p> <p>20 But through the period of time, until</p> <p>21 the 27th, I know it underwent a number of</p> <p>22 revisions. So this -- that are -- that Matt</p> <p>23 details out in terms of changes.</p> <p>24 Q. Okay.</p> <p>25 A. So regarding that particular</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 statement, I didn't have any discussion on that</p> <p>3 phrasing.</p> <p>4 Q. And if you turn to the next-to-last</p> <p>5 page of Exhibit 4, it's Charter -29756?</p> <p>6 A. Yes.</p> <p>7 Q. Is that the final wording for this</p> <p>8 flyer, the final draft?</p> <p>9 A. It says 3/26.</p> <p>10 I don't know if it's the absolute</p> <p>11 final, but it definitely is a subsequent version</p> <p>12 from the initial.</p> <p>13 Q. So I will represent to you that</p> <p>14 -29756 is the attachment to the first e-mail in</p> <p>15 Exhibit 4, where we have the privilege redaction.</p> <p>16 So do you know if that March 27th</p> <p>17 e-mail, if that would have been attaching the</p> <p>18 final version, or were there subsequent revisions</p> <p>19 after that?</p> <p>20 A. I would not know that particular --</p> <p>21 I don't know if this is the final version because</p> <p>22 it never happened.</p> <p>23 Q. Okay. But -- so you can say,</p> <p>24 definitively, that this sales flyer was never</p> <p>25 distributed to customers, potential customers, or</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 the public, other than, perhaps, if there were</p> <p>3 downloads from the Badger system that were not</p> <p>4 tracked by Charter; is that right?</p> <p>5 A. That is correct.</p> <p>6 Q. Okay.</p> <p>7 And we talked about the third</p> <p>8 project, the e-mail campaign.</p> <p>9 No e-mails ever went out referencing</p> <p>10 Windstream's bankruptcy; right?</p> <p>11 A. That is correct.</p> <p>12 Q. And that would include the e-mail</p> <p>13 campaign that Charter asked RAPP to work on?</p> <p>14 A. That is correct.</p> <p>15 Q. And was there a second e-mail</p> <p>16 campaign from the Lyft Agency?</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. Okay.</p> <p>19 A. I know there was -- there was a</p> <p>20 proposed e-mail campaign. But since nothing</p> <p>21 happened, I didn't go into detail on that.</p> <p>22 MR. JUSTUS: Will you please mark</p> <p>23 this as Exhibit 5?</p> <p>24</p> <p>25</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 (Defendants' Exhibit Number 5 was</p> <p>3 marked for identification as of this</p> <p>4 date.)</p> <p>5 BY MR. JUSTUS:</p> <p>6 Q. You can go ahead and take a look at</p> <p>7 that, and let me know when you're ready.</p> <p>8 A. (Witness reviews document.)</p> <p>9 Yes.</p> <p>10 Q. Okay, ready?</p> <p>11 A. Yes. Uh-huh.</p> <p>12 Q. So Exhibit 5 is a string of e-mails,</p> <p>13 starting with Charter -6319.</p> <p>14 So I see some e-mail addresses on</p> <p>15 here, @WeAreLyft.com?</p> <p>16 A. Yes.</p> <p>17 Q. Is that the Lyft Agency?</p> <p>18 A. Yes.</p> <p>19 Q. And is that an outside ad agency that</p> <p>20 Charter uses to create marketing creative or</p> <p>21 collateral?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know what these e-mails are</p> <p>24 referring to?</p> <p>25 A. They are referring to e-mails that</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 were being created, or drafted.</p> <p>3 Q. Did Lyft ever deliver a final --</p> <p>4 final creative for this e-mail campaign?</p> <p>5 A. Not to my knowledge.</p> <p>6 I think it's what it says, and</p> <p>7 I think the last message, "We never released</p> <p>8 this; correct?"</p> <p>9 And that was the understanding that</p> <p>10 we did not do any e-mails.</p> <p>11 Q. Well, I know that's what this e-mail</p> <p>12 says. But I -- for all I know, there could be</p> <p>13 other e-mails later than that, so I can't rely on</p> <p>14 that.</p> <p>15 So are you able to testify that this</p> <p>16 e-mail campaign, referencing Windstream's</p> <p>17 bankruptcy, it was never sent out publicly?</p> <p>18 A. It was never. Not --</p> <p>19 Q. You're certain of that?</p> <p>20 A. -- yes.</p> <p>21 Q. Okay, you don't need to check with</p> <p>22 anyone else? You're certain that this --</p> <p>23 A. We didn't --</p> <p>24 Q. -- never went out?</p> <p>25 A. -- do e-mails.</p>

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2 Q. Okay.

3 And going back to the residential

4 direct-mail piece that was in Exhibit 2, the only

5 advertisement that actually did go out the door

6 from Charter?

7 This version that you see here on

8 pages 13 and 14 of Exhibit 2, was that

9 advertisement reviewed by legal counsel before it

10 was sent out the door?

11 A. Yes.

12 Q. And was that Charter's in-house legal

13 counsel or an outside law firm?

14 A. In-house.

15 Q. Okay. No outside law firm?

16 A. No.

17 Q. What would have been the timing of

18 legal-counsel review of this piece?

19 A. The mailing occurred the latter part

20 of March, so, early March.

21 Q. Okay.

22 MR. JUSTUS: And, John, just as a

23 follow-up to our privileged claw-back

24 issues, you had mentioned

25 advice-of-counsel defense.

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2 A. -- yeah -- I'm sorry.

3 Am I looking (indiscernible

4 cross-talking) --

5 Q. Exhibit 1, page 4, Topic 4?

6 A. -- ah, okay. Sorry.

7 Ah, I'm sorry.

8 Q. No, worries.

9 A. Page 4.

10 (Witness reading under her breath.)

11 Yes, I would have partial information

12 about that.

13 Q. So which aspect of Topic 4 do you

14 have knowledge on?

15 A. I know what our company policies are,

16 and procedures, with regard to how customer

17 service receives communication, and sales

18 personnel. But they -- I do not manage those

19 teams.

20 Q. Understood.

21 And "customer service," is that

22 referring to a call center that takes calls from

23 the public?

24 A. Yes, for existing customers. Our --

25 Q. Existing Charter customers?

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2 Charter is not asserting that

3 defense; right?

4 Because, otherwise, I need to start

5 exploring --

6 MR. KINGSTON: Charter is not

7 asserting an advice-of-counsel defense

8 related to the subject, advertising.

9 THE WITNESS: Okay. Thank you.

10 BY MR. JUSTUS:

11 Q. So turning back to Exhibit 1, which

12 is the list of topics for this deposition,

13 Topic 4 is, "Charter's training, directions, and

14 guidelines for customer service and sales

15 personnel," et cetera.

16 Counsel said that you may have

17 partial knowledge on Topic 4; is that right?

18 A. Yes.

19 Q. So what knowledge do you have on

20 Topic 4?

21 A. The creation of the materials that we

22 discussed by the agencies. And the deployment of

23 the direct mail.

24 Are we talking --

25 Q. That's on Topic 4?

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2 A. -- Charter customers, yes.

3 Q. Not with respect to Windstream

4 customers who wanted to switch, for example?

5 A. That is correct.

6 Q. Okay.

7 Is there a separate call center --

8 A. Yes.

9 Q. -- for those types of calls?

10 A. Yes. That would be the sales call

11 center.

12 Q. The sales call center.

13 A. The sales personnel, or field sales,

14 that Keith Dardis manages.

15 Q. Is that something you have knowledge

16 on, the sales call center?

17 A. Yes.

18 Q. Okay.

19 Well, let's focus on that one, the

20 sales call center.

21 Were there any directions or

22 guidelines in place for the sales call center as

23 it relates to calls regarding Windstream's

24 bankruptcy?

25 A. No.

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2 Q. Any training in that regard?

3 A. No.

4 Q. And how about, with respect to

5 complying with the Court's injunction in the

6 case -- in this case, was there any training

7 given to the sales call center in that regard?

8 A. No.

9 Q. Any directions or guidelines in that

10 regard?

11 A. No.

12 Q. Okay, Topic 15 on page 5 of

13 Exhibit 1, "The nature and extent of any

14 coordination between Charter's various sales,

15 advertising, creative, and marketing teams with

16 respect to creation and dissemination of the

17 advertisements," are you here to testify on that

18 topic?

19 A. Yes.

20 Q. Okay.

21 So I -- preparing for this, I read

22 through the transcript from your prior

23 deposition, and Mr. Dardin's (sic) prior

24 deposition.

25 And I -- to be honest, I honestly am

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2 that are incremental in nature, which was the

3 Windstream, there's reference to it being

4 "incremental mail." We do over 60 million pieces

5 of mail.

6 Based on the competitive tool, we

7 took advantage of adding incremental mail to the

8 mail flow for that month, based on the knowledge

9 that we had seen in there from the third party.

10 That same competitive tool is

11 available to our sales organization.

12 And, obviously, the -- in the market

13 activities of our -- you know, the organization

14 that Keith manages, are constant door-knocking

15 for all prospects that are not our existing

16 customers.

17 And so timing would be consistent

18 with when this was happening. But the actual

19 "sitting down and plotting out" coordination,

20 it's not to the level of detail that we go to, to

21 have people specifically knock on those doors at

22 the time mailing is dropping.

23 Q. But there were phone calls that

24 people from the direct-sales function would

25 attend, and also people from your area, the more

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2 not sure whether there was any coordination. It

3 seemed to go both ways.

4 So just that's one basic fact I want

5 to try to understand today.

6 So I have with me, you know, several

7 e-mails, where both you and Mr. -- is it Dardin

8 or Dardis?

9 A. Dardis.

10 Q. -- where both you and Mr. Dardis are

11 on the same e-mail thread, talking about creating

12 plans for how to take advantage of Windstream's

13 bankruptcy.

14 And to me that reflects that there's

15 some level of coordination between, on the one

16 hand, the direct-sales folks, and on the other

17 hand, the more traditional marketing folks, which

18 is in your area.

19 A. Yes.

20 Q. I mean, is that accurate?

21 A. I would say that my team is

22 responsible for providing materials that are

23 going to market.

24 And when we talk in our sales

25 organization about activities that we're doing

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2 traditional marketing, would attend, relating to

3 Windstream's bankruptcy and the messaging

4 surrounding that?

5 A. There weren't any meetings

6 specifically on Windstream's bankruptcy.

7 It's, more or less, our overall

8 approach to acquiring customers.

9 Q. But there were meetings in which

10 Windstream's bankruptcy was discussed, where

11 there were people from both the direct sales side

12 and your more traditional marketing side?

13 A. Not specific to a Windstream meeting,

14 but the topic could have come up, yes.

15 Q. Well, did the topic come up; were

16 there meetings where Windstream's bankruptcy was

17 discussed?

18 A. Other than the mention from the

19 competitive tool, not to my knowledge.

20 Q. Okay.

21 Now, were you ever invited to join

22 any sales calls with the direct sales team to

23 talk about this messaging?

24 A. No.

25 Q. Does the direct sales team -- strike

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 that.</p> <p>3 In this case, relating to the</p> <p>4 Windstream bankruptcy, did the direct sales team</p> <p>5 endeavor to align its messaging with the</p> <p>6 messaging in the more traditional marketing, like</p> <p>7 the residential direct-mail piece?</p> <p>8 A. Not to my knowledge.</p> <p>9 Q. Okay.</p> <p>10 A. Again, we do over 60 million pieces</p> <p>11 of mail. And with over 300 competitors, we don't</p> <p>12 go into that level of detail.</p> <p>13 MR. JUSTUS: Would you please mark</p> <p>14 this as Exhibit 6.</p> <p>15 (Defendants' Exhibit Number 6 was</p> <p>16 marked for identification as of this</p> <p>17 date.)</p> <p>18 BY MR. JUSTUS:</p> <p>19 Q. Go ahead and take a look, and let me</p> <p>20 know when you're ready.</p> <p>21 A. (Witness reviews document.)</p> <p>22 Okay.</p> <p>23 Q. So Exhibit 6 is e-mails, starting</p> <p>24 with Charter -626.</p> <p>25 So in the middle of that first page,</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 -626, there's a February 25th e-mail from</p> <p>3 Jennifer Ingram.</p> <p>4 Is Jennifer Ingram on your team, the</p> <p>5 traditional marketing function?</p> <p>6 A. Yes. She's vice president of small</p> <p>7 and medium-size business.</p> <p>8 Q. Okay.</p> <p>9 And it says, "Kelly Atkinson has</p> <p>10 asked the marketing team to develop a plan to</p> <p>11 leverage this situation."</p> <p>12 "This situation" being Windstream's</p> <p>13 bankruptcy; right?</p> <p>14 A. It's -- that's the topic,</p> <p>15 "Windstream."</p> <p>16 Q. So, "yes"?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 It goes on to say, "So we've started</p> <p>20 thinking about this in partnership with the</p> <p>21 residential team."</p> <p>22 Is that reference to the "residential</p> <p>23 team," would that be on the direct sales side or</p> <p>24 on the traditional marketing side that you</p> <p>25 handle?</p>
Page 83	Page 84
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Traditional marketing side.</p> <p>3 Q. Okay.</p> <p>4 And then it goes on to say, "In</p> <p>5 addition, we're exploring SMB-specific messages"?</p> <p>6 A. Small-medium business.</p> <p>7 Q. Okay.</p> <p>8 "e.g., talking points for sales</p> <p>9 teams."</p> <p>10 So that would be direct sales teams?</p> <p>11 A. In this case, I would assume so,</p> <p>12 because it's referring to the channel partners</p> <p>13 and national account channels.</p> <p>14 Q. What are those?</p> <p>15 A. "Channel partners" would be a third</p> <p>16 party selling on behalf of.</p> <p>17 And "national account channels" would</p> <p>18 reference the larger "B" businesses that we work</p> <p>19 with, that we go after. The sales teams that</p> <p>20 solicit -- or, I should say, try to acquire those</p> <p>21 national accounts.</p> <p>22 Q. Okay, so "sales teams" in this e-mail</p> <p>23 refers to direct sales teams?</p> <p>24 A. Yes.</p> <p>25 Q. Is Walmart a channel partner?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Yes.</p> <p>3 Q. That's what you're -- okay.</p> <p>4 Thank you.</p> <p>5 And who is Chris Czekaj (pronounced</p> <p>6 as Zay-kaj.)</p> <p>7 A. No. I actually don't know how to</p> <p>8 pronounce his name.</p> <p>9 (Clarification requested by the</p> <p>10 court reporter.)</p> <p>11 THE WITNESS: Czekaj (pronounced as</p> <p>12 Zi-zick.)</p> <p>13 MR. KINGSTON: It's pronounced,</p> <p>14 Czekaj (pronounced as Che-ki.)</p> <p>15 It's spelled, C-Z-E-K-A-J.</p> <p>16 MR. JUSTUS: Czekaj (pronounced as</p> <p>17 Chi-ki).</p> <p>18 MR. KINGSTON: With a hard C.</p> <p>19 BY MR. JUSTUS:</p> <p>20 Q. And what is his role with Charter?</p> <p>21 A. He reports to Keith Dardis, and</p> <p>22 serves as the vice president of strategic</p> <p>23 channels.</p> <p>24 Q. Understood.</p> <p>25 So he's within the direct sales team?</p>

<p style="text-align: right;">Page 85</p> <p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 So on this e-mail from</p> <p>5 Jennifer Ingram, there's people from the direct</p> <p>6 sales team and the more traditional marketing</p> <p>7 function?</p> <p>8 A. Correct.</p> <p>9 Q. Okay.</p> <p>10 We have a few more questions on this</p> <p>11 line of questioning, and then we'll take a short</p> <p>12 break.</p> <p>13 MR. KINGSTON: Ms. Atkinson, you can</p> <p>14 take a break at any time you want. Your</p> <p>15 lawyer cannot.</p> <p>16 THE WITNESS: Okay.</p> <p>17 MR. JUSTUS: Will you please mark</p> <p>18 this as 7.</p> <p>19 (Defendants' Exhibit Number 7 was</p> <p>20 marked for identification as of this</p> <p>21 date.)</p> <p>22 BY MR. JUSTUS:</p> <p>23 Q. Exhibit 7 is e-mail, starting with</p> <p>24 Charter -1217.</p> <p>25 Just let me know when you're ready,</p>	<p style="text-align: right;">Page 86</p> <p>1 K.C. Atkinson - 09/19/19</p> <p>2 Ms. Atkinson.</p> <p>3 A. (Witness reviews document.)</p> <p>4 I'm ready.</p> <p>5 Q. Okay. If you turn to the last page,</p> <p>6 Charter -1220?</p> <p>7 A. Yes.</p> <p>8 Q. In the paragraph that begins</p> <p>9 "Finally," you see a reference to the Windstream</p> <p>10 bankruptcy there; right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 And then if you flip to -1218, in the</p> <p>14 middle of the page, there's an e-mail from</p> <p>15 Jennifer Ingram to you?</p> <p>16 A. Yes.</p> <p>17 Q. Is that e-mail inviting you to attend</p> <p>18 a call?</p> <p>19 A. A meeting. A monthly marketing</p> <p>20 in-person meeting.</p> <p>21 Q. And it's not a call?</p> <p>22 A. There may be some people that call</p> <p>23 in, but it's mostly in-person here in Stamford.</p> <p>24 Q. Okay.</p> <p>25 And who attends that call; is that</p>
<p style="text-align: right;">Page 87</p> <p>1 K.C. Atkinson - 09/19/19</p> <p>2 direct sales?</p> <p>3 A. It would be everyone who is listed on</p> <p>4 this e-mail on February 28th from Matt Bury, and</p> <p>5 marketing.</p> <p>6 I'm looking.</p> <p>7 There are salespeople listed from the</p> <p>8 pricing team.</p> <p>9 It's, pretty much, an overall,</p> <p>10 marketing, sales. It's not all-inclusive,</p> <p>11 though.</p> <p>12 Q. And Mr. Dardis is on that</p> <p>13 distribution list from the February 28th e-mail;</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And what -- sorry, I don't recall if</p> <p>17 I already asked you this.</p> <p>18 What is Matt Bury's role within</p> <p>19 the --</p> <p>20 A. He is a director, working for</p> <p>21 Jennifer Ingram, in the SMB team, marketing team.</p> <p>22 Q. On the marketing team --</p> <p>23 A. On the marketing team.</p> <p>24 Q. -- not direct sales?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 88</p> <p>1 K.C. Atkinson - 09/19/19</p> <p>2 Q. Understood.</p> <p>3 So on -- at this meeting -- did you</p> <p>4 attend this meeting?</p> <p>5 A. No.</p> <p>6 Q. You did not.</p> <p>7 But people from the marketing</p> <p>8 function --</p> <p>9 A. Yes.</p> <p>10 Q. -- attended this meeting?</p> <p>11 A. Yes.</p> <p>12 Q. And messaging relating to</p> <p>13 Windstream's bankruptcy was discussed at this</p> <p>14 meeting?</p> <p>15 A. I wasn't there, but it references</p> <p>16 something in Matt's summary.</p> <p>17 But, again, I wasn't there.</p> <p>18 And it's -- it has an article that</p> <p>19 was attached.</p> <p>20 Q. And what was that article?</p> <p>21 A. "Bloomberg News" from 2/25.</p> <p>22 Q. Relating to Windstream's bankruptcy;</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. Can you turn to the very first page</p>

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1 K.C. Atkinson - 09/19/19  
2 of -- -1217?  
3 At the bottom there's an e-mail from  
4 you to Jennifer, copying a few others, March 8th.  
5 Do you see that?  
6 A. Yes.  
7 Q. And you said, "Very nice. I also  
8 believe that this information is extremely  
9 helpful for sales teams."  
10 What did you mean by that?  
11 A. I meant that having a better  
12 transparency about overall marketing messages and  
13 tactics that we had in market would be  
14 informative for our sales organization.  
15 Q. Meaning the direct sales  
16 organization?  
17 A. Any sale -- any of the sales  
18 channels: inbound sales, direct sales, outbound  
19 telemarketing teams.  
20 Q. Okay.  
21 (Defendants' Exhibit Number 8 was  
22 marked for identification as of this  
23 date.)  
24 BY MR. JUSTUS:  
25 Q. Just let me know when you're ready.

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1 K.C. Atkinson - 09/19/19  
2 subsequent communications, that we were doing  
3 incremental mail on Windstream.  
4 Q. And what impact does that have on his  
5 direct sales function?  
6 A. More of an awareness in the markets  
7 that he serves.  
8 Q. How so; can you elaborate on that?  
9 A. Just letting him know, in addition to  
10 Google and ALLO, when we have opportunities from  
11 a competitive's perspective, particularly when  
12 Competitive Eye (ph.), the third party that  
13 I reference, provides opportunities for us to  
14 have topical competitive messaging for the  
15 markets, we do that.  
16 Google Fiber being another example.  
17 Q. So is it helpful for Mr. Dardis to  
18 understand what's going on in the marketing side  
19 of things?  
20 A. You would have to ask him, but  
21 I would say probably feeling that he understands  
22 a little more about what's happening.  
23 Q. Well, did you send this to him  
24 because you thought it would be helpful to him?  
25 A. Yes.

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1 K.C. Atkinson - 09/19/19  
2 A. (Witness reviews document.)  
3 Yes.  
4 Q. Okay.  
5 Exhibit 8 is e-mails, Charter -7830  
6 through -31.  
7 At the top of the first page, this is  
8 an April 2nd e-mail from you to Keith Dardis;  
9 correct?  
10 A. It is.  
11 Q. And what were you telling Keith in  
12 this e-mail?  
13 A. That we had pushback on the reference  
14 to bankruptcy in our direct mail, and we took it  
15 out. And we state, "They declared it. Now's a  
16 great time to switch."  
17 Q. And, "pushback," what is that  
18 referring to; pushback from whom?  
19 A. Windstream.  
20 This was when Windstream communicated  
21 to us that they had issue with that phrase.  
22 Q. Understood.  
23 And why were you informing Mr. Dardis  
24 of that fact?  
25 A. Because he was aware, based on

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1 K.C. Atkinson - 09/19/19  
2 Q. Okay.  
3 One more quick exhibit in this line  
4 of questioning, and then I promise we'll take a  
5 break.  
6 (Defendants' Exhibit Number 9 was  
7 marked for identification as of this  
8 date.)  
9 MR. JUSTUS: Please mark this as  
10 Exhibit 9.  
11 A. (Witness reviews document.)  
12 BY MR. JUSTUS:  
13 Q. Exhibit 9 is e-mail, Charter -514.  
14 Please let me know when you're ready.  
15 A. I'm ready.  
16 Q. Okay.  
17 This is an e-mail, February 22nd,  
18 from Jonathan Hargis to yourself, David Andreski,  
19 Keith Dardis, and Scott Niles. Correct?  
20 A. Yes.  
21 Q. The subject is Windstream. Correct?  
22 A. Yes.  
23 Q. It says, "Looks like Windstream is  
24 declaring bankruptcy next month. Should we have  
25 a going-out-of-business offer, radio print,



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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 DSR blitz plan?"</p> <p>3 So what is this referring to?</p> <p>4 A. John was bringing up the competitive</p> <p>5 intelligence that he was aware of, and that we</p> <p>6 all had access to, that was outlining that</p> <p>7 Windstream was declaring bankruptcy, and whether</p> <p>8 we were going to put together a plan.</p> <p>9 Q. And what does "DSR blitz plan" mean?</p> <p>10 A. Direct sales rep blitz plan.</p> <p>11 Q. Okay.</p> <p>12 And why was Mr. Hargis sending the</p> <p>13 e-mail to both yourself and Mr. Dardis, given</p> <p>14 that you're in two different functions, marketing</p> <p>15 and direct sales?</p> <p>16 A. We both report to him, and he will</p> <p>17 ask us to do marketing activities or do field</p> <p>18 sales activities.</p> <p>19 And in this particular case, it was</p> <p>20 whether or not we were putting together a plan.</p> <p>21 Q. Did Mr. Hargis request or instruct in</p> <p>22 this case, relating to Windstream, that the</p> <p>23 direct sales side and marketing side coordinate</p> <p>24 efforts?</p> <p>25 A. No.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Q. Did he request or instruct that the</p> <p>3 marketing side and direct sales side keep in</p> <p>4 touch to make sure they know what each other is</p> <p>5 doing?</p> <p>6 A. No.</p> <p>7 Q. Do the people on this e-mail ever</p> <p>8 have meetings or calls just amongst themselves,</p> <p>9 what I would refer to as, you know, a high-level</p> <p>10 leader call within the marketing and direct sales</p> <p>11 functions?</p> <p>12 A. Yes. It's usually a broader group.</p> <p>13 Q. And how much broader?</p> <p>14 A. It can be as broad as the exhibit we</p> <p>15 just talked about, with -- that Matt Bury sent.</p> <p>16 Q. Okay.</p> <p>17 So in the previous exhibit, you sent</p> <p>18 Mr. Dardis some information because you thought</p> <p>19 it would be helpful for him --</p> <p>20 A. Yes.</p> <p>21 Q. -- on the direct sales side?</p> <p>22 A. Yes.</p> <p>23 Q. So you do that of your own volition;</p> <p>24 that's not a company policy or an instruction</p> <p>25 you've received to keep in touch with the direct</p>
Page 95	Page 96
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 sales side?</p> <p>3 A. That is correct.</p> <p>4 Q. But you do that as a matter of</p> <p>5 course; you do, in fact, let Mr. Dardis know what</p> <p>6 is happening on the marketing side so that he can</p> <p>7 be consistent on the direct sales side?</p> <p>8 A. In this particular case, yes, I sent</p> <p>9 him a note, also regarding Google and ALLO,</p> <p>10 because it was incremental mail.</p> <p>11 Q. Okay. And, "incremental," does that</p> <p>12 mean urgent?</p> <p>13 A. No.</p> <p>14 "Incremental" means we mail customers</p> <p>15 every two weeks, a little over 60 million mailing</p> <p>16 pieces a month. And most of them just flow in</p> <p>17 with our entire prospect footprint; so all</p> <p>18 50 million households, less the 30 million we</p> <p>19 have as customers, so it's about 20-some million.</p> <p>20 And those customers receive a piece</p> <p>21 of mail -- or, those prospects receive a piece of</p> <p>22 mail from us, on average, every two weeks.</p> <p>23 When we do incremental mail, it means</p> <p>24 that that's in addition to that flow.</p> <p>25 Q. Understood.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. JUSTUS: All right, let's take a</p> <p>3 10-minute break. Let's go off the record.</p> <p>4 THE VIDEOGRAPHER: We are off the</p> <p>5 record at 11:13 a.m.</p> <p>6 (Off the record.)</p> <p>7 (Back on the record.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record at 11:33 a.m.</p> <p>10 MR. JUSTUS: Okay, thank you.</p> <p>11 - - -</p> <p>12 DIRECT EXAMINATION CONTINUED</p> <p>13 - - -</p> <p>14 BY MR. JUSTUS:</p> <p>15 Q. Ms. Atkinson, so we talked earlier,</p> <p>16 and you said Walmart was a channel partner of</p> <p>17 Charter; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And does Charter provide its channel</p> <p>20 partners with any training on how to discuss</p> <p>21 questions relating to Windstream's bankruptcy?</p> <p>22 A. Not to my knowledge.</p> <p>23 Q. Okay. And how about guidelines or</p> <p>24 any written directives relating to talking points</p> <p>25 with Windstream's bankruptcy?</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. And you're saying in your personal</p> <p>4 knowledge?</p> <p>5 A. In my personal knowledge.</p> <p>6 Q. Okay. Who would be able to answer</p> <p>7 that on behalf of Charter?</p> <p>8 A. It would either be Keith Dardis or</p> <p>9 Patty Eliason.</p> <p>10 Q. Okay.</p> <p>11 MR. JUSTUS: So, John, that's another</p> <p>12 one we would like to get.</p> <p>13 MR. KINGSTON: As far as guidance to</p> <p>14 channel partners --</p> <p>15 MR. JUSTUS: Right.</p> <p>16 MR. KINGSTON: -- related to</p> <p>17 Windstream?</p> <p>18 MR. JUSTUS: Yeah, exactly.</p> <p>19 Guidance, talking points, et cetera.</p> <p>20 MR. KINGSTON: I think we'll be able</p> <p>21 to educate Ms. Atkinson or a different</p> <p>22 witness on that topic.</p> <p>23 MR. JUSTUS: Okay.</p> <p>24 BY MR. JUSTUS:</p> <p>25 Q. All right.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 And earlier I believe you testified</p> <p>3 that Mr. Emmitt Walker, a Mr. Andrew Sites, and a</p> <p>4 Ms. Rebecca Root have been disciplined by Charter</p> <p>5 in relation to oral or written statements made</p> <p>6 about Windstream's bankruptcy. Is that right?</p> <p>7 A. That is correct.</p> <p>8 Q. Has any other Charter employee been</p> <p>9 disciplined, other than those three people I just</p> <p>10 named, in relation to statements made surrounding</p> <p>11 Windstream's bankruptcy?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. And so, again, I have to ask it: If</p> <p>14 that's just your personal knowledge, how would we</p> <p>15 get a definitive answer to that question?</p> <p>16 A. These employees, as I understand it,</p> <p>17 are part of Keith Dardis's organization. And</p> <p>18 would have -- you know, following the employee</p> <p>19 handbook on how we treat the employees if they do</p> <p>20 something that's -- regarding unapproved</p> <p>21 collateral, door tagging, using any of those</p> <p>22 materials is not allowed.</p> <p>23 Q. Okay. And just to clarify, I just</p> <p>24 need to -- a definitive answer on behalf of</p> <p>25 Charter, if those are the only three employees</p>
Page 99	Page 100
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 who have been disciplined for making statements</p> <p>3 in relation to Windstream's bankruptcy.</p> <p>4 So if your personal knowledge doesn't</p> <p>5 give me a definitive 100 percent answer on</p> <p>6 that --</p> <p>7 MR. JUSTUS: -- then that's something</p> <p>8 else, John, that we'll just have to follow</p> <p>9 up on.</p> <p>10 MR. KINGSTON: Certainly.</p> <p>11 If it's useful, there are certain</p> <p>12 topics, Ms. Atkinson, where -- where</p> <p>13 I think that Mr. Justus is asking for what</p> <p>14 you know based on your own personal</p> <p>15 knowledge, what you saw with your own</p> <p>16 eyes, or with your own ears.</p> <p>17 There are some topics where you've</p> <p>18 been designated by Charter to speak on</p> <p>19 behalf of the company. And for a lot of</p> <p>20 those, if you can remember, you know, what</p> <p>21 was discussed during your preparation,</p> <p>22 that's great. If you have notes to help</p> <p>23 you remember what was discussed during</p> <p>24 your preparation, that's great.</p> <p>25 But we have -- or, Charter has</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 provided Ms. Atkinson with the information</p> <p>3 related to all of the known instances of</p> <p>4 employees being disciplined in connection</p> <p>5 with using -- or, references to</p> <p>6 Windstream's bankruptcy.</p> <p>7 THE WITNESS: Yes.</p> <p>8 MR. JUSTUS: So maybe on a -- after</p> <p>9 the next break, you could review your</p> <p>10 notes, and then provide that testimony.</p> <p>11 Would that be okay?</p> <p>12 THE WITNESS: Yes.</p> <p>13 MR. JUSTUS: Okay.</p> <p>14 THE WITNESS: It's my understanding</p> <p>15 that those three individuals did something</p> <p>16 outside of approved process, and they have</p> <p>17 been disciplined.</p> <p>18 BY MR. JUSTUS:</p> <p>19 Q. Okay, what have you done to make sure</p> <p>20 there's only been those three employees who have</p> <p>21 been so disciplined?</p> <p>22 A. It was preparation with my legal</p> <p>23 counsel, where they communicated, these are the</p> <p>24 individuals that have probation, or, they're in</p> <p>25 this category.</p>

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1 K.C. Atkinson - 09/19/19  
2 Q. Okay, that's fine.  
3 MR. JUSTUS: And no need to revisit  
4 that, John, unless the witness's testimony  
5 is not accurate.  
6 BY MR. JUSTUS:  
7 Q. Turning back to the Walmart employee  
8 who you mentioned earlier, I believe I asked you,  
9 do you know the identity of that employee? And  
10 you said no. Correct?  
11 A. That is correct.  
12 Q. Is Charter doing any other  
13 fact-gathering to look into that incident?  
14 A. It's under investigation.  
15 Q. Okay.  
16 MR. JUSTUS: So, John, obviously,  
17 that's something we'll follow up with you  
18 on, to learn the facts when the  
19 investigation is complete, as part of  
20 supplementary and discovery responses.  
21 MR. KINGSTON: I think that's fine.  
22 I will note that this is -- that  
23 Charter's investigation started when  
24 Charter learned from Windstream of these  
25 allegations on the -- I think, the

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1 K.C. Atkinson - 09/19/19  
2 Is that fair?  
3 A. Yes. It could be a desk, a booth, an  
4 area of the store, where our products and  
5 services would be communicated that they are an  
6 authorized reseller of our services.  
7 Q. Okay. And is that -- is that on some  
8 sort of sales contingency or percentage, or is  
9 there some sort of monthly or annual compensation  
10 to Walmart, for selling Charter services?  
11 A. They are compensated for selling our  
12 services. The exact details I don't have. And  
13 they vary by channel partners. They can vary.  
14 Q. Is it possible that it can be on a  
15 commission-based system?  
16 A. Yes, it's possible.  
17 Q. But you don't know if -- the  
18 Lexington Walmart, for example, you don't know  
19 that that channel partner is on a  
20 commission-based system?  
21 A. I know they're compensated for  
22 selling our services. I don't have the details  
23 of the exact structure of that compensation, and  
24 whether it's direct to employee or if it's  
25 overall company.

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1 K.C. Atkinson - 09/19/19  
2 interrogatory --  
3 MR. JUSTUS: That was two days ago.  
4 MR. KINGSTON: -- yeah (indiscernible  
5 cross-talking).  
6 MR. JUSTUS: Understood.  
7 Yeah, that's all I'm saying.  
8 MR. KINGSTON: And it's fine.  
9 Look, what's going on with Lexington  
10 Walmart is a fair inquiry, and it's one  
11 that we will look into and we will circle  
12 back with.  
13 MR. JUSTUS: Okay.  
14 BY MR. JUSTUS:  
15 Q. When the channel partners sell  
16 Charter services on behalf of Charter, do they  
17 wear a Charter hat or a Charter shirt?  
18 A. No.  
19 Q. No.  
20 A. Not to my knowledge, no.  
21 Q. So this would be a Walmart employee  
22 in their normal Walmart-employee uniform --  
23 A. Yes.  
24 Q. -- who stands at some sort of desk or  
25 booth to sell Charter services.

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1 K.C. Atkinson - 09/19/19  
2 Q. Okay.  
3 How many channel partners does  
4 Charter have?  
5 A. I actually don't know the answer to  
6 that.  
7 Q. Do you know if it's more than five?  
8 A. It is more than five.  
9 Q. More than 100?  
10 A. I don't know.  
11 Q. And Walmart is a pretty big company,  
12 obviously, I'll make that representation, big  
13 company.  
14 Are channel partners generally very  
15 large companies, or could it be a very small  
16 business as well?  
17 A. I'm not sure how you would define  
18 "small."  
19 Q. 10 employees or less.  
20 A. Typically not.  
21 Q. Okay.  
22 And Charter is not aware of any other  
23 channel partners that have made statements about  
24 Windstream's bankruptcy in the course of selling  
25 Charter services; is that right?

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. That's my understanding.</p> <p>3 Q. Just this one Walmart employee in</p> <p>4 Lexington that we've been talking about?</p> <p>5 A. Yes.</p> <p>6 I did not know it was Lexington,</p> <p>7 though.</p> <p>8 Q. Okay. I believe it was.</p> <p>9 A. Okay.</p> <p>10 Q. Does Charter have an in-house</p> <p>11 creative department in addition to using outside</p> <p>12 agencies?</p> <p>13 A. Yes.</p> <p>14 Q. Did Charter's in-house creative</p> <p>15 department design or create any collateral</p> <p>16 referencing Windstream's bankruptcy?</p> <p>17 A. No, not to my knowledge.</p> <p>18 Q. Would you know if they had?</p> <p>19 A. I would.</p> <p>20 Q. So they have not?</p> <p>21 A. They have not.</p> <p>22 Q. Okay.</p> <p>23 Is Charter currently disseminating</p> <p>24 any ads or promotional materials referencing</p> <p>25 Windstream's bankruptcy?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. No.</p> <p>3 Q. Do you know when that would have</p> <p>4 stopped?</p> <p>5 A. When we received the request from the</p> <p>6 judge, the PI and the TRO, which would have</p> <p>7 happened in early April.</p> <p>8 Q. Okay. So after the judge issued the</p> <p>9 temporary restraining order in April, at that</p> <p>10 point Charter stopped disseminating ads and</p> <p>11 promotional materials referencing Windstream's</p> <p>12 bankruptcy?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay.</p> <p>15 Are any outside agencies currently</p> <p>16 working on any drafts of any ads or materials</p> <p>17 that reference Windstream's bankruptcy?</p> <p>18 A. No.</p> <p>19 Q. Okay.</p> <p>20 MR. JUSTUS: Will you please mark</p> <p>21 this as -- I believe it's Exhibit 10? --</p> <p>22 Exhibit 10?</p> <p>23 (Defendants' Exhibit Number 10 was</p> <p>24 marked for identification as of this</p> <p>25 date.)</p>
Page 107	Page 108
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 BY MR. JUSTUS:</p> <p>3 Q. So I will represent to you that this</p> <p>4 is Charter's answer filed in this case, May 8th.</p> <p>5 Have you seen this document before?</p> <p>6 A. I do not recall seeing this.</p> <p>7 Q. Well, take your time and flip</p> <p>8 through, and let me know when you're ready.</p> <p>9 A. Okay.</p> <p>10 (Witness reviews document.)</p> <p>11 MR. KINGSTON: While the witness is</p> <p>12 reviewing that...</p> <p>13 (Off-the-record discussion.)</p> <p>14 (Back on the record.)</p> <p>15 BY MR. JUSTUS:</p> <p>16 Q. Okay?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. If you turn to page 11,</p> <p>19 please, you see the section, "Affirmative</p> <p>20 Defenses"? Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. So Affirmative Defense Number 2,</p> <p>23 where it says, among other things, "Charter acted</p> <p>24 in good faith," do you see that?</p> <p>25 A. Yes.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Q. And what is Charter's factual basis</p> <p>3 that it argued -- that it acted in good faith?</p> <p>4 A. I'm not sure I understand your</p> <p>5 question.</p> <p>6 Q. Well -- so this is Topic -- in</p> <p>7 Exhibit 1, this is Topic 20, and I'll read it to</p> <p>8 you.</p> <p>9 It's Charter's admissions, denials,</p> <p>10 factual allegations, and affirmative defenses in</p> <p>11 its answer in this adversary proceeding.</p> <p>12 And your counsel objected, but said</p> <p>13 the witnesses will be put forward to testify on</p> <p>14 factual basis or factual underpinnings for the</p> <p>15 claims and defenses in here.</p> <p>16 And so I understand that you are</p> <p>17 designated as one of four people who will testify</p> <p>18 on that topic.</p> <p>19 Given that there's four people</p> <p>20 designated, I don't know which of these</p> <p>21 26 affirmative defenses you have the knowledge on</p> <p>22 amongst the four people, but, the question is:</p> <p>23 In Affirmative Defense Number 2,</p> <p>24 which is, essentially, that Charter acted in good</p> <p>25 faith, what is Charter's factual basis for saying</p>

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1 K.C. Atkinson - 09/19/19  
2 that it acted in good faith with respect to the  
3 ads discussing Windstream's bankruptcy?  
4 MR. KINGSTON: I will object to the  
5 question, to the extent that it calls for  
6 a legal conclusion.  
7 BY MR. JUSTUS:  
8 Q. Okay, you can answer.  
9 A. I actually don't understand it.  
10 Q. Okay.  
11 Well --  
12 MR. KINGSTON: So I think that --  
13 I mean, "good faith" is a legal term.  
14 I think that Ms. Atkinson can testify  
15 as to the motivation and thinking related  
16 to the direct-mail campaign at issue, and  
17 to the extent the judge, or somebody else  
18 down the road, thinks that testimony is  
19 relevant to good faith. And that would --  
20 those would be the facts that would be  
21 relevant on that topic.  
22 But I -- I don't know that  
23 Ms. Atkinson can do what the lawyer is  
24 supposed to do, in try to apply the facts  
25 to that -- to those legal claims.

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1 K.C. Atkinson - 09/19/19  
2 So for what it's worth, I -- I think  
3 the facts that relate to this, that  
4 Ms. Atkinson can speak to, would relate  
5 generally to the direct mail --  
6 MR. JUSTUS: I understand.  
7 MR. KINGSTON: -- and that stuff.  
8 MR. JUSTUS: Okay.  
9 MR. KINGSTON: If it's --  
10 MR. JUSTUS: Yeah, I understand the  
11 objection. I think I have a way that can  
12 help us both.  
13 THE WITNESS: Okay.  
14 And I think I understand the  
15 clarification in terms of my role --  
16 MR. JUSTUS: Okay.  
17 THE WITNESS: -- in this.  
18 MR. JUSTUS: Understood.  
19 BY MR. JUSTUS:  
20 Q. So the term "good faith," it is, of  
21 course, a legal term. I'm not going to try to  
22 hide the ball on that.  
23 But, this -- in ordinary parlance,  
24 you've heard people say "good faith" --  
25 A. Yes.

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1 K.C. Atkinson - 09/19/19  
2 Q. -- meaning, not in bad faith, not  
3 intentionally --  
4 A. Yes.  
5 Q. -- doing something wrong, et cetera?  
6 A. Yes.  
7 Q. So Charter is saying in this  
8 affirmative defense that it acted in good  
9 faith --  
10 A. Yes.  
11 Q. -- when it put out the residential  
12 direct mail relating to Windstream's bankruptcy.  
13 So what is the factual basis for  
14 saying that it was acting good faith when it put  
15 out these ads?  
16 MR. KINGSTON: I will object to the  
17 question. It calls for both a legal  
18 conclusion and a narrative.  
19 But subject to my objection, you can  
20 answer.  
21 THE WITNESS: I would say my role in  
22 the "good faith," and in overseeing  
23 marketing, was that, when we were asked by  
24 Windstream to remove anything subjective  
25 to "uncertainty," we did that immediately.

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1 K.C. Atkinson - 09/19/19  
2 That was the only request that was  
3 made.  
4 When the Court -- when the judge  
5 ruled, we acted in good faith, from a  
6 marketing standpoint, by destroying the  
7 over 800,000 pieces of mail, along with  
8 over 8 million pieces of general-market  
9 mail which had nothing to do with  
10 Windstream.  
11 And that was done in order to comply  
12 with complete openness, that we were not  
13 allowing anything to move forward from the  
14 point that the judge said that we weren't.  
15 BY MR. JUSTUS:  
16 Q. Okay. That's fine.  
17 If you'll flip to page 12, please?  
18 Affirmative Defense Number 6, and  
19 I will read it:  
20 "Windstream's claims, in whole or  
21 part, are barred, in that any statements  
22 allegedly made by Charter regarding Windstream  
23 were true or substantially true."  
24 Do you understand the factual basis  
25 for that defense?

1 K.C. Atkinson - 09/19/19  
2 A. Yes.  
3 Q. And what was that factual basis?  
4 A. We had a third party that outlined  
5 this situation with Windstream, and referenced  
6 the uncertainty in the market regarding its  
7 business moving forward. That was the one, the  
8 competitive intelligence.  
9 Q. So the claim relating to uncertainty  
10 was true, in that, that was reported to you by  
11 the third-party competitive intelligence report?  
12 A. Yes. It has those exact statements.  
13 Q. Okay.  
14 If you go down to Affirmative Defense  
15 Number 9, and I will read it, "Charter's alleged  
16 statements are not material to  
17 customer-purchasing decisions."  
18 So what is Charter's factual basis  
19 for Defense Number 9?  
20 A. Customers have the ability to make  
21 their own decision. We just present them with  
22 offers.  
23 Q. Would the uncertainty of a bankruptcy  
24 be material to a purchasing decision?  
25 A. I think that it's, more or less, a

1 K.C. Atkinson - 09/19/19  
2 call to action in terms of looking at us as an  
3 opportunity -- as a competitor that they could  
4 switch to.  
5 Q. But would uncertainty surrounding a  
6 business being in bankruptcy affect a customer's  
7 decision whether or not to stay with that  
8 business?  
9 A. We removed it, and continued -- and  
10 were planning to mail again. So it wasn't  
11 something that we saw as limiting us from  
12 communicating to the customer and talking to them  
13 directly.  
14 So once we removed the statements, if  
15 we felt that it was material, we would have not  
16 done anymore mailings, but, we still planned to.  
17 Q. But the wording relating to  
18 "uncertainty" was included in the first place  
19 because you hoped that Windstream customers would  
20 switch to Charter; right?  
21 A. It was a direct lift off the  
22 competitive report, the third-party report.  
23 We just took, literally, that was the  
24 agency's creative brief, was the competitive  
25 tool.

1 K.C. Atkinson - 09/19/19  
2 Q. Yes, but everything in a competitive  
3 brief, surely you don't put into ads. You made a  
4 decision to use that wording in this ad. Right?  
5 A. It was one of the agency creative  
6 templates.  
7 Q. So I think you testified at your last  
8 deposition that the direct-mail piece was called  
9 a "competitive switch message." Is that right?  
10 A. Yes.  
11 Q. Okay. So does that mean that the  
12 goal of the direct mailer is to get people to  
13 switch to Charter's services?  
14 A. Yes.  
15 Q. And would the inclusion of the word  
16 "uncertainty" in this ad further that goal?  
17 A. I hadn't actually reviewed the copy  
18 in detail.  
19 What really came to my attention was  
20 when the Court -- or, when Windstream sent the  
21 notice that they were upset about that.  
22 And that was the only term, and we  
23 took it out.  
24 Q. So I understand, but going back to  
25 the personal knowledge versus corporate

1 K.C. Atkinson - 09/19/19  
2 knowledge --  
3 A. Uh-huh.  
4 Q. -- so that sounded more like your  
5 personal knowledge; right?  
6 A. Yes.  
7 Q. So when Charter decided to include  
8 the wording, "Windstream has filed for Chapter 11  
9 bankruptcy, which means uncertainty," it included  
10 that wording because it hoped to induce people to  
11 switch from Windstream to Charter; right?  
12 A. The entire mail piece was a  
13 switch-mail piece, yes.  
14 Q. And how would that sentence further  
15 that goal of getting customers to switch from  
16 Windstream to Charter?  
17 A. It was just a line of copy. That it  
18 was a creative template that was used, and it was  
19 a direct lift.  
20 Again, the agency was given a brief,  
21 and then we used the competitive tool to showcase  
22 that, where it talked about uncertainty in quite  
23 a number of spots.  
24 Q. And what is the uncertainty again;  
25 the uncertainty of, what?

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1 K.C. Atkinson - 09/19/19  
2 A. The competitive -- I don't have a  
3 copy of it --  
4 Q. On Exhibit -- Exhibit 2 has the ad on  
5 it, page 13 of Exhibit 2.  
6 A. And the question again?  
7 Q. Well, this ad from Charter uses the  
8 word "uncertainty."  
9 What is that referring to;  
10 uncertainty of, what?  
11 A. The bankruptcy means uncertainty in  
12 terms of anything that could change.  
13 Q. Does that include Windstream  
14 customers potentially losing service?  
15 A. We didn't go into any detail on it,  
16 so I wouldn't say that's what it means.  
17 Q. What would you say that it means?  
18 A. That they're in bankruptcy.  
19 And whenever a company is in  
20 bankruptcy, there's always uncertainty around it.  
21 It's reported by third parties as such.  
22 And so, again, it was a creative  
23 position based on a competitive third party.  
24 Q. So Charter never intended for  
25 "uncertainties" to suggest to Windstream

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1 K.C. Atkinson - 09/19/19  
2 customers that they may lose their services?  
3 A. No.  
4 Q. Never?  
5 A. No.  
6 Q. So the next sentence in the ad on  
7 page 13 says, "Will they be able to provide the  
8 Internet and TV services you rely on in the  
9 future?"  
10 The next sentence says, "To ensure  
11 you are not left without vital Internet and TV  
12 services, switch to Spectrum."  
13 That wording doesn't in any way  
14 suggest that Windstream customers might be losing  
15 their services?  
16 A. That too was also referenced by the  
17 third party to say, while they're in bankruptcy,  
18 customers may be confused about their services.  
19 And so, again, that was a third party  
20 lift.  
21 Q. And so this -- the goal of this --  
22 the goal of this piece was to capitalize on that  
23 confusion?  
24 A. I would expect that.  
25 Q. And then down below, again it says,

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1 K.C. Atkinson - 09/19/19  
2 "Goodbye, Windstream, Hello Spectrum."  
3 Do you see that?  
4 A. Yes.  
5 Q. And that is part of this competitive  
6 switch messaging; is that right?  
7 A. We use it quite frequently. It's a  
8 call to action.  
9 Q. What is the call to action calling  
10 the audience to do; what action is it calling  
11 them to take?  
12 A. To call us, and that's why the  
13 number's depicted here, or visit our website, to  
14 switch services.  
15 Q. So turning you back to Exhibit 1,  
16 which is, again, a list of topics for the  
17 deposition, page 6, Topic 21, "The circumstances  
18 surrounding Charter's collection and production  
19 of documents in this adversary proceeding" --  
20 A. Yes.  
21 Q. -- are you here to testify on that,  
22 Ms. Atkinson?  
23 THE WITNESS: I'm just confirming  
24 with my lawyer that, yes, I'm here for the  
25 21?

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1 K.C. Atkinson - 09/19/19  
2 MR. KINGSTON: You are here for 21.  
3 And there were -- you did take notes, we  
4 took notes, during your preparation  
5 related to 21.  
6 THE WITNESS: Okay.  
7 BY MR. JUSTUS:  
8 Q. And this is, as you may be aware in  
9 litigation, any litigation, both parties exchange  
10 documents during the discovery process.  
11 A. Yes.  
12 Q. So since you're here as a 30(b)(6)  
13 witness, someone had to --  
14 A. Yes.  
15 Q. -- talk about this. Apparently,  
16 that's you.  
17 A. Yes.  
18 Q. So, not the most exciting topic --  
19 A. Right.  
20 Q. -- but it's things we need to know --  
21 A. Yes --  
22 Q. -- just as a basic factual matter.  
23 A. Yes.  
24 Q. So I believe, and John can correct me  
25 if I'm wrong, but Charter has produced, I think,



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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 over 50,000 pages of documents in this case.</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. And can you just walk me</p> <p>5 through what Charter did to look for and collect</p> <p>6 the documents that it ultimately produced?</p> <p>7 A. They went to -- there are</p> <p>8 approximately 54 custodians, which the attorneys</p> <p>9 collected and reviewed over 934,942 documents</p> <p>10 from those 54 individuals.</p> <p>11 Q. Is that 900,000 pages or</p> <p>12 900,000 documents?</p> <p>13 A. Documents.</p> <p>14 Q. And to actually search for documents,</p> <p>15 was it running keyword searches?</p> <p>16 A. I believe so. I don't actually know</p> <p>17 the mechanics behind how it was searched.</p> <p>18 I believe it was keyword searches.</p> <p>19 MR. KINGSTON: It was keyword</p> <p>20 searches, and we can provide you a list of</p> <p>21 the keywords.</p> <p>22 MR. JUSTUS: Okay.</p> <p>23 BY MR. JUSTUS:</p> <p>24 Q. And so keyword searches are obviously</p> <p>25 for electronically-stored --</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 (In-room interference.)</p> <p>3 Q. -- electronically-stored --</p> <p>4 THE COURT REPORTER: I didn't hear</p> <p>5 you, I'm sorry.</p> <p>6 BY MR. JUSTUS:</p> <p>7 Q. Keyword searches is obviously for</p> <p>8 electronically-stored searches; you can't run</p> <p>9 keywords on pieces of paper a file cabinet?</p> <p>10 A. Correct.</p> <p>11 Q. So did you -- did Charter also search</p> <p>12 any paper records or paper documents that it has?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know, just generally, what are</p> <p>15 the nature of those paper records?</p> <p>16 Is it -- is there a file for the</p> <p>17 Windstream switch campaign and there's documents</p> <p>18 in there; or where would there be paper</p> <p>19 documents?</p> <p>20 A. We would have had samples of the</p> <p>21 direct-mail pieces. We keep samples of all</p> <p>22 direct-mail pieces.</p> <p>23 That would primarily be the source.</p> <p>24 Q. So samples of creative and --</p> <p>25 A. Sample of the creative, yes.</p>
Page 123	Page 124
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Q. -- and collateral -- okay.</p> <p>3 And I believe you searched --</p> <p>4 I believe Charter searched instant messages as</p> <p>5 well; is that right?</p> <p>6 A. I don't know.</p> <p>7 MR. JUSTUS: I thought I may --</p> <p>8 I thought I saw some in the production,</p> <p>9 but I could be mistaken.</p> <p>10 MR. KINGSTON: The answer is,</p> <p>11 I believe that we did, and we can confirm</p> <p>12 it on a break.</p> <p>13 BY MR. JUSTUS:</p> <p>14 Q. And did Charter search its -- well,</p> <p>15 let me back up.</p> <p>16 Charter's call center, the external</p> <p>17 sales call center that would take calls from, not</p> <p>18 Charter customers, but Windstream customers or</p> <p>19 the public, does it keep recordings of every</p> <p>20 call?</p> <p>21 A. I don't believe so.</p> <p>22 Q. Does it keep transcripts of every</p> <p>23 call?</p> <p>24 A. No.</p> <p>25 Q. So no recordings, no transcripts?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. Does it take notes when people call</p> <p>4 in at all; is there some system of taking notes?</p> <p>5 It would be unusual to have nothing,</p> <p>6 I would say.</p> <p>7 A. The tools that the agents sell off</p> <p>8 of, they're basically placing the order. So they</p> <p>9 would have a platform that places the order based</p> <p>10 on what the customer is looking for.</p> <p>11 Q. So if someone calls in to place an</p> <p>12 order, there's a sales software, where you take</p> <p>13 down the customer's information and what they</p> <p>14 want to buy --</p> <p>15 A. Yes.</p> <p>16 Q. -- and process a sales transaction?</p> <p>17 A. Yes.</p> <p>18 Q. What if it were a call where someone</p> <p>19 was not buying something and they were just</p> <p>20 calling to ask a question?</p> <p>21 A. That would go into our customer</p> <p>22 service call centers, and they would -- there</p> <p>23 would typically be a note on the account, based</p> <p>24 on how they resolve the customer's issue or</p> <p>25 question.</p>



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1 K.C. Atkinson - 09/19/19

2 Q. And you're talking about if it's a

3 current Charter customer?

4 A. A current -- current Charter

5 customer, yes.

6 Q. So what if a Windstream customer

7 called Charter, not to switch to Charter or buy

8 anything, but to ask a question about the mailer

9 referencing the bankruptcy, would that go to the

10 outside sales call center or the customer service

11 call center?

12 A. Outside. They're completely

13 separate.

14 Q. Okay. And so, in that case, where

15 they're not buying anything, would notes be taken

16 or any records exist from those types of calls?

17 A. Not that I'm aware of.

18 Q. Okay. And who would know the certain

19 answer to that question?

20 A. That would be one of our inbound call

21 center leaders.

22 Q. Okay.

23 MR. JUSTUS: So, John, that's another

24 one.

25 MR. KINGSTON: True.

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1 K.C. Atkinson - 09/19/19

2 AFTERNOON SESSION

3 (Time Noted: 1:15 p.m.)

4

5 THE VIDEOGRAPHER: We are back on the

6 record at 1:15 p.m.

7 MR. JUSTUS: Okay, thank you.

8

9 KELLY CHRISTINE ATKINSON,

10 remaining under oath,

11 resumes testifying as follows:

12 - - -

13 DIRECT EXAMINATION CONTINUED

14 - - -

15 BY MR. JUSTUS:

16 Q. Good afternoon.

17 In the morning session we talked

18 about a couple things you were going to try to

19 make some calls and follow up on.

20 One of them was the dates that the

21 March and April direct-mail pieces went out.

22 Were you able to get those dates?

23 A. Yes.

24 So the mailer that's in -- on page 13

25 was dropped -- stagger-dropped from March 16th

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1 K.C. Atkinson - 09/19/19

2 BY MR. JUSTUS:

3 Q. So other than running keywords across

4 electronic documents, checking any paper files,

5 we believe checking instant messages, is there

6 anything else that Charter did to collect

7 documents that were produced in this case?

8 A. Not to my it awareness.

9 MR. JUSTUS: All right.

10 Let's take a lunch break, and that

11 will give you all a chance to also follow

12 up on a couple of these things.

13 MR. KINGSTON: Sure.

14 MR. JUSTUS: Let's take an hour.

15 It's 12:11.

16 Let's go off the record, please.

17 THE VIDEOGRAPHER: We are off the

18 record at 12:12 p.m.

19 (LUNCHTIME RECESS: 12:12 p.m.)

20

21

22

23

24

25

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1 K.C. Atkinson - 09/19/19

2 through March 25th. And so those are the

3 estimated in-home period.

4 Q. Uh-huh?

5 A. The second mailing which --

6 (Outside interference.)

7 The second mailing planned for

8 Windstream was on April 8th, which ended up being

9 completely destroyed once we received the TRO.

10 So that never went into market with all the --

11 I mean, we covered destruction of the

12 eight-hundred-and-plus pieces -- -thousand

13 pieces, in conjunction with...

14 MR. KINGSTON: No, no, no. Please go

15 ahead.

16 THE WITNESS: ...in conjunction with

17 over 8 million pieces of other market mail

18 that were in that drop.

19 BY MR. JUSTUS:

20 Q. So there was no second mailer, you're

21 saying?

22 A. No. It was produced, but destroyed.

23 Q. Okay. So there was only one batch of

24 mail that went out, March 16 to 25, and that's

25 the direct-mail piece in Exhibit 2, pages 13

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1 K.C. Atkinson - 09/19/19  
2 and 14?  
3 A. Yes.  
4 Q. And with the envelope on page 9;  
5 right?  
6 A. Yes.  
7 Q. Okay. Thank you.  
8 A. Uh-huh.  
9 Q. One of the other questions was,  
10 whether any guidance or talking points were given  
11 to channel partners relating to the Windstream  
12 bankruptcy.  
13 Were you able to get any information  
14 on that?  
15 A. We confirmed that there was an e-mail  
16 sent out to all of our sales, our third party,  
17 and our enterprise, when both the PI -- both the  
18 TRO in April and the PI in May were done. And it  
19 still remains up on the third-party sites today.  
20 Q. So you're saying two different  
21 e-mails?  
22 A. One e-mail, which sits on those  
23 sites. So it's been up.  
24 Q. What was the date when that was put  
25 up?

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1 K.C. Atkinson - 09/19/19  
2 BY MR. JUSTUS:  
3 Q. And it sounds to me like two  
4 different -- those are two different legal  
5 documents?  
6 So there was something in April,  
7 where the TRO was distributed. And then --  
8 A. That was the first --  
9 Q. -- something in May with the --  
10 THE THE COURT REPORTER: Please  
11 don't.  
12 BY MR. JUSTUS:  
13 Q. -- preliminary injunction was  
14 distributed?  
15 A. I know that that -- that as soon as  
16 we got TRO, the channel partners, as well as the  
17 sales partners, all got those details, with  
18 instructions to avoid any bankruptcy commentary.  
19 And that stays up today; it's still  
20 up.  
21 Q. And where is it up?  
22 On the Charter website?  
23 A. No. It's up on the -- their  
24 communication or platform tool. I don't have the  
25 name of that tool.

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1 K.C. Atkinson - 09/19/19  
2 A. I have April for the TRO, so it would  
3 have been as soon as we received the TRO.  
4 And May for the PI. I don't have the  
5 exact date on that.  
6 Q. But those are not two different  
7 things?  
8 A. No. No, no, no.  
9 Q. Just, it was updated (indiscernible  
10 cross-talking) --  
11 A. It was just -- it was just --  
12 THE COURT REPORTER: One at a time.  
13 THE WITNESS: It was just the time  
14 frame. It was just April. And we -- it  
15 was, basically, reinforced.  
16 BY MR. JUSTUS:  
17 Q. "Reinforced" meaning, just resent to  
18 the same people?  
19 A. Just resent.  
20 Q. Okay.  
21 MR. KINGSTON: Was it -- just for  
22 clarity, are you talking about, the TRO  
23 was sent and then the PI was sent?  
24 THE WITNESS: The TRO was sent, and  
25 the PI was sent, yes.

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1 K.C. Atkinson - 09/19/19  
2 Q. Okay. So there's a tool that channel  
3 partners can access.  
4 Does it mean like logging into a  
5 portal, that type of thing?  
6 A. I don't have the exact details, but  
7 I would assume, yes.  
8 Q. That's fine, that's fine.  
9 So other than, you know, distributing  
10 the TRO and the PI, there's no other guidelines  
11 or talking points that were given to channel  
12 partners?  
13 A. No.  
14 Q. Okay. Thank you.  
15 So another question was about Badger,  
16 and whether or not it would be possible for there  
17 to be downloads from Badger that were not  
18 tracked.  
19 And Mr. Dardis had said that wasn't  
20 the case. It's impossible to tell.  
21 Now, were you able to confirm that?  
22 A. Not as of this point.  
23 Q. I'm sorry?  
24 MR. KINGSTON: It's --  
25 THE WITNESS: No.

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1 K.C. Atkinson - 09/19/19  
2 MR. KINGSTON: It's -- it remains the  
3 same.  
4 MR. JUSTUS: Answer would be the  
5 same?  
6 (Indiscernible cross-talking.)  
7 MR. KINGSTON: Dardis's testimony was  
8 accurate.  
9 MR. JUSTUS: Stand -- okay, Dardis's  
10 testimony is accurate on that point.  
11 Thank you.  
12 BY MR. JUSTUS:  
13 Q. Another was the, I think we're  
14 calling it the "sales call center," the call  
15 center that would have gotten calls from  
16 non-Charter customers, whether or not the call  
17 center personnel would take notes, or otherwise  
18 log calls, when a sale was not actually being  
19 completed, no transaction was being completed?  
20 A. They would not.  
21 Q. There would be no notes --  
22 A. If there's no sale, there would be no  
23 record.  
24 Q. Okay.  
25 Was the -- let's call it the "sales

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1 K.C. Atkinson - 09/19/19  
2 going to ask about was: Has any Windstream  
3 customer called in and expressed an understanding  
4 that they believed this direct-mail piece was  
5 sent by Windstream as opposed to Charter?  
6 A. No.  
7 Q. To Charter's knowledge, no Windstream  
8 customer has called in and expressed that belief?  
9 A. That is correct.  
10 Q. And to Charter's knowledge, has any  
11 Windstream customer called and expressed a belief  
12 that Windstream was going out of business?  
13 A. Not to my knowledge.  
14 Q. Well, again, not to your personal  
15 knowledge?  
16 A. Right.  
17 Q. But are you answering on behalf of  
18 Charter?  
19 A. Yes.  
20 Q. Okay, Charter is not aware of anyone  
21 calling in and expressing a belief that  
22 Windstream is going out of business?  
23 A. That is correct.  
24 The only -- I was just going to say,  
25 that there is a whole file of the customers that

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1 K.C. Atkinson - 09/19/19  
2 call center," the personnel instructed to flag or  
3 let anyone know if they received any calls  
4 relating to Windstream customers and the  
5 Windstream bankruptcy advertising?  
6 A. I'm sorry, I don't understand the  
7 question.  
8 Q. The sales call center that we're  
9 talking about --  
10 A. Yes.  
11 Q. -- were the employees of the call  
12 center instructed to let anyone know, a  
13 supervisor or otherwise, if they received a call  
14 from a Windstream customer?  
15 A. No, there is no specialized handling.  
16 Q. It's actually really hot in here now,  
17 as an aside.  
18 A. Yes, maybe they can turn it down now.  
19 Q. So just to follow up on that point --  
20 never mind.  
21 Now, the final thing I had written  
22 down to follow up on was this concept of  
23 Exhibit 3 --  
24 Make sure I get this right.  
25 -- well, the whole topic that I was

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1 K.C. Atkinson - 09/19/19  
2 we provided the eight hundred -- the number of  
3 customers that we provided that received the  
4 mailing piece.  
5 But I don't have any details that any  
6 of those specifically called in regarding a  
7 bankruptcy question.  
8 Q. And is there any way to search  
9 whether or not any calls were received from  
10 Windstream customers?  
11 A. We -- we don't keep those recordings.  
12 It's random. I don't have any details on being  
13 able to do that.  
14 Q. What's "random"?  
15 A. Just ran -- I mean, on calls that  
16 come in, we don't have any ability to pool those.  
17 Q. I think you said before there's no  
18 audio recordings, right --  
19 A. Right.  
20 Q. -- of any calls?  
21 MR. KINGSTON: I would object that  
22 that misstates the testimony.  
23 I mean, the first question was: Do  
24 you record all?  
25 And the next question was -- I think

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1 K.C. Atkinson - 09/19/19  
2 there was -- I thought the answer was, We  
3 don't record all.  
4 But I don't think the answer to the  
5 fol -- I don't think the next question was  
6 directed towards, Do you record any?  
7 So I -- I -- the witness can speak  
8 to -- to it herself, but...  
9 THE WITNESS: Customer service logs  
10 information when our customer calls, so  
11 that we know the resolution of the call.  
12 In the sales center, the only  
13 tracking would be if there was an actual  
14 sale made.  
15 BY MR. JUSTUS:  
16 Q. None of the sales center calls are  
17 recorded?  
18 A. Correct.  
19 Q. There are no transcriptions of the  
20 sales center calls?  
21 A. None.  
22 Q. Unless a sales transaction takes  
23 place, there would be no notes from the sales  
24 center calls?  
25 A. Correct. And the only notes would be

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1 K.C. Atkinson - 09/19/19  
2 Q. -- or comment section?  
3 A. No.  
4 Q. And the Charter sales call center  
5 personnel, again, were not instructed to flag or  
6 let anyone know, whether that be a supervisor or  
7 someone else --  
8 A. No.  
9 Q. -- if Windstream customers were  
10 switching and mentioning the ad with the  
11 bankruptcy?  
12 A. No.  
13 Q. Okay.  
14 As part of preparing to testify  
15 today, did you speak with anyone who works at the  
16 sales call center?  
17 A. No.  
18 Q. Do you know if anyone within Charter  
19 has spoken with someone in the call center in  
20 order to gather information for discovery in this  
21 case, whether that be documents or information  
22 about the types of calls we've been discussing,  
23 Windstream customers?  
24 A. I just spoke to my attorneys on  
25 the -- I don't have personal knowledge of the

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1 K.C. Atkinson - 09/19/19  
2 the sale of what the customer purchased.  
3 Q. Right.  
4 So if a sale does take place, and a  
5 Windstream customer calls the sales center,  
6 and decides to switch to Charter, would that  
7 sales record note the incumbent provider;  
8 i.e., Windstream?  
9 A. No.  
10 Q. It would not?  
11 A. No.  
12 Q. What information is taken in that  
13 sales system? Just name, telephone number,  
14 address; anything else?  
15 A. The products that they purchased.  
16 Q. Okay.  
17 And if someone were to call the sales  
18 call center, they're a Windstream customer, and  
19 they switched to Charter, and they said -- and  
20 volunteered the information, "I'm a Windstream  
21 customer. I saw your ad about Windstream's  
22 bankruptcy. I would like to switch to Charter,"  
23 would that be noted anywhere within the sales  
24 files or a note section --  
25 A. No.

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1 K.C. Atkinson - 09/19/19  
2 934,000 documents and where they came from.  
3 Q. So you don't know if Charter made  
4 inquiry to its call center personnel about these  
5 topics I'm asking about, whether or not  
6 Windstream customers have, in fact, been calling  
7 in and expressing confusion?  
8 A. I was not part of any of that  
9 discussion, no.  
10 Q. But do you know if anyone else did as  
11 part of Charter preparing to give its documents  
12 and testimony to us in this case?  
13 Did anyone check to see if there were  
14 any confused customers?  
15 A. It's not a practice of any way that  
16 we operate, so we don't -- we don't capture that  
17 information.  
18 Again, going back to this mailing in  
19 question, it's not a definite that all  
20 eight-hundred-and-some-thousand customers were  
21 Windstream customers.  
22 Q. Uh-huh?  
23 A. They could have any other service  
24 provider.  
25 So any calls that we get from that

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 toll-free number could be any type of customer.</p> <p>3 They could be a satellite customer.</p> <p>4 They could be a Verizon customer.</p> <p>5 It is our best, you know,</p> <p>6 understanding that it could be a Windstream</p> <p>7 customer. It doesn't mean that it is.</p> <p>8 Q. And the phone number on page 13 of</p> <p>9 Exhibit 2, the "1-855" number --</p> <p>10 A. Yes.</p> <p>11 Q. -- that number goes to the sales call</p> <p>12 center we're talking about?</p> <p>13 A. Yes, it does.</p> <p>14 Q. Okay.</p> <p>15 And you said, as far as you're aware,</p> <p>16 no one has checked with call center personnel and</p> <p>17 asked them, Have you been receiving any calls</p> <p>18 from confused Windstream customers?</p> <p>19 A. They would not be able to even pull</p> <p>20 that information for me, or anyone, because</p> <p>21 they -- their agents just don't -- they don't</p> <p>22 notate it. So there's no ability to say, out of</p> <p>23 those calls, Was it a Windstream customer, and</p> <p>24 what did they say?</p> <p>25 That's -- nobody has that record of</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 information, because we don't check it. We</p> <p>3 don't --</p> <p>4 Q. Right?</p> <p>5 A. -- notate it.</p> <p>6 Q. And separate from the actual</p> <p>7 documentation and notes in the sales system, no</p> <p>8 one checked, you know, anecdotally, Have you been</p> <p>9 getting calls from Windstream customers</p> <p>10 expressing confusion about the bankruptcy?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 I want to make sure I understand the</p> <p>14 topics that you're not here on.</p> <p>15 You're not here to testify -- and</p> <p>16 this is Exhibit 1 again. Apologies.</p> <p>17 On page 4 of Exhibit 1, Topic</p> <p>18 Number 7, about "Requests from customers to</p> <p>19 switch" --</p> <p>20 A. Correct.</p> <p>21 Q. -- you are not here to testify on</p> <p>22 that; correct?</p> <p>23 THE WITNESS: John?</p> <p>24 MR. KINGSTON: Correct.</p> <p>25 I'm sorry.</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 THE WITNESS: Correct?</p> <p>3 Correct.</p> <p>4 Sorry.</p> <p>5 MR. JUSTUS: And on the following</p> <p>6 page, Topic 11, "The interruption or</p> <p>7 disconnection of service"?</p> <p>8 MR. KINGSTON: Also correct.</p> <p>9 MR. JUSTUS: Also correct.</p> <p>10 And 17?</p> <p>11 MR. KINGSTON: Also correct.</p> <p>12 MR. JUSTUS: And 25?</p> <p>13 MR. KINGSTON: Also correct.</p> <p>14 MR. JUSTUS: Okay, let me take</p> <p>15 five minutes, and I may be passing the</p> <p>16 witness.</p> <p>17 MR. KINGSTON: Very good.</p> <p>18 MR. JUSTUS: Off the record, please.</p> <p>19 THE VIDEOGRAPHER: We are off the</p> <p>20 record at 1:31 p.m.</p> <p>21 (Off the record.)</p> <p>22 (Back on the record.)</p> <p>23 THE VIDEOGRAPHER: We are back on the</p> <p>24 record at 1:42 p.m.</p> <p>25 MR. JUSTUS: Okay, thank you.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 And, John, this is more a question</p> <p>3 for you, before I pass the witness.</p> <p>4 There's a different witness here</p> <p>5 today on the topics relating to customers</p> <p>6 who switched from Windstream to Charter.</p> <p>7 MR. KINGSTON: There are -- go ahead.</p> <p>8 MR. JUSTUS: But before we have</p> <p>9 Ms. Atkinson step down and switch</p> <p>10 witnesses, et cetera --</p> <p>11 And I understand you have the right</p> <p>12 to ask questions. That's not what</p> <p>13 I meant.</p> <p>14 MR. KINGSTON: I understand.</p> <p>15 MR. JUSTUS: -- does that other</p> <p>16 witness know about customers who switched</p> <p>17 with respect to direct sales activities,</p> <p>18 as well as people who would have, you</p> <p>19 know, called into the sales center?</p> <p>20 And the reason I'm asking, I'm going</p> <p>21 to ask questions about, you know, when</p> <p>22 people are going door-to-door, and someone</p> <p>23 decides to switch from one provider to the</p> <p>24 other, are notes taken about that?</p> <p>25 MR. KINGSTON: That, new customers,</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Charter does not track who new customers</p> <p>3 come from.</p> <p>4 So whether it comes from a</p> <p>5 door-to-door sale or a direct mail,</p> <p>6 Charter doesn't track who the prior</p> <p>7 provider was.</p> <p>8 MR. JUSTUS: As far as the correct</p> <p>9 witness to tell me that, would it be</p> <p>10 Ms. Atkinson?</p> <p>11 MR. KINGSTON: I think it would be,</p> <p>12 I think it would be Ms. Atkinson.</p> <p>13 Mr. Kardos can speak to what</p> <p>14 information is available.</p> <p>15 But it -- I don't want to --</p> <p>16 MR. JUSTUS: Because I don't --</p> <p>17 MR. KINGSTON: -- spoiler alert,</p> <p>18 there's not a lot.</p> <p>19 MR. JUSTUS: -- I don't know what he</p> <p>20 does. So --</p> <p>21 MR. KINGSTON: Yeah, yeah.</p> <p>22 Not, it's -- it's not information</p> <p>23 that anybody I think that -- it's -- they</p> <p>24 don't track it, so they -- nobody has that</p> <p>25 information. I mean, it's not --</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. JUSTUS: Well, I'll ask a couple</p> <p>3 of questions of Ms. Atkinson, and I can</p> <p>4 always ask him as well.</p> <p>5 MR. KINGSTON: I think that -- yeah,</p> <p>6 you're welcome to do that, of course.</p> <p>7 - - -</p> <p>8 DIRECT EXAMINATION CONTINUED</p> <p>9 - - -</p> <p>10 BY MR. JUSTUS:</p> <p>11 Q. All right, well, hello again,</p> <p>12 Ms. Atkinson.</p> <p>13 So you heard the questions where I'm</p> <p>14 going with that, but I'll ask them to you.</p> <p>15 With the direct sales personnel out</p> <p>16 in the field, going door to door, if a</p> <p>17 salesperson knocks on the door of a Windstream</p> <p>18 customer, gives a sales pitch, the Windstream</p> <p>19 customer decides, "Yes, I want to switch to</p> <p>20 Charter," does the Charter salesperson take note</p> <p>21 of who that customer is switching from; who the</p> <p>22 incumbent provider is?</p> <p>23 A. Nothing that would be pooled in a</p> <p>24 system that we have, no. We don't capture that.</p> <p>25 Q. And what do they capture; just name,</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 address, phone number --</p> <p>3 A. The order.</p> <p>4 Q. -- and what they're buying?</p> <p>5 A. Yes.</p> <p>6 Q. And nothing else?</p> <p>7 A. Nothing else. It's just the services</p> <p>8 they're getting.</p> <p>9 Q. And Charter is not aware of when a</p> <p>10 Windstream customer, in the door-to-door setting,</p> <p>11 has decided to switch to Charter, of the</p> <p>12 Windstream customer giving a reason that they're</p> <p>13 switching, because Windstream is going out of</p> <p>14 business or because Windstream is bankrupt?</p> <p>15 A. We don't capture any commentary,</p> <p>16 other than the sale.</p> <p>17 Q. Okay. And aside from, you know,</p> <p>18 capturing it in the ordinary course of business,</p> <p>19 anecdotally, has Charter become aware from</p> <p>20 talking to its direct sales folks --</p> <p>21 A. No.</p> <p>22 Q. -- of any instances of that</p> <p>23 happening?</p> <p>24 A. No.</p> <p>25 Q. Okay.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. JUSTUS: Okay, I pass the</p> <p>3 witness.</p> <p>4 MR. KINGSTON: Before I begin, you</p> <p>5 may want to -- there is a -- I think there</p> <p>6 was a correction or a date appointed that</p> <p>7 Ms. Atkinson didn't have when you were</p> <p>8 talking about calls, where a Windstream</p> <p>9 customer indicated that they received a</p> <p>10 Charter mailer, and may have believed it</p> <p>11 was from Windstream.</p> <p>12 And I don't know if -- if you want to</p> <p>13 inquire about that, we've given the</p> <p>14 witness the documents that we have, that</p> <p>15 I pulled out of a binder that I had, so</p> <p>16 they've -- there's highlighting on it</p> <p>17 that's mine, and then I think there's</p> <p>18 Ms. Atkinson's note.</p> <p>19 But that -- you can inquire about it</p> <p>20 or I can just try and go through it when</p> <p>21 I ask her questions, whatever is easiest?</p> <p>22 MR. JUSTUS: Well, I'll try, I'll</p> <p>23 give it a shot. I don't have the</p> <p>24 documents.</p> <p>25 MR. KINGSTON: Do you want -- we can</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 share them, or you can make copies,</p> <p>3 however you want to do it.</p> <p>4 MR. JUSTUS: Okay. Let's mark this</p> <p>5 as Exhibit 11 -- actually, let's just do</p> <p>6 all of these together as Exhibit 11.</p> <p>7 And Exhibit 11 is -- well, it's</p> <p>8 several things.</p> <p>9 It's Charter -44484;</p> <p>10 Win 002064 through -2071.</p> <p>11 And I don't know, are these supposed</p> <p>12 to be in there or not?</p> <p>13 MR. KINGSTON: Oh, probably not.</p> <p>14 Thanks, man.</p> <p>15 MR. JUSTUS: And that's it, then.</p> <p>16 So the Charter -4484 document, and</p> <p>17 then, the Win -2064 through -2071, a</p> <p>18 multi-page document.</p> <p>19 So those together will be Exhibit 11.</p> <p>20 THE COURT REPORTER: Can I mark it?</p> <p>21 MR. JUSTUS: Yes.</p> <p>22 THE COURT REPORTER: Hand it to the</p> <p>23 witness, or do you want it back?</p> <p>24 MR. JUSTUS: Let me take another</p> <p>25 quick look.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 (Defendants' Exhibit Number 11 was</p> <p>3 marked for identification as of this</p> <p>4 date.)</p> <p>5 - - -</p> <p>6 DIRECT EXAMINATION CONTINUED</p> <p>7 - - -</p> <p>8 BY MR. JUSTUS:</p> <p>9 Q. And so you've just recently looked</p> <p>10 at --</p> <p>11 A. Yes.</p> <p>12 Q. -- Exhibit 11 on a break; right?</p> <p>13 A. Yes.</p> <p>14 Q. So the first -- the first page, it's</p> <p>15 what I understand to be a disciplinary report for</p> <p>16 Rebecca Root; is that right?</p> <p>17 A. It would be -- yes, her conversation</p> <p>18 with Gene Chewing -- Chewing.</p> <p>19 Q. How do you spell that?</p> <p>20 A. C-H-E-W-N-I-N-G.</p> <p>21 Q. And in that conversation, Ms. Root</p> <p>22 states that a Windstream customer received</p> <p>23 Charter's direct-mail piece --</p> <p>24 A. Yes.</p> <p>25 Q. -- and thought that it had been sent</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 by Windstream; is that right?</p> <p>3 A. Yes.</p> <p>4 She said she had a flyer that</p> <p>5 Windstream had sent out. And that was -- she saw</p> <p>6 it was a Spectrum mailing.</p> <p>7 Q. And that would have to be this</p> <p>8 direct-mail piece on page 13 and 14 of Exhibit 2,</p> <p>9 because that was the only piece referencing</p> <p>10 Windstream's bankruptcy that ever went public?</p> <p>11 A. Yes.</p> <p>12 And this is Rebecca Root, who took a</p> <p>13 copy of that and handed it to two -- I think two</p> <p>14 people, two flyers.</p> <p>15 Q. Okay.</p> <p>16 And so is that the only instance</p> <p>17 Charter is aware of where a Windstream customer</p> <p>18 expressed a belief that Charter's direct-mail</p> <p>19 piece had actually come from Windstream?</p> <p>20 A. This is the only one that I've seen,</p> <p>21 yes.</p> <p>22 MR. JUSTUS: Okay. I pass the</p> <p>23 witness.</p> <p>24 THE WITNESS: Here.</p> <p>25</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 - - -</p> <p>3 CROSS-EXAMINATION</p> <p>4 - - -</p> <p>5 BY MR. KINGSTON:</p> <p>6 Q. Ms. Atkinson, I'm going to read into</p> <p>7 the record, a portion of Exhibit 11, and ask you</p> <p>8 if I've read it correctly.</p> <p>9 I'm just looking at the top of what</p> <p>10 appears to be a reproduction of a conversation.</p> <p>11 "GENE: Have you seen this flyer?</p> <p>12 "REBECCA:" --</p> <p>13 There's a portion redacted.</p> <p>14 -- "(Blank) gave it to me. I sold</p> <p>15 her on Friday.</p> <p>16 "She called me on Monday and said she</p> <p>17 had gold for me.</p> <p>18 "I asked her what it was.</p> <p>19 "She said she had a flyer that</p> <p>20 Windstream sent out and she would give it to me.</p> <p>21 "I told her I was off, and would stop</p> <p>22 by the next day to pick it up.</p> <p>23 "Emmitt and I went there, and I saw</p> <p>24 the flyer. And sent an e-mail to Jay. I saw</p> <p>25 that it was a Spectrum mailer. It's my</p>



1 K.C. Atkinson - 09/19/19  
2 understanding that nothing is sent out unless  
3 it's preapproved. I thought it was okay, so we  
4 made some copies and told Jay. We only gave out  
5 two flyers.  
6 "Emmitt wouldn't have had this. It  
7 wasn't for me.  
8 "We have" --  
9 "Emmitt wouldn't have had this if it  
10 wasn't for me. We have given" -- "we haven't  
11 given any out for a week. I saw a list with  
12 different company names on it."  
13 Have I read that correctly?  
14 A. Yes.  
15 Q. And if you look at the other  
16 documents affixed to Exhibit 11, do you see the  
17 list of --  
18 A. Yes.  
19 Q. -- the list of companies Ms. Root  
20 referred to?  
21 A. Yes.  
22 Q. And what is the Bates number for  
23 that -- what is the Bates number for that list?  
24 Can you just read the -- the --  
25 direct me in the record to -- or, excuse me,

1 K.C. Atkinson - 09/19/19  
2 direct me in the document to the number in the  
3 bottom right-hand corner where the list of  
4 companies appears.  
5 A. This number (indicating)?  
6 Q. Yes, ma'am.  
7 A. Win 002064.  
8 Q. And is -- where is the actual list of  
9 companies, though? Is that on --  
10 A. It's on the -- it starts on  
11 Win 002065. -066. -067. -068. -06 -- -070.  
12 It skips, there's not a list. And then -071.  
13 Q. And that's the list of companies that  
14 Ms. Root was referring to?  
15 A. Yes.  
16 Q. Okay.  
17 You can put Exhibit 11 aside.  
18 MR. KINGSTON: I think I will staple  
19 it at some point.  
20 BY MR. KINGSTON:  
21 Q. Ms. Atkinson, you've talked a little  
22 bit with Mr. Justus about a company called  
23 One Touch.  
24 Do you recall that?  
25 A. Yes.

1 K.C. Atkinson - 09/19/19  
2 Q. And what is One Touch?  
3 A. It is a third party.  
4 And it would be helpful to just have  
5 the One Touch materials --  
6 Q. Sure.  
7 A. -- for it.  
8 It is a third-party competitive  
9 intelligence company that does research in all of  
10 our footprint across 300-plus competitors.  
11 MR. KINGSTON: Ms. Marney, would you  
12 please mark this as Exhibit 12?  
13 (Plaintiffs' Exhibit Number 12 was  
14 marked for identification as of this  
15 date.)  
16 BY MR. KINGSTON:  
17 Q. Ms. Atkinson, I'm about to hand you  
18 Plaintiffs' Exhibit 12, which, for the record, is  
19 a multi-page document, Bates-labeled Charter -836  
20 through Charter -847 inclusive.  
21 At the top it is labeled  
22 Exhibit 11 -- excuse me, Exhibit 12 is labeled  
23 "TELCOTRAK, a service of One Touch Intelligence  
24 competitive monitoring and analysis of telco  
25 broadband and wireless activities," dated

1 K.C. Atkinson - 09/19/19  
2 February 16 through 28 of 2019.  
3 Can you take a moment to review  
4 Exhibit 12, and let me know when you're ready,  
5 please?  
6 A. (Witness reviews document.)  
7 Yes.  
8 Q. And so is Exhibit 12 a TELCOTRAK  
9 newsletter sent out by the One Touch Intelligence  
10 company?  
11 A. Yes, it is.  
12 Q. And One Touch Intelligence is a  
13 company that provides market analytical  
14 information in the telco, broad -- related to  
15 telco, broadband, and wireless activities?  
16 A. Yes, that is correct.  
17 Q. And that's a company that Charter  
18 pays to perform research for Charter?  
19 A. Yes.  
20 Q. And does Charter rely on the  
21 expertise of TELCOTRAK in making marketing  
22 decisions?  
23 A. Yes.  
24 Q. And does Charter rely on TELCOTRAK to  
25 monitor a small number of competitors or a large



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1 K.C. Atkinson - 09/19/19  
2 number of competitors?  
3 A. A large number.  
4 Q. And so I think you testified as  
5 to 300 competitors that are monitored by  
6 One Touch Intelligence?  
7 A. That is correct.  
8 Q. And does Exhibit 12 reflect  
9 information on all 300 of those competitors?  
10 A. No.  
11 It's specific to Windstream,  
12 Frontier, Verizon, FIG Wireless. And a little  
13 bit about AT&T referenced in the Verizon.  
14 Q. And so One Touch Intelligence sends  
15 out these monthly TELCOTRAK newsletters; is that  
16 fair -- or, is that true?  
17 A. Yes.  
18 Q. Okay. And One Touch Intelligence  
19 decides which among the 300, give or take,  
20 competitors that it monitors to talk about in  
21 those newsletters?  
22 A. Yes.  
23 Q. And in your understanding, does  
24 One Touch Intelligence seek to -- when it talks  
25 about those -- when it chooses competitors for

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1 K.C. Atkinson - 09/19/19  
2 inclusion in its newsletter, does it typically  
3 choose competitors where there's something  
4 important to talk about with those competitors?  
5 A. Yes.  
6 MR. JUSTUS: Objection, foundation.  
7 BY MR. KINGSTON:  
8 Q. Does Charter depend on One Touch to  
9 identify which among its competitors, at any  
10 given time frame, there is information that is  
11 important enough to be included in a newsletter  
12 about?  
13 A. It's really what happens in the news,  
14 for the most part.  
15 And there's, obviously, topical  
16 points that they know we have interest in.  
17 5G rollout, for example.  
18 Q. Uh-huh?  
19 A. And so they would make sure that, at  
20 some point, they're doing detailed overviews of  
21 those areas.  
22 Q. And so among the 300 competitors  
23 monitored by One Touch, One Touch chose  
24 three competitors for discussion in articles  
25 on Exhibit 12; true?

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1 K.C. Atkinson - 09/19/19  
2 A. True.  
3 Q. And the very first one that One Touch  
4 referenced was Windstream?  
5 A. Yes.  
6 Q. And what's the headline of OneTouch's  
7 article about Windstream on the first page of  
8 Exhibit 12?  
9 A. "Windstream sends up white flag and  
10 files Chapter 11 bankruptcy."  
11 Q. I want to direct your attention to --  
12 well, it -- the right-hand side of the first page  
13 of Exhibit 12, where it appears that there are  
14 three bolded -- bolded topics listed on -- at the  
15 beginning of each paragraph.  
16 Do you see that?  
17 A. Yes.  
18 Q. And so it looks like the first -- the  
19 first page of Exhibit 12, the discussion of  
20 Windstream is chunked into three sections: one  
21 identifying the issue, one providing background,  
22 and one discussing the implications?  
23 A. Yes.  
24 Q. And the -- I read the issue  
25 identified by One Touch as follows:

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1 K.C. Atkinson - 09/19/19  
2 "Long-suffering telco Windstream has  
3 bowed to financial reality in the wake of a  
4 potentially crippling court ruling, and has filed  
5 for Chapter 11 bankruptcy."  
6 Have I read that correctly?  
7 A. Yes.  
8 Q. And directing your attention to the  
9 "Implications" section, do you see that?  
10 A. Yes.  
11 Q. I read the second sentence in the  
12 "Implications" section as follows:  
13 "But while Chapter 11 will provide  
14 some legal shelter while the telco reorganizes  
15 its tangled debt structure, uncertainty about the  
16 service impacts will make some residential and  
17 business customers uneasy."  
18 Have I read that correctly?  
19 A. Yes.  
20 Q. And so throughout your deposition  
21 you've been talking -- or, you've mentioned from  
22 time to time, analysis that Charter received from  
23 a third party.  
24 Is this the analysis that you were  
25 referring to?

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1 K.C. Atkinson - 09/19/19  
2 A. Yes.  
3 Q. And so does One Touch identify  
4 uncertainty about -- related to Windstream's  
5 Chapter 11 bankruptcy?  
6 A. Yes.  
7 Q. And does One Touch indicate that that  
8 uncertainty could extend to the services?  
9 A. It does.  
10 Q. And was that information from  
11 One Touch incorporated into the direct mailer  
12 that Charter sent in March of 2019 related to  
13 Windstream?  
14 A. Yes. This was the foundation for the  
15 creative brief.  
16 Q. The foundation for the creative  
17 brief, uh --  
18 A. For the Windstream mailing.  
19 Q. The foundation for the creative brief  
20 for the Windstream mailer was this analytical  
21 report provided by One Touch Intelligence?  
22 A. Yes.  
23 Q. And does Charter rely on  
24 One Touch Intelligence because of its particular  
25 expertise in the telephone, broadband, and

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1 K.C. Atkinson - 09/19/19  
2 wireless industry?  
3 A. We do.  
4 Q. Do you recall earlier when you  
5 discussed potential confusion as to what was  
6 going on at Windstream throughout its bankruptcy?  
7 A. Yes -- with regard to the mailing?  
8 Q. Yes, ma'am.  
9 A. Yes.  
10 Q. And does this One Touch mailer, in  
11 fact, suggest that there is confusion and  
12 uncertainty as to what is going on at Windstream?  
13 A. Yes.  
14 Q. Directing your attention to the page,  
15 -838, in the bottom right-hand corner?  
16 I read the fourth paragraph from the  
17 bottom -- or, excuse me, fourth paragraph from  
18 the top to include a discussion of potential  
19 customer concerns.  
20 Do you see that?  
21 A. Yes.  
22 Q. And I read One Touch to say, that:  
23 "Customers will propaly (ph.)" --  
24 "will probably be more concerned that  
25 distractions and tighter financial restrictions

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1 K.C. Atkinson - 09/19/19  
2 during Windstream's bankruptcy may lead to  
3 service issues, ranging from outages to spiraling  
4 customer support response times. Windstream may  
5 also be limited in its ability to capitalize on  
6 higher-speed qualifications for new and existing  
7 customers."  
8 Have I read that correctly?  
9 A. Yes.  
10 Q. And so are those distractions and  
11 tighter financial restrictions, are those among  
12 the issues that, in your view, would create  
13 confusion related to Windstream's bankruptcy?  
14 A. Yes, it would.  
15 Q. And that would be confusion as to  
16 what was going on at Windstream?  
17 A. Yes.  
18 Q. And is it possible that -- or -- and  
19 was -- was something -- strike that.  
20 Mind if I start over, Ms. Atkinson?  
21 A. Sure.  
22 Q. And in your view, Ms. Atkinson, is a  
23 customer's concern about confusion as to what is  
24 going on at Windstream during its bankruptcy, a  
25 legitimate reason for that customer to switch to

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1 K.C. Atkinson - 09/19/19  
2 Charter?  
3 A. Yes.  
4 Q. You understand that Charter provides  
5 services to Windstream customers through what's  
6 called a "last-mile service contract"?  
7 A. Yes, I am familiar with that.  
8 Q. And did you know that Charter  
9 provides service to some 14,000 Windstream  
10 customers pursuant to that last-mile service  
11 contract?  
12 A. Yes.  
13 Q. And do you know that -- or, were you  
14 aware that, during the bankruptcy -- strike that.  
15 Do you mind if I start over?  
16 A. Yes --  
17 MR. JUSTUS: And, John --  
18 THE WITNESS: -- yes, I'm okay.  
19 MR. JUSTUS: -- I'm just going to  
20 lodge an objection as beyond the scope, to  
21 the extent you're talking -- you're going  
22 to ask questions about the last-mile  
23 service and any disconnections, anything  
24 like that.  
25 I specifically didn't ask those

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 questions to this witness.</p> <p>3 MR. KINGSTON: That's -- that's a</p> <p>4 fair objection, and I don't intend to.</p> <p>5 And to the extent that I do here --</p> <p>6 to the extent that you feel like I've</p> <p>7 gotten into the disconnect issue, you</p> <p>8 are -- counsel is welcome to address those</p> <p>9 on recross.</p> <p>10 MR. JUSTUS: Okay.</p> <p>11 MR. KINGSTON: But I don't intend to</p> <p>12 get into that issue.</p> <p>13 BY MR. KINGSTON:</p> <p>14 Q. After that colloquy, are you ready</p> <p>15 for us to take another run at it, Ms. Atkinson?</p> <p>16 A. Yes.</p> <p>17 Q. So Charter's understanding is that</p> <p>18 Windstream -- you mind if I start over again?</p> <p>19 I'm sorry, I stepped on my toes.</p> <p>20 A. Go ahead.</p> <p>21 Q. Thank you.</p> <p>22 Charter's understanding is that it</p> <p>23 provides services to some 14,000 Windstream</p> <p>24 customers pursuant to a last-mile contract; is</p> <p>25 that right?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Yes.</p> <p>3 Q. And that last-mile contract is a</p> <p>4 contract that Windstream may assume or not assume</p> <p>5 during the bankruptcy.</p> <p>6 Is Charter aware of that?</p> <p>7 A. Yes.</p> <p>8 Q. And if Windstream doesn't assume</p> <p>9 that last-mile contract, service to those</p> <p>10 14,000 customers would be interrupted, wouldn't</p> <p>11 it, Ms. Atkinson?</p> <p>12 A. It would.</p> <p>13 Q. And so is your knowledge that, an</p> <p>14 open contract in the bankruptcy, that has not</p> <p>15 been assumed, could lead to an interruption of</p> <p>16 service to 14,000 customers, that Charter knows</p> <p>17 of, consistent with the concerns about service</p> <p>18 issues described in Exhibit 12?</p> <p>19 A. That is correct.</p> <p>20 Q. I direct your attention to the</p> <p>21 third paragraph from the bottom on page -838</p> <p>22 of Exhibit 12.</p> <p>23 I read the second sentence as</p> <p>24 follows:</p> <p>25 "As a result, the new Windstream that</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 emerges from bankruptcy, sometime in the next</p> <p>3 year or two, could be smaller, but not</p> <p>4 necessarily stronger telco, with an even more</p> <p>5 uncertain future."</p> <p>6 Have I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. And so did Charter develop its</p> <p>9 understanding that there was uncertainty related</p> <p>10 to Windstream's bankruptcy from information</p> <p>11 provided by One Touch?</p> <p>12 A. Yes.</p> <p>13 Q. And was that same information</p> <p>14 incorporated into the March 2019 direct mailer?</p> <p>15 A. It was.</p> <p>16 Q. Okay.</p> <p>17 MR. KINGSTON: Ms. Marney, would you</p> <p>18 mind marking this as Exhibit 13?</p> <p>19 (Plaintiffs' Exhibit Number 13 was</p> <p>20 marked for identification as of this</p> <p>21 date.)</p> <p>22 BY MR. KINGSTON:</p> <p>23 Q. Ms. Atkinson, you've been handed</p> <p>24 Exhibit 13.</p> <p>25 Do you recognize that?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Yes.</p> <p>3 Q. Can you tell me what that is?</p> <p>4 A. It is from One Touch, our tracking</p> <p>5 company. It's called a "Competitive Alert," and</p> <p>6 it's dated February 25th.</p> <p>7 Q. And does it include -- does the</p> <p>8 One Touch Competitive Alert, on the left-hand</p> <p>9 side, include a summary, and then an impact</p> <p>10 analysis?</p> <p>11 A. It does.</p> <p>12 Q. And does the One Touch impact</p> <p>13 analysis, in the last paragraph, include the</p> <p>14 following sentence:</p> <p>15 "It's likely the uncertainty</p> <p>16 surrounding its bankruptcy will make business</p> <p>17 customers think twice about inking or renewing a</p> <p>18 service contract with Windstream"?</p> <p>19 A. It does.</p> <p>20 Q. All right. And is that consistent</p> <p>21 with the message that Charter adopted in the</p> <p>22 March 2019 mailer?</p> <p>23 A. Yes.</p> <p>24 Q. Ms. Atkinson, are you familiar -- or,</p> <p>25 does Charter occasionally use databases like</p>

1 K.C. Atkinson - 09/19/19  
2 Comperemedia?  
3 A. Yes.  
4 Q. And just tell me, kind of in general  
5 terms, what that database is.  
6 A. The Comperemedia is -- actually, I'm  
7 just trying to remember the exact details of  
8 what -- it provides us competitive information,  
9 but, also, spending activities in markets; how  
10 much money, from reported spend in media  
11 purchasing, is in the marketplace.  
12 Q. So if Charter were interested in what  
13 sort of direct-mail advertisements were being  
14 used by competitors, such as Windstream, would it  
15 be able to obtain exemplars and samples from  
16 Comperemedia?  
17 A. We would.  
18 Q. And, in March -- in March and April  
19 of 2019, did Charter obtain exemplars of the  
20 available Windstream direct-mail advertisements  
21 from Comperemedia?  
22 A. Yes.  
23 We also do that just to know the  
24 offers that are in market.  
25 Q. So one reason why Charter would

1 K.C. Atkinson - 09/19/19  
2 sometimes look at the direct-mail offers that --  
3 or, direct-mail advertising that is available  
4 through databases, such as Comperemedia, would be  
5 to see what sort of terms and services were being  
6 offered by its competition?  
7 A. Yes.  
8 MR. KINGSTON: Ms. Marney.  
9 (Counsel hands the court reporter a  
10 document.)  
11 THE COURT REPORTER: 14 is next.  
12 (Plaintiffs' Exhibit Number 14 was  
13 marked for identification as of this  
14 date.)  
15 BY MR. KINGSTON:  
16 Q. Ms. Atkinson -- I'm sorry.  
17 Ms. Atkinson, Ms. Marney has handed  
18 you Exhibit 13 (sic).  
19 Exhibit 13 (sic) is a multi-page  
20 document, the first page of which appears to be  
21 a -- an unlabeled envelope, with a stamp, and an  
22 address, in the upper left-hand corner.  
23 The following pages appear to be a  
24 Windstream Kinetic TV mailing piece.  
25 Do you recognize Exhibit 13 (sic)?

1 K.C. Atkinson - 09/19/19  
2 A. I do.  
3 Q. And have I correctly described it?  
4 A. You have.  
5 Q. And is this one of -- is  
6 Exhibit 13 (sic) of the direct-mail exemplars  
7 that Charter obtained through Comperemedia in  
8 March and April of 2019?  
9 A. It is.  
10 MR. JUSTUS: John, is there a  
11 redaction on the first page of Exhibit 14?  
12 MR. KINGSTON: There is not.  
13 THE WITNESS: No.  
14 MR. JUSTUS: So this is a stamped  
15 envelope with no addressee?  
16 THE WITNESS: Yes. I can elaborate  
17 on this.  
18 BY MR. KINGSTON:  
19 Q. Are you familiar, Ms. Atkinson, with  
20 the concept of what's called a "blind OE"?  
21 A. Yes, I am.  
22 Q. And explain that to me.  
23 MR. JUSTUS: Objection. This is  
24 beyond the scope of my examination.  
25 THE WITNESS: A "blind OE" is

1 K.C. Atkinson - 09/19/19  
2 designed to look like an invitation,  
3 usually scripted font. And it's --  
4 purposely leaves off the company's name  
5 because, in some cases, the customer  
6 wouldn't open it if they saw the company  
7 that was soliciting.  
8 And so blind OEs are traditionally  
9 used to drive a higher open rate, and,  
10 therefore, potentially, response rate,  
11 once they see the inside materials.  
12 BY MR. KINGSTON:  
13 Q. And so is Exhibit 13 (sic) a  
14 Windstream blind OE?  
15 A. Yes, it is.  
16 Q. Ms. Atkinson, I'm handing you a  
17 document that was previously identified as  
18 Charter 7 in a -- in, I believe, your deposition  
19 on May 1st of 2019.  
20 So I'm handing you Exhibit 7 from the  
21 May 1, 2019, deposition of Charter's corporate  
22 representative.  
23 MR. KINGSTON: Ms. Marney, I was  
24 going to -- I was just going to -- I was  
25 just going to just rely on the prior --

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 the fact that it was a previously</p> <p>3 introduced exhibit.</p> <p>4 But I think I want you to have a copy</p> <p>5 of all of them, so I'm going to go ahead</p> <p>6 and mark this.</p> <p>7 And I'm sorry that I had to make you</p> <p>8 transcribe all that.</p> <p>9 And I'll stop talking as soon as</p> <p>10 I hand this to you.</p> <p>11 THE COURT REPORTER: This will be 15.</p> <p>12 (Plaintiffs' Exhibit Number 15 was</p> <p>13 marked for identification as of this</p> <p>14 date.)</p> <p>15 BY MR. KINGSTON:</p> <p>16 Q. Ms. Atkinson, Ms. Marney has handed</p> <p>17 you Exhibit 15, which is a multi-page document,</p> <p>18 Bates-labeled Charter -936 through Charter -941</p> <p>19 inclusive.</p> <p>20 Exhibit 15 appears to be an</p> <p>21 electronic mail message chain, beginning</p> <p>22 with a message from Jennifer Smith to</p> <p>23 Erin Mullane, among others, on February 28, 2019,</p> <p>24 and ending with a message from Erin Mullane to</p> <p>25 Jennifer Smith, dated March 4, 2019.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Do you recognize Exhibit 15?</p> <p>3 A. Yes.</p> <p>4 Q. And have I correctly described it?</p> <p>5 A. Yes.</p> <p>6 Q. And is Ms. Mullane's name spelled,</p> <p>7 M-U-L-L-A-N-E?</p> <p>8 A. Yes.</p> <p>9 Q. And does Ms. Mullane work for Charter</p> <p>10 or does she work for RAPP?</p> <p>11 A. She works for RAPP.</p> <p>12 Q. If I direct your attention to the</p> <p>13 bottom of the page, Bates-labeled Charter -936,</p> <p>14 through the very top of the page, Bates-labeled</p> <p>15 -938, is that an extended -- or, a little more</p> <p>16 than a one-page e-mail from Erin Mullane?</p> <p>17 A. Yes.</p> <p>18 Q. And so all of the words on the page,</p> <p>19 Bates-labeled Charter -937, those are the words</p> <p>20 of a RAPP employee named Erin Mullane; is that</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And I'm going to direct your</p> <p>24 attention to -- I direct attention to page -939.</p> <p>25 Do you see a February 28, 2019,</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 e-mail from Jennifer Smith to Erin Mullane, among</p> <p>3 others?</p> <p>4 A. Yes.</p> <p>5 Q. Skipping down to the section on</p> <p>6 "Message," I read the first line as follows:</p> <p>7 "Tone to be consistent with Google,</p> <p>8 but we cannot say things like 'abandoned' or</p> <p>9 'going away.'"</p> <p>10 Have I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. And so is Ms. Smith a Charter</p> <p>13 employee?</p> <p>14 A. Yes.</p> <p>15 Q. And did that Charter employee</p> <p>16 instruct RAPP that "we cannot say things like</p> <p>17 'abandoned' or 'going away'"?</p> <p>18 A. She did.</p> <p>19 Q. All right.</p> <p>20 And did Charter ever suggest to RAPP</p> <p>21 that they could say things like "abandoned" or</p> <p>22 "going away"?</p> <p>23 A. We did not.</p> <p>24 Q. Did Charter ever suggest to RAPP that</p> <p>25 it should predict that Windstream would be going</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 away?</p> <p>3 A. We did not.</p> <p>4 Q. In Charter's view, does the</p> <p>5 March 2019 mailer predict that Windstream is</p> <p>6 going away?</p> <p>7 A. It does not.</p> <p>8 Q. Second sentence of that same</p> <p>9 "Message" subpart:</p> <p>10 "Windstream has declared bankruptcy,</p> <p>11 but doesn't mean they won't reorg to stay in</p> <p>12 business."</p> <p>13 Have I -- have I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. Did Charter ever instruct RAPP to</p> <p>16 suggest that Chapter 11 does mean that Windstream</p> <p>17 won't reorganize to stay in business?</p> <p>18 A. We did not.</p> <p>19 Q. And in Charter's view, does the</p> <p>20 March 2019 mailer suggest that Chapter 11 does</p> <p>21 mean that Windstream won't reorganize to stay in</p> <p>22 business?</p> <p>23 A. I'm sorry, just repeat that question?</p> <p>24 Q. I'm happy to. It kind of got away</p> <p>25 from me.</p>

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1 K.C. Atkinson - 09/19/19  
2 In Charter's' view, does the  
3 March 2019 direct mailer suggest that Windstream  
4 will not reorganize and will convert to  
5 Chapter 7?  
6 A. It does not.  
7 Q. If I direct your attention to  
8 page -937, I see, about a little less than  
9 halfway up the page, there's a bullet point that  
10 includes, "CTA: Goodbye, Windstream, Hello  
11 Spectrum."  
12 Do you see that?  
13 A. Yes.  
14 Q. What's a CTA -- what's your  
15 understanding of what a "CTA" is?  
16 A. A call to action.  
17 Q. And is a call to action asking the  
18 customer to do something, or is it a prediction  
19 of something that is going to happen?  
20 A. It is asking them to do something.  
21 Q. And is "Goodbye, one guy, hello the  
22 next guy," a common or an unusual call to action,  
23 in your view?  
24 A. Common.  
25

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1 K.C. Atkinson - 09/19/19  
2 (Plaintiffs' Exhibit Number 16 was  
3 marked for identification as of this  
4 date.)  
5 MR. KINGSTON: Can I have that back,  
6 just because I don't have one on me?  
7 BY MR. KINGSTON:  
8 Q. Ms. Atkinson, I'm about to hand you  
9 Exhibit 16, which appears to be a Windstream  
10 direct-mail offer related to Kinetic TV.  
11 Do you recognize Exhibit 16?  
12 MR. JUSTUS: And I'll object as  
13 beyond the scope again.  
14 THE WITNESS: It is. It looks like a  
15 Kinetic mailing piece, yes.  
16 BY MR. KINGSTON:  
17 Q. And does that Kinetic mailing piece  
18 include the "goodbye" comment, "hello," call to  
19 action?  
20 A. It does.  
21 "Say goodbye to cable, and hello to  
22 Kinetic."  
23 (Clarification requested by the  
24 court reporter.)  
25

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1 K.C. Atkinson - 09/19/19  
2 (The record was read back by the  
3 court reporter.)  
4 THE WITNESS: It says, "Say goodbye  
5 to cable, and hello to Kinetic. Call or  
6 go online today to learn more."  
7 BY MR. KINGSTON:  
8 Q. And do you understand Windstream to  
9 be suggesting that cable is going out of business  
10 with that call to action?  
11 A. No.  
12 Q. And when Charter included a similar  
13 call to action at the bottom of its March 2019  
14 mailer, was it trying to suggest that Windstream  
15 was going out of business?  
16 A. No.  
17 It's a standard call to action.  
18 MR. KINGSTON: I only have one copy  
19 of this one. I'm sorry.  
20 Ms. Marney, could please mark this as  
21 Exhibit 17?  
22 (Plaintiffs' Exhibit Number 17 was  
23 marked for identification as of this  
24 date.)  
25

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1 K.C. Atkinson - 09/19/19  
2 BY MR. KINGSTON:  
3 Q. And, Ms. Atkinson, Exhibit 17 appears  
4 to me to be another Windstream direct-mail piece.  
5 A. Yes.  
6 Q. And is Exhibit 17 another Windstream  
7 direct-mail piece?  
8 A. It is.  
9 Q. And does --  
10 MR. JUSTUS: Object to foundation.  
11 BY MR. KINGSTON:  
12 Q. And does that -- do you see, in the  
13 left-hand side of Exhibit 17, a distinctive  
14 Kinetic logo and the name "Kinetic"?  
15 A. I do.  
16 Q. All right. And do you recognize,  
17 based on those -- that distinctive  
18 characteristic, Exhibit 17 as a Kinetic  
19 direct-mail piece?  
20 A. Yes.  
21 MR. JUSTUS: Just object to form.  
22 BY MR. KINGSTON:  
23 Q. And does that Kinetic direct-mail  
24 piece include a call to action?  
25 A. It does.



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1 K.C. Atkinson - 09/19/19

2 Q. And what does that call to action

3 say?

4 A. "Say Goodbye to cable, and hello to

5 Kinetic TV."

6 MR. KINGSTON: Ms. Marney, if you

7 could mark that as Exhibit 18.

8 (Plaintiffs' Exhibit Number 18 was

9 marked for identification as of this

10 date.)

11 BY MR. KINGSTON:

12 Q. Ms. Atkinson, Exhibit 18 is a

13 multi-page document.

14 The first page appears to be a

15 green-and-white envelope, with the word

16 "Windstream," and a distinctive kind of a

17 stylized W.

18 A. Yes.

19 Q. And the remainder of the page -- the

20 remainder of Exhibit 18 appears to be a direct

21 mailer from Windstream.

22 Do you recognize Exhibit 18?

23 A. Yes.

24 Q. And is that a Windstream direct

25 mailer?

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1 K.C. Atkinson - 09/19/19

2 BY MR. KINGSTON:

3 Q. Ms. Atkinson, Ms. Marney has handed

4 you Exhibit 19, which appears to be a marked-up

5 draft of the March 2019 direct mail?

6 A. Yes.

7 Q. And I just want to direct your

8 attention to the notations at the bottom, where

9 it looks like the "Goodbye, Windstream, Hello

10 Spectrum" call to action was to be inserted.

11 Do you see that, ma'am?

12 A. I do.

13 Q. And I see that the words

14 "Hello Spectrum" are circled, and then there's

15 a notation indicating that they should be put in

16 bold?

17 A. Yes.

18 Q. And I read that to suggest that

19 "Hello Spectrum" should be put in bold letters.

20 Do you read that the same way?

21 A. I do.

22 Q. And by putting it in -- by putting

23 the phrase "Hello Spectrum" in bold letters, was

24 Charter trying to emphasize or deemphasize the

25 "Hello Spectrum" portion of the call to action?

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1 K.C. Atkinson - 09/19/19

2 A. It is.

3 MR. JUSTUS: Object to foundation,

4 and beyond the scope.

5 BY MR. KINGSTON:

6 Q. On the third page of Exhibit 18, at

7 the bottom, do you see a reference -- or, do you

8 see the last line from the Windstream signature

9 block?

10 A. Yes.

11 Q. I read that as follows:

12 "Say hello to Kinetic. Call or go

13 online today to take advantage of this

14 limited-time offer."

15 Have I read that correctly?

16 A. Yes.

17 Q. And is that a variant of "Goodbye, A,

18 Hello B," call to action?

19 A. Yes.

20 And at the top it says that again.

21 Q. Oh, yes, I see.

22 Thank you.

23 (Plaintiffs' Exhibit Number 19 was

24 marked for identification as of this

25 date.)

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1 K.C. Atkinson - 09/19/19

2 A. Emphasize.

3 Q. Okay.

4 So the part of the call to action

5 that Charter was trying to emphasize in the

6 March 2019 direct mailer was "Hello Spectrum"?

7 A. Yes.

8 Q. And is that --

9 MR. JUSTUS: Objection, misstates

10 testimony.

11 BY MR. KINGSTON:

12 Q. -- and is -- is the call to action

13 located close to or far away from the phone

14 number that Charter is asking the reader to call?

15 A. Close to it.

16 Q. And is that consistent with the

17 phrase "Goodbye, Windstream, Hello Spectrum"

18 being a call to action, as opposed to a

19 prediction of what's going to happen to

20 Windstream?

21 A. Yes.

22 Q. Typically, the call to action goes

23 next to the phone number that you want people to

24 call; is that true?

25 A. And the website address.

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1 K.C. Atkinson - 09/19/19  
2 Q. So, typically, the call to action  
3 goes next to the phone number or the website  
4 address that you would like the reader to call or  
5 log onto?  
6 A. Correct.  
7 Q. Ms. Atkinson, I would like to talk to  
8 you a little bit about Charter's -- well, let me  
9 start that over.  
10 Do you mind if I start over,  
11 Ms. Atkinson?  
12 A. That's fine.  
13 MR. KINGSTON: I only have the one  
14 copy of this (indicating). So --  
15 MR. JUSTUS: Can you use the version  
16 in the -- Exhibit 2?  
17 MR. KINGSTON: I -- no. I would  
18 prefer to use the actual envelope.  
19 Ms. Marney, can we mark this as  
20 Exhibit 20?  
21 And then when you -- well, are we on  
22 Exhibit 20?  
23 MR. JUSTUS: And, obviously, I'll  
24 need to see it before you --  
25 MR. KINGSTON: You're certainly

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1 K.C. Atkinson - 09/19/19  
2 welcome to.  
3 Can we mark this as Exhibit 20.  
4 And then we're going to ask you to  
5 keep the exhibits. And I'd just like you  
6 to scan it as a color PDF, to get both  
7 sides. So it will end up being a -- it's  
8 an envelope, it will be two pages when you  
9 do it.  
10 THE COURT REPORTER: Can I go off the  
11 record?  
12 MR. KINGSTON: We can.  
13 THE VIDEOGRAPHER: We are off the  
14 record at 2:34 p.m.  
15 (Off the record.)  
16 (Back on the record.)  
17 THE VIDEOGRAPHER: We are back on the  
18 record at 2:36 p.m.  
19 (Plaintiffs' Exhibit Number 20 was  
20 marked for identification as of this  
21 date.)  
22  
23  
24  
25

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1 K.C. Atkinson - 09/19/19  
2 - - -  
3 CROSS-EXAMINATION CONTINUED  
4 - - -  
5 BY MR. KINGSTON:  
6 Q. Ms. Atkinson, I'm handing you  
7 Plaintiffs' Exhibit -- or, I'm handing you  
8 Exhibit 20, which I read to be -- well, which  
9 I believe to be an exemplar of the envelope for  
10 the March 2019 direct mail?  
11 A. Yes.  
12 Q. Do you recognize Exhibit 20?  
13 A. Yes, I do.  
14 Q. And is it a exemplar of the envelope  
15 for the March 2019 direct mail?  
16 A. It is.  
17 Q. And does it have a front and a back  
18 side?  
19 A. It does.  
20 Q. And if you look at it from the front  
21 side, yes, ma'am, if you look at it from the  
22 front side, can you see the gradient flap on the  
23 back?  
24 A. No.  
25 Q. And if you look at it from the back

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1 K.C. Atkinson - 09/19/19  
2 side, can you see the word "Windstream"?  
3 A. No.  
4 Q. All right.  
5 I want to talk to you a little bit  
6 about the decision to use the gradient -- well,  
7 the gradient on the back side.  
8 Can you close up Exhibit 20, and take  
9 a look at it again?  
10 MR. JUSTUS: So I'll object again to  
11 this line of questioning. I didn't ask  
12 about the design of the envelope in  
13 direct.  
14 MR. KINGSTON: Yeah, responding to  
15 counsel's objection, I'll note that  
16 counsel inquired about Charter's good  
17 faith during his examination.  
18 And that I will represent that this  
19 line of questioning speaks to that, among  
20 other things.  
21 BY MR. KINGSTON:  
22 Q. Take -- if you would, Ms. Atkinson,  
23 can you pick up Exhibit 20?  
24 And if you turn the exhibit around,  
25 do you see the back of Exhibit 20?



1 K.C. Atkinson - 09/19/19  
2 A. Yes.  
3 Q. And is that a pink-to-purple gradient  
4 on the back side?  
5 A. It is.  
6 Q. And does that -- have you seen that  
7 kind of gradient before?  
8 A. Instagram, Lyft, and a number of  
9 other industries, at least ten, that have  
10 utilized this color just within the last year.  
11 MR. KINGSTON: And I'm going to  
12 hand -- Ms. Marney, if you would mark that  
13 as Exhibit 21.  
14 (Plaintiffs' Exhibit Number 21 was  
15 marked for identification as of this  
16 date.)  
17 MR. JUSTUS: Do you have copies of  
18 this one, Counsel?  
19 MR. KINGSTON: I do, and I apologize.  
20 I should have given them to you before  
21 I gave them to the witness. I was  
22 rule-gathering, and I wasn't -- didn't  
23 mean to be rude.  
24 BY MR. KINGSTON:  
25 Q. Ms. Atkinson, I read Exhibit 21 --

1 K.C. Atkinson - 09/19/19  
2 or, for the record, Exhibit 21 is a single-page  
3 document, Bates-labeled Charter -1005, with an  
4 exhibit sticker from a prior deposition.  
5 Exhibit 21 appears to be an  
6 electronic mail message chain, starting on -- or,  
7 all of which, a series of e-mails, on March 5th  
8 of 2019.  
9 Do you recognize Exhibit 21?  
10 A. I do.  
11 Q. And have I correctly described it?  
12 A. Yes.  
13 Q. I just want to direct your attention  
14 to the top of Exhibit 21, where I see a message  
15 from a Jennifer Smith at Charter to  
16 Allison Novasel and Joe Leonard, also at Charter.  
17 A. Yes.  
18 Q. And I read Ms. Smith's e-mail, in the  
19 second sentence, to say: The gradient OE stands  
20 out against nothing and the green, don't you  
21 think?  
22 Have I read that correctly?  
23 A. Yes.  
24 Q. And was Charter looking at three  
25 options for the outside envelope of the

1 K.C. Atkinson - 09/19/19  
2 March 2019 mailer?  
3 A. We were.  
4 Q. And one would be a blank envelope,  
5 one would be green, and one would include the  
6 gradient?  
7 A. That is correct.  
8 Q. And Ms. Smith indicates that the  
9 gradient stands out?  
10 A. That is correct.  
11 Q. And, ultimately, was the gradient for  
12 the back of the envelope chosen by Charter  
13 because it stands out?  
14 A. Yes.  
15 Q. I believe that Mr. Maguire with RAPP  
16 testified that the gradient "popped."  
17 Do you agree with his assessment?  
18 A. Yes.  
19 There was actually articles written  
20 on that in the industry.  
21 Q. Articles written on the...?  
22 A. On this -- on the gradient-color  
23 transition, and how to optimize your marketing  
24 materials, which is why it's used so commonly in  
25 the industry for companies like Instagram.

1 K.C. Atkinson - 09/19/19  
2 Q. Thank you.  
3 And if you look at -- take a look, if  
4 you would, at Exhibit 20, the back.  
5 And I would like you to just -- you  
6 can compare Exhibit 20 to the -- well, I think  
7 you can leave it the way it was. I'm sorry.  
8 A. Uh-huh.  
9 Q. So if you look at Exhibit 20, and you  
10 compare it to the outside envelope in the  
11 plaintiffs' complaint, I guess this is a  
12 ticky-tack issue, but it looks like the outside  
13 envelope in plaintiffs' complaint has been torn,  
14 and then repositioned, so that the gradient is  
15 purple-to-pink. But the actual back of the  
16 envelope is pink-to-purple.  
17 Is that right?  
18 A. That is correct.  
19 Q. And I think you answered this before,  
20 but is that -- is that purple-to-pink or  
21 pink-to-purple gradient common or uncommon, in  
22 your experience?  
23 A. Very common.  
24  
25

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1 K.C. Atkinson - 09/19/19  
2 (Plaintiffs' Exhibit Number 22 was  
3 marked for identification as of this  
4 date.)  
5 BY MR. KINGSTON:  
6 Q. Ms. Atkinson, Ms. Marney has handed  
7 you Exhibit 22.  
8 I view Exhibit 22 -- or, I see  
9 Exhibit 22 to be a representation of the  
10 distinctive Instagram logo?  
11 A. That is correct.  
12 MR. JUSTUS: I'll just object to  
13 beyond the scope and irrelevant.  
14 BY MR. KINGSTON:  
15 Q. And is that -- does that Instagram  
16 logo gradient with elements of pink and purple?  
17 A. It is.  
18 Q. And are you aware of any affiliation  
19 between Instagram and Windstream?  
20 A. There's none.  
21 Q. And is that Instagram logo  
22 eye-catching?  
23 A. Yes.  
24 MR. JUSTUS: Objection, vague.  
25

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1 K.C. Atkinson - 09/19/19  
2 (Plaintiffs' Exhibit Number 24 was  
3 marked for identification as of this  
4 date.)  
5 BY MR. KINGSTON:  
6 Q. And Ms. Marney has handed you  
7 Exhibit 24, which is a -- which appears to be a  
8 screenshot of the Xfinity website.  
9 Do you recognize Exhibit 24?  
10 A. I do.  
11 Q. And is it a screenshot of the Xfinity  
12 website?  
13 A. It is.  
14 Q. And do you see at the top there is a  
15 gradient, pink-to-purple?  
16 A. Yes.  
17 MR. JUSTUS: Objection: beyond the  
18 scope and irrelevant.  
19 BY MR. KINGSTON:  
20 Q. And I want you to set the -- you  
21 know, I'd like you to place the back of the  
22 Charter direct-mail envelope below the  
23 gradient -- I didn't describe that very well.  
24 Mind if I start over, Ms. Atkinson?  
25 A. Yes.

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1 K.C. Atkinson - 09/19/19  
2 (Plaintiffs' Exhibit Number 23 was  
3 marked for identification as of this  
4 date.)  
5 BY MR. KINGSTON:  
6 Q. Ms. Atkinson, Ms. Marney has handed  
7 you Exhibit 23.  
8 Do you have that before you?  
9 A. I do.  
10 Q. And is Exhibit 23 an advertisement  
11 for Lyft?  
12 A. It is.  
13 Q. And does Lyft employ that -- or,  
14 employ a purple-to-pink gradient?  
15 A. Almost identical.  
16 MR. JUSTUS: An objection: beyond the  
17 scope and irrelevant.  
18 BY MR. KINGSTON:  
19 Q. And does the pink-to-purple gradient  
20 employed by Lyft stand out or "pop" in your view?  
21 A. It does.  
22 Q. Are you familiar with an entity known  
23 as Xfinity, Ms. Atkinson?  
24 A. I am.  
25 THE COURT REPORTER: Exhibit 24.

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1 K.C. Atkinson - 09/19/19  
2 Q. I would like you to take a look at  
3 the back of the -- of Exhibit 20.  
4 A. Yes.  
5 Q. And is the back of Exhibit 20 the  
6 gradient envelope flap?  
7 A. Yes.  
8 Q. And is the gradient envelope flap --  
9 gradient envelope flap, is it colored with a  
10 pink-to-purple gradient?  
11 A. It is.  
12 Q. And if you place that envelope below  
13 the pink-to-purple gradient on the Xfinity  
14 screenshot, do they align -- or, do they look  
15 similar?  
16 A. Yes.  
17 Q. Now, what I would like you to do, is  
18 to take Exhibit 2, which I believe is plaintiffs'  
19 complaint?  
20 A. Yes.  
21 Q. And I would like you to take the page  
22 that purports to be a rendering of the Charter  
23 envelope?  
24 A. Yes.  
25 Q. And is the Xfinity, is the gradient

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1 K.C. Atkinson - 09/19/19  
2 line on the -- or, the gradient bar on the --  
3 mind if I start over, Ms. Atkinson?  
4 A. That's okay, yes.  
5 Q. Does the gradient bar at the top of  
6 the Xfinity website match up with the  
7 purple-to-pink in Plaintiffs' Exhibit 2 on  
8 page 9?  
9 A. Reversed, but, yes.  
10 Yes, they match it up, backwards.  
11 Q. I didn't do that very well.  
12 Take a look at the -- I guess the  
13 preceding page of Exhibit 2.  
14 I think (indiscernible) --  
15 A. Here?  
16 Q. -- can -- does Exhibit 2 include a  
17 screenshot of a Windstream website?  
18 There we go.  
19 A. Yes, yes.  
20 Q. Does the back of Exhibit 20 match up  
21 more closely to the pink-to-purple Xfinity  
22 website or the purple-to-pink Windstream website?  
23 A. It matches more closely to Xfinity.  
24 Q. And whether it's pink-to-purple or  
25 purple-to-pink, is that kind of a gradient common

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1 K.C. Atkinson - 09/19/19  
2 in the tech and Internet industry?  
3 A. It is.  
4 Q. Are you familiar with AT&T?  
5 A. Yes, I am.  
6 Q. Are you familiar with the FirstNet  
7 product AT&T offers to first responders?  
8 A. I have knowledge of it, yes.  
9 MR. KINGSTON: This is Exhibit 25?  
10 THE COURT REPORTER: Uh-huh.  
11 (Plaintiffs' Exhibit Number 25 was  
12 marked for identification as of this  
13 date.)  
14 BY MR. KINGSTON:  
15 Q. Ms. Atkinson, do you recognize  
16 Exhibit 25 as a copy of a FirstNet advertisement?  
17 A. Yes.  
18 Q. And does it say "FirstNet built with  
19 AT&T"?  
20 A. It does.  
21 Q. And does that have a purple-to-pink  
22 gradient?  
23 A. It does.  
24 MR. JUSTUS: The same objection:  
25 beyond the scope and irrelevant.

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1 K.C. Atkinson - 09/19/19  
2 BY MR. KINGSTON:  
3 Q. Ms. Atkinson, are you somewhat  
4 familiar with Khloe Kardashian?  
5 A. Very.  
6 Q. To your knowledge, does  
7 Khloe Kardashian have any affiliation with  
8 Windstream?  
9 A. She does not.  
10 MR. JUSTUS: Object to foundation.  
11 (Plaintiffs' Exhibit Number 26 was  
12 marked for identification as of this  
13 date.)  
14 BY MR. KINGSTON:  
15 Q. Ms. Atkinson, you've been handed  
16 Exhibit 26, which appears to me to be a marketing  
17 material for Revenge Body with Khloe Kardashian.  
18 Do you recognize that?  
19 A. Yes.  
20 Q. And does that include that  
21 purple-to-pink gradient?  
22 A. It does.  
23 MR. JUSTUS: Same objection: beyond  
24 the scope and irrelevant.  
25

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1 K.C. Atkinson - 09/19/19  
2 BY MR. KINGSTON:  
3 Q. And does that purple-to-pink gradient  
4 "pop"?  
5 A. It does.  
6 Q. And is it eye-catching?  
7 A. Very.  
8 Q. I'm going to direct your attention  
9 back to Exhibit 18, which is the green Windstream  
10 envelope?  
11 A. Yes.  
12 Q. And what I would like you to do, is  
13 to compare Exhibit 20 to Exhibit --  
14 A. Exhibit 18?  
15 Q. -- yes, ma'am.  
16 A. To 20.  
17 Okay.  
18 Q. And Exhibit 20 is the outside  
19 envelope for the Charter direct mail?  
20 A. Okay?  
21 Q. Is that right?  
22 A. Yes.  
23 Q. And Exhibit 18 is a Windstream  
24 direct-mail product?  
25 A. Yes.

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Q. And does Exhibit 20, the Charter</p> <p>3 outside envelope, look like the Windstream</p> <p>4 direct-mail piece?</p> <p>5 A. No.</p> <p>6 Q. And did Charter tell RAPP that it was</p> <p>7 trying to -- that it wished to trick Windstream</p> <p>8 customers into believing that the March 2019</p> <p>9 direct mail came from Windstream?</p> <p>10 A. No. We never do that.</p> <p>11 It would not --</p> <p>12 (In-room interference.)</p> <p>13 THE WITNESS: Bless you.</p> <p>14 THE COURT REPORTER: Thank you.</p> <p>15 THE WITNESS: It would not be a good</p> <p>16 customer experience to have them think</p> <p>17 they're being tricked.</p> <p>18 BY MR. KINGSTON:</p> <p>19 Q. Yeah, if customers are tricked, do</p> <p>20 they tend to -- in your experience, to be happy</p> <p>21 or happy with the entity that tricked them?</p> <p>22 A. Usually are very upset.</p> <p>23 Q. Okay. And so as of -- as a practice,</p> <p>24 does Charter try to avoid tricking potential</p> <p>25 customers?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Always.</p> <p>3 MR. JUSTUS: Were any of these</p> <p>4 produced to us, John, or were you just</p> <p>5 waiting for this deposition?</p> <p>6 MR. KINGSTON: In answer to counsel's</p> <p>7 question, I don't believe they were</p> <p>8 produced.</p> <p>9 I do believe that Charter submitted</p> <p>10 requests to production to Windstream,</p> <p>11 asking for all direct-mail outside</p> <p>12 envelopes, all direct-mail pieces that</p> <p>13 Windstream -- or, exemplars of all</p> <p>14 direct-mail Windstream -- all direct-mail</p> <p>15 pieces that Windstream had sent.</p> <p>16 And those were not produced to us.</p> <p>17 MR. JUSTUS: How about Revenge Body,</p> <p>18 were we asked to produce that, or any of</p> <p>19 these other third-parties' things, that</p> <p>20 we've never seen before?</p> <p>21 MR. KINGSTON: I will stipulate that</p> <p>22 counsel was not asked -- that Windstream</p> <p>23 was not asked to produce Revenge Body by</p> <p>24 Khloe Kardashian, or any of the other</p> <p>25 myriad of gradient advertisements that one</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 can see walking through the streets of any</p> <p>3 city or small town.</p> <p>4 MR. JUSTUS: And, also, that Charter</p> <p>5 didn't produce these to Windstream?</p> <p>6 MR. KINGSTON: Charter -- Charter did</p> <p>7 not produce the purple-to-pink gradient</p> <p>8 stuff that I put in front of Ms. Atkinson,</p> <p>9 nor the pink-to-purple gradient stuff that</p> <p>10 I put in front of Ms. Atkinson, unless it</p> <p>11 was something that bears a Bates label.</p> <p>12 (Plaintiffs' Exhibit Number 27 was</p> <p>13 marked for identification as of this</p> <p>14 date.)</p> <p>15 BY MR. KINGSTON:</p> <p>16 Q. Ms. Atkinson, you've been handed</p> <p>17 Exhibit 27.</p> <p>18 Is Exhibit -- is Exhibit 27 one of</p> <p>19 those Windstream direct-mail pieces that Charter</p> <p>20 obtained in that March to April 2019 time period?</p> <p>21 A. Yes.</p> <p>22 Q. And is that a -- an exemplar of a</p> <p>23 Windstream direct-mail piece?</p> <p>24 A. It is.</p> <p>25 Q. And does that look like the -- if you</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 look at the -- is it an -- is it an outside</p> <p>3 envelope and -- you mind if I start that over,</p> <p>4 Ms. Atkinson?</p> <p>5 A. Yes.</p> <p>6 Q. I see Exhibit 27 to be an outside</p> <p>7 envelope of a direct-mail piece with a couple of</p> <p>8 mailers on the inside.</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. And does that outside envelope look</p> <p>12 like the Charter outside envelope that is</p> <p>13 Exhibit 20?</p> <p>14 A. It does not.</p> <p>15 (Plaintiffs' Exhibit Number 28 was</p> <p>16 marked for identification as of this</p> <p>17 date.)</p> <p>18 BY MR. KINGSTON:</p> <p>19 Q. Ms. Atkinson, you've been handed</p> <p>20 Exhibit 28.</p> <p>21 Exhibit 28 appears to be a Kinetic</p> <p>22 direct-mail piece.</p> <p>23 Do you recognize Exhibit 28?</p> <p>24 A. I do.</p> <p>25 Q. And is that a Windstream direct-mail</p>

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1 K.C. Atkinson - 09/19/19  
2 piece?  
3 A. It is, from January of '19.  
4 Q. And does that look like -- does that  
5 look like the Charter mailer?  
6 A. It does not.  
7 Q. Exhibit 28 does not look like  
8 Exhibit 20; is that true?  
9 A. That is true.  
10 (Plaintiffs' Exhibit Number 29 was  
11 marked for identification as of this  
12 date.)  
13 MR. JUSTUS: Again, continued  
14 objection to all of these exhibits as  
15 beyond the scope and irrelevant.  
16 BY MR. KINGSTON:  
17 Q. Ms. Atkinson, do you recognize  
18 Exhibit 29?  
19 A. I do.  
20 It is a Kinetic and DirecTV mailing.  
21 Q. Does Exhibit 29 -- and -- so is  
22 Exhibit 29 a Windstream direct-mail piece?  
23 A. Yes, along with DirecTV.  
24 Q. And does Exhibit 29 look like the  
25 outside envelope of Charter's March 2019 mailer?

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1 K.C. Atkinson - 09/19/19  
2 now about colors.  
3 (Off-the-record discussion.)  
4 THE VIDEOGRAPHER: We are off the  
5 record at 3 p.m.  
6 (Off the record.)  
7 (Back on the record.)  
8 (Plaintiffs' Exhibit Number 31 was  
9 marked for identification as of this  
10 date.)  
11 (Plaintiffs' Exhibit Number 32 was  
12 marked for identification as of this  
13 date.)  
14 (Plaintiffs' Exhibit Number 33 was  
15 marked for identification as of this  
16 date.)  
17 (Plaintiffs' Exhibit Number 34 was  
18 marked for identification as of this  
19 date.)  
20 (Plaintiffs' Exhibit Number 35 was  
21 marked for identification as of this  
22 date.)  
23 (Plaintiffs' Exhibit Number 36 was  
24 marked for identification as of this  
25 date.)

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1 K.C. Atkinson - 09/19/19  
2 A. It does not.  
3 Q. And was Charter trying to get just  
4 Internet customers in March of 2019, or was it  
5 trying to get Internet and TV customers?  
6 A. Internet, TV, and home phone as well.  
7 (Plaintiffs' Exhibit Number 30 was  
8 marked for identification as of this  
9 date.)  
10 BY MR. KINGSTON:  
11 Q. Ms. Atkinson, you've been handed  
12 Exhibit 30. Do you recognize that?  
13 A. Yes. It's a "Kinetic Internet by  
14 Windstream" mailer.  
15 Q. And is Exhibit 30 one of the  
16 direct-mail samples that Charter pulled in that  
17 March-April 2019 time period?  
18 A. It is.  
19 Q. And does Exhibit 30 look like  
20 Exhibit 20?  
21 A. It does not.  
22 MR. JUSTUS: So, again, objection,  
23 beyond the scope.  
24 I never asked about colors, and we've  
25 been talking for, I think, over an hour

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1 K.C. Atkinson - 09/19/19  
2 (Plaintiffs' Exhibit Number 37 was  
3 marked for identification as of this  
4 date.)  
5 (Plaintiffs' Exhibit Number 38 was  
6 marked for identification as of this  
7 date.)  
8 (Plaintiffs' Exhibit Number 39 was  
9 marked for identification as of this  
10 date.)  
11 (Plaintiffs' Exhibit Number 40 was  
12 marked for identification as of this  
13 date.)  
14 THE VIDEOGRAPHER: We are back on the  
15 record at 3:15 p.m.  
16 MS. GREER: I just wanted to state,  
17 before you start, John, on the record,  
18 that we -- the parties have discussed off  
19 the record that we agreed to stipulate  
20 that the Committee joins in all the  
21 objections of the debtors, Windstream.  
22 MR. KINGSTON: That's correct.  
23 And my understanding, based on our  
24 discussions, had been that that was the  
25 case throughout the deposition, so that

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1 K.C. Atkinson - 09/19/19  
2 every time Mr. Justus objected during this  
3 deposition, I understood the Committee to  
4 be joining in that objection.  
5 MS. GREER: That's correct.  
6 Thank you.  
7 MR. KINGSTON: Uh-huh.  
8 MR. JUSTUS: And, John, just before  
9 we keep going with these exhibits, would  
10 you stipulate to a running objection, the  
11 same one I've been making over and over,  
12 that it's beyond the scope and irrelevant?  
13 MR. KINGSTON: I would.  
14 MR. JUSTUS: And that's for 31 --  
15 Exhibits 31 through 40 forthcoming.  
16 MR. KINGSTON: And my view is that --  
17 my view, on behalf of Charter, is that  
18 objections as to relevance or beyond the  
19 scope of the deposition are all preserved  
20 and not waived.  
21 So whether you make them now, or make  
22 them down the road when we're designating  
23 portions of the transcript, I think those  
24 objections are preserved.  
25 MR. JUSTUS: Thank you.

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1 K.C. Atkinson - 09/19/19  
2 Q. Did Charter spend \$226,000 on the  
3 March 2019 direct-mail campaign?  
4 A. That estimate sounds right.  
5 Q. You talked earlier in your deposition  
6 about a Charter employee named Andrew Sites.  
7 Do you remember that?  
8 A. I do.  
9 Q. And did Mr. Sites send fewer than  
10 10 e-mails to customers referencing the  
11 Windstream bankruptcy?  
12 A. That is correct. He e-mailed seven  
13 customers.  
14 Q. And what happened to Mr. Sites after  
15 he e-mailed seven customers?  
16 A. His management notified him of a  
17 breach of the employee handbook. And he's on a  
18 year probation, one strike from termination;  
19 meaning, if there's anything that he does during  
20 this year, he would be terminated immediately.  
21 Q. And so Mr. Sites did not use  
22 collateral produced by marketing or anybody else  
23 related to Windstream. He just sent e-mails.  
24 Is that right?  
25 A. That is correct.

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1 K.C. Atkinson - 09/19/19  
2 MR. KINGSTON: Uh-huh.  
3 - - -  
4 CROSS-EXAMINATION CONTINUED  
5 - - -  
6 BY MR. KINGSTON:  
7 Q. Ms. Atkinson, Ms. Marney has handed  
8 you a stack of exhibits that are exhibits,  
9 Numbers --  
10 A. 31.  
11 Q. -- 31 through 40?  
12 A. 40.  
13 Q. Take a moment to review all of those  
14 exhibits, and let me know when you're ready.  
15 A. (Witness reviews document.)  
16 Yes, I have looked at them.  
17 Q. And are Exhibits 31 through 40 all  
18 samples of Windstream's direct mailers that  
19 Charter obtained in that March-April 2019 time  
20 period?  
21 A. Yes.  
22 Q. And does the outside envelope for  
23 Charter's March of 2019 direct mailer look  
24 anything like Exhibits 31 through 40?  
25 A. It does not.

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1 K.C. Atkinson - 09/19/19  
2 (Plaintiffs' Exhibit Number 41 was  
3 marked for identification as of this  
4 date.)  
5 BY MR. KINGSTON:  
6 Q. Ms. Atkinson, you've been handed  
7 Exhibit 41.  
8 Exhibit 41 is a multi-page document.  
9 It says, "Spectrum Sales Policies and  
10 Procedures," Bates-labeled -44923 through -44968  
11 inclusive.  
12 Do you recognize Exhibit 41?  
13 A. Yes.  
14 Q. And are those the Charter sales -- a  
15 copy of the Charter sales procedures?  
16 A. They are.  
17 Q. And does -- does the version have a  
18 date?  
19 A. December of 2018.  
20 Q. Okay. And so these would have been  
21 the policies and procedures in place as of  
22 March of 2019?  
23 A. They would.  
24 Q. And I will direct your attention to  
25 page 19.



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1 K.C. Atkinson - 09/19/19  
2 A. 19.  
3 Q. Do you see a section on the use of  
4 unauthorized, unapproved marketing materials?  
5 A. I do.  
6 Q. And I read the first paragraph as  
7 follows:  
8 "The company will provide direct-mail  
9 representatives and multi-tenant sales  
10 representatives with marketing materials, which  
11 may include business cards and pricing product  
12 information. Representatives may not create or  
13 distribute personalized marketing materials."  
14 Have I read that correctly?  
15 A. Yes.  
16 Q. And so is it -- is it permissible for  
17 Charter sales representatives to use collateral  
18 that has not been approved?  
19 A. Never.  
20 Q. I read the next line of the  
21 "Unauthorized and Unapproved Marketing Materials"  
22 section as follows:  
23 "Widespread door-tagging, mailing, or  
24 marketing of residences prohibited."  
25 Have I read that correctly?

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1 K.C. Atkinson - 09/19/19  
2 A. Yes.  
3 Q. And so does that prohibit widespread  
4 door-to-door campaigns (indiscernible  
5 cross-talking) --  
6 A. It does.  
7 Q. Let me -- let me take another run at  
8 that.  
9 Does that prohibit widespread  
10 door-to-door campaigns that involve tagging,  
11 mailing, or marketing flyers and the like on  
12 various doors?  
13 A. Yes.  
14 By the direct sales teams, yes.  
15 Q. I read the second-from-the-bottom  
16 line, "Use of unauthorized, unapproved marketing  
17 material, tactics, special events, or offers is  
18 prohibited, and may result in corrective action  
19 up to and including a termination of employment."  
20 Have I read that correctly?  
21 A. Yes.  
22 Q. And do unapproved tactics include  
23 saying things about competitors that are not  
24 true?  
25 A. Yes.

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1 K.C. Atkinson - 09/19/19  
2 Q. And if a Charter employee does that,  
3 he or she would be subject to termination; is  
4 that true?  
5 A. Yes.  
6 Q. You can put that aside.  
7 I direct your attention,  
8 Ms. Atkinson, to Exhibit 2, which I believe is  
9 Windstream's complaint.  
10 Do you have it in front of you?  
11 A. Sorry, I didn't keep it all in order.  
12 MR. JUSTUS: It might be that --  
13 THE WITNESS: What's that?  
14 MR. JUSTUS: -- big one.  
15 THE WITNESS: Oh, this one. Sorry.  
16 Of course it's the big one, right  
17 there.  
18 Thank you.  
19 MR. KINGSTON: I'm afraid I don't  
20 have my copy.  
21 May I borrow this for just a moment?  
22 THE WITNESS: Yes.  
23 MR. KINGSTON: Thank you.  
24 BY MR. KINGSTON:  
25 Q. If I could direct your attention,

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1 K.C. Atkinson - 09/19/19  
2 Ms. Atkinson, to the copy of the Charter mailer  
3 on page 13 on the Windstream complaint.  
4 A. Yes.  
5 Q. I would also like to direct your  
6 attention to Exhibit 13, which is the One Touch  
7 TELCOTRAK newsletter.  
8 A. Yes -- oh, wait.  
9 12?  
10 Q. Yes, ma'am.  
11 A. Okay.  
12 Q. Directing your attention to the  
13 bottom of Exhibit 12, I read One Touch to make  
14 the following statement:  
15 "But while Chapter 11 will provide  
16 some legal shelter while the telco reorganizes  
17 its tangled debt structure, uncertainty about the  
18 service impacts will make some residential and  
19 business customers uneasy."  
20 Have I read that correctly?  
21 A. Yes.  
22 Q. And so One Touch is suggesting that  
23 there is uncertainty related to Windstream's  
24 bankruptcy?  
25 A. Yes.

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 THE VIDEOGRAPHER: Sorry to</p> <p>3 interrupt.</p> <p>4 Ms. Atkinson, would you mind not</p> <p>5 touching your necklace.</p> <p>6 Thank you.</p> <p>7 THE WITNESS: Sorry.</p> <p>8 Yes, that is correct.</p> <p>9 BY MR. KINGSTON:</p> <p>10 Q. And on the Charter mailer I read,</p> <p>11 "Windstream has filed for Chapter 11 bankruptcy,</p> <p>12 which means uncertainty."</p> <p>13 Have I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. And is that statement consistent or</p> <p>16 inconsistent with OneTouch's analysis that</p> <p>17 Windstream's Chapter 11 means uncertainty?</p> <p>18 A. Consistent.</p> <p>19 Q. And then sticking with Exhibit 12,</p> <p>20 I read, "OneTouch's analysis to suggest that that</p> <p>21 uncertainty is about the service."</p> <p>22 Have I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. And is the phrase "Don't risk losing</p> <p>25 your Internet and TV service" consistent or</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 inconsistent with OneTouch's indication that the</p> <p>3 uncertainty extends to the service?</p> <p>4 A. It is consistent.</p> <p>5 Q. In the March 2019 mailer, was Charter</p> <p>6 trying to convey anything that it didn't</p> <p>7 (1) receive from One Touch, and (2) believe to be</p> <p>8 true?</p> <p>9 MR. JUSTUS: Objection to form.</p> <p>10 THE WITNESS: You are correct in that</p> <p>11 statement.</p> <p>12 BY MR. KINGSTON:</p> <p>13 Q. I guess -- is it -- is it true,</p> <p>14 Ms. Atkinson, that Charter was not trying to</p> <p>15 convey anything that it had not learned from</p> <p>16 One Touch or did not believe to be true?</p> <p>17 MR. JUSTUS: Objection, leading.</p> <p>18 THE WITNESS: That is correct</p> <p>19 statement.</p> <p>20 BY MR. KINGSTON:</p> <p>21 Q. Okay. Is it a true statement -- I --</p> <p>22 mind if I take another run at it?</p> <p>23 A. Sure.</p> <p>24 Q. Just responding to counsel's</p> <p>25 objection, is it a true statement or an untrue</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 statement, that Charter relied on One Touch when</p> <p>3 it referenced "uncertainty" and "services" in the</p> <p>4 March 2019 direct mail?</p> <p>5 A. That is a true statement.</p> <p>6 Q. Okay.</p> <p>7 A. This was used as a creative brief for</p> <p>8 the agency.</p> <p>9 Q. Does Charter have any reason to</p> <p>10 believe that One Touch was misleading Charter</p> <p>11 when it indicated that there was uncertainty</p> <p>12 related to Windstream's bankruptcy, and that that</p> <p>13 uncertainty could extend to Windstream's ability</p> <p>14 to provide services?</p> <p>15 A. They were not misleading.</p> <p>16 MR. KINGSTON: I pass the witness.</p> <p>17 MR. JUSTUS: Okay. I do have some</p> <p>18 questions, but I need a five-minute break</p> <p>19 to get my notes together.</p> <p>20 We can off the record.</p> <p>21 THE VIDEOGRAPHER: We are off the</p> <p>22 record at 3:31 p.m.</p> <p>23 (Off the record.)</p> <p>24 (Back on the record.)</p> <p>25 THE VIDEOGRAPHER: We are back on the</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 record at 3:37 p.m.</p> <p>3 - - -</p> <p>4 REDIRECT EXAMINATION</p> <p>5 - - -</p> <p>6 BY MR. JUSTUS:</p> <p>7 Q. Okay, hello, again, Ms. Atkinson.</p> <p>8 If you could put in front of you</p> <p>9 Exhibit 13, the one-page Competitive Alert from</p> <p>10 One Touch that you testified about earlier.</p> <p>11 Do you have that?</p> <p>12 A. Yes.</p> <p>13 Q. On the left-hand side, under the</p> <p>14 header "Impact Analysis," it states, and I think</p> <p>15 John read this, but I'll read it again:</p> <p>16 "But while the reorganization is</p> <p>17 designed to ensure Windstream survives, it will</p> <p>18 have a negative impact on its marketing to</p> <p>19 business customers. It's unlikely the</p> <p>20 uncertainty surrounding its bankruptcy will make</p> <p>21 business customers think twice about inking or</p> <p>22 renewing a service contract with Windstream."</p> <p>23 Did I read that correctly?</p> <p>24 A. It's "'likely' the uncertainty</p> <p>25 surrounding the bankruptcy will make them think</p>



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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 twice" --</p> <p>3 Q. Yes.</p> <p>4 Did I say "unlikely"?</p> <p>5 A. Yes.</p> <p>6 Q. My mistake. That was not on purpose.</p> <p>7 (Indiscernible.)</p> <p>8 A. That's okay.</p> <p>9 Q. It's right here on the page.</p> <p>10 So thank you for correcting me.</p> <p>11 So this is referring to business</p> <p>12 customers; right?</p> <p>13 A. Yes.</p> <p>14 Q. And the direct-mail piece only went</p> <p>15 out to residential customers; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. So you testified about -- I believe</p> <p>18 you did, correct me if I'm wrong, you testified</p> <p>19 about, if Windstream does not assume a contract,</p> <p>20 service may be interrupted.</p> <p>21 Do you remember that testimony?</p> <p>22 A. That was John's comment, I believe,</p> <p>23 when you were talking about the 14,000 customers.</p> <p>24 Q. Yes, 14,000 last-mile service</p> <p>25 contracts, that Windstream may not assume the</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 contract.</p> <p>3 Do you recall that testimony?</p> <p>4 A. I didn't say that testimony.</p> <p>5 That was John reading that to me.</p> <p>6 Q. So do you know what that means, "to</p> <p>7 assume a contract" or "not assume a contract"?</p> <p>8 A. When we went through our discussion,</p> <p>9 it means that it's going to be determined whether</p> <p>10 or not that relationship continues, is how</p> <p>11 I understand it.</p> <p>12 Q. How so, what do you mean, "how the</p> <p>13 relationship continues"?</p> <p>14 A. Whether or not Windstream continues</p> <p>15 that relationship.</p> <p>16 Q. Which relationship?</p> <p>17 A. That service contract.</p> <p>18 Q. So what does it mean to "assume the</p> <p>19 contract"?</p> <p>20 MR. KINGSTON: Objection: it calls</p> <p>21 for legal conclusion, lack of foundation.</p> <p>22 THE WITNESS: I actually don't know</p> <p>23 what that means.</p> <p>24 BY MR. JUSTUS:</p> <p>25 Q. Okay. Moving on.</p>
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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Can you pull up Exhibit 14, please?</p> <p>3 And just let me know when you have</p> <p>4 that in front of you, please.</p> <p>5 A. What, this one?</p> <p>6 Ah, here we go.</p> <p>7 Q. Envelope with the stamp on it.</p> <p>8 A. Yes, the blind envelope?</p> <p>9 Yes.</p> <p>10 Q. All right. So you testified that</p> <p>11 Exhibit 14 was a "blind OE," or, blind outer</p> <p>12 envelope; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And the envelope that Charter sent</p> <p>15 out with its direct-mail piece was also a</p> <p>16 blind OE; right?</p> <p>17 A. I'm sorry --</p> <p>18 Q. In Exhibit 2 --</p> <p>19 A. -- 20?</p> <p>20 Q. -- on page, I believe it's 9, there's</p> <p>21 the envelope that Charter sent out in its</p> <p>22 direct-mail piece?</p> <p>23 A. Yes.</p> <p>24 Q. Is that also a blind OE?</p> <p>25 A. It would be considered lacking the --</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 the logo seals, yes, similar to a blind envelope</p> <p>3 with no logos of the company.</p> <p>4 Q. In Exhibit 14, the first page that</p> <p>5 shows the envelope, is there any competitor name</p> <p>6 on that page, on that envelope?</p> <p>7 A. No. It's designed to be an</p> <p>8 invitation.</p> <p>9 Q. Is there any use of a competitor's</p> <p>10 font on that envelope?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. Is there any use of a competitor's</p> <p>13 colors on that envelope?</p> <p>14 A. No.</p> <p>15 Q. Will you please pull up Exhibit 16?</p> <p>16 Actually, my apologies.</p> <p>17 Can you go back to 14 for one</p> <p>18 moment -- Exhibit 14, the same envelope?</p> <p>19 A. Yes.</p> <p>20 Q. And if you look at the second, third,</p> <p>21 fourth, and fifth pages, I think you testified</p> <p>22 those are Windstream direct-mail pieces, or one</p> <p>23 direct-mail piece; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Is there any competitive switch</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 message in here naming a competitor?</p> <p>3 A. "The cable TV alternative you've been</p> <p>4 waiting for," cable is called out --</p> <p>5 Q. So cable is not a -- that's not a</p> <p>6 company, right, that's just a generic industry?</p> <p>7 A. Correct.</p> <p>8 Q. So there's no competitive switch</p> <p>9 message naming a competitor; is that correct?</p> <p>10 (Clarification requested by the</p> <p>11 court reporter.)</p> <p>12 BY MR. JUSTUS:</p> <p>13 Q. There's no competitive switch message</p> <p>14 naming a competitor; correct?</p> <p>15 A. Not in this.</p> <p>16 Q. Okay.</p> <p>17 You can set that one aside. Thank</p> <p>18 you.</p> <p>19 I'm -- so now turning to Exhibit 16,</p> <p>20 if you will?</p> <p>21 So I think, with Exhibit 16, you</p> <p>22 testified as to the bottom of the page, where it</p> <p>23 "Say goodbye to cable, and hello to Kinetic."</p> <p>24 So is there any competitive switch</p> <p>25 message here specific to a competitor?</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. Yes. The industry, cable.</p> <p>3 Q. But no specific competitor; right?</p> <p>4 A. No. It's generic.</p> <p>5 Q. Is there any reference to a specific</p> <p>6 competitor filing for bankruptcy?</p> <p>7 A. No.</p> <p>8 Q. Is there any reference to uncertainty</p> <p>9 surrounding a specific competitor's bankruptcy?</p> <p>10 A. No.</p> <p>11 Q. If you could pull up Exhibit 17,</p> <p>12 please?</p> <p>13 A. Yes.</p> <p>14 Q. And again, in Exhibit 17, it says,</p> <p>15 "Say goodbye to cable, and hello to Kinetic TV."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Is there any reference to a specific</p> <p>19 competitor?</p> <p>20 A. No.</p> <p>21 Q. Is there any reference to a specific</p> <p>22 competitor filing for bankruptcy?</p> <p>23 A. No.</p> <p>24 Q. Is there any reference to a specific</p> <p>25 competitor filing for bankruptcy and uncertainty</p>
Page 227	Page 228
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 surrounding the bankruptcy?</p> <p>3 A. No.</p> <p>4 Q. If you could please pull up</p> <p>5 Exhibit 18?</p> <p>6 Do you have that in front of you?</p> <p>7 A. Yes.</p> <p>8 Q. I think again you testified relating</p> <p>9 to, "say hello to Kinetic" on the third page, and</p> <p>10 then at the top of the third page you say,</p> <p>11 "Bye-bye to cable forever."</p> <p>12 Do you remember that?</p> <p>13 A. Yes.</p> <p>14 Q. Does this piece name any specific</p> <p>15 competitor?</p> <p>16 A. No.</p> <p>17 Q. Does it reference any bankruptcy of a</p> <p>18 specific competitor?</p> <p>19 A. No.</p> <p>20 Q. Does it reference any uncertainty</p> <p>21 stemming from a bankruptcy of a specific</p> <p>22 competitor?</p> <p>23 A. No.</p> <p>24 Q. Can you please pull up Exhibit 21?</p> <p>25 A. Yes.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Q. Exhibit 21, e-mails, Charter -1005,</p> <p>3 I believe you testified about Jennifer Smith's</p> <p>4 March 5th e-mail, where it says, "The gradient OE</p> <p>5 stands out against nothing and the green."</p> <p>6 Do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. Isn't it true that the Kinetic color</p> <p>9 pallet was used to mimic Windstream's colors?</p> <p>10 A. I'm sorry, are you asking about the</p> <p>11 green or the gradient?</p> <p>12 Q. The gradient.</p> <p>13 A. The gradient.</p> <p>14 It's a commonly-used envelope format,</p> <p>15 that, I think we went through, even Xfinity uses</p> <p>16 it.</p> <p>17 So, in the cable industry, it's very</p> <p>18 common. It's even on their website.</p> <p>19 So, it's nothing that's been</p> <p>20 trademarked, but it does definitely pop.</p> <p>21 Q. Okay. So in this specific case, a</p> <p>22 specific direct-mail piece, the envelope that</p> <p>23 Charter created referencing Windstream, was that</p> <p>24 color gradient used specifically to look like</p> <p>25 Windstream's colors?</p>

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<p>1 K.C. Atkinson - 09/19/19</p> <p>2 A. It was used to stand out. Meaning --</p> <p>3 Q. Is that a "no"?</p> <p>4 A. That is a "no."</p> <p>5 Q. Okay.</p> <p>6 A. -- it was used to stand out.</p> <p>7 Q. And if you could pull up Exhibit 15,</p> <p>8 please.</p> <p>9 It's e-mails with RAPP, starting at</p> <p>10 Charter -936?</p> <p>11 A. Yes.</p> <p>12 Q. If you turn to the second page, -937,</p> <p>13 about six bullets down?</p> <p>14 A. Uh-huh.</p> <p>15 Q. It says, "Look and feel of the OE has</p> <p>16 been aligned with the Windstream website and</p> <p>17 current mail and market per Comperemedia."</p> <p>18 A. Uh-huh.</p> <p>19 Q. The next bullet says, "The</p> <p>20 dark-purple-to-red gradient aligns with what we</p> <p>21 saw for in-market DM."</p> <p>22 So is that not referencing aligning</p> <p>23 the colors with Windstream's colors?</p> <p>24 MR. KINGSTON: Objection, lack of</p> <p>25 foundation as to what Ms. Mullane is</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 referencing in that e-mail.</p> <p>3 BY MR. JUSTUS:</p> <p>4 Q. You can answer the question.</p> <p>5 A. She's making a -- an observation to</p> <p>6 market -- marketing materials.</p> <p>7 Q. So you do not understand that wording</p> <p>8 to mean that the color gradient was aligned to</p> <p>9 look like Windstream's colors; is that correct?</p> <p>10 A. This back-and-forth with the agency,</p> <p>11 they also talk about different OE options. Make</p> <p>12 the switch.</p> <p>13 These were creative options that were</p> <p>14 presented to us, among many things.</p> <p>15 So, if they looked at it from</p> <p>16 Comperemedia, which is what this is saying, they</p> <p>17 can create a similar look.</p> <p>18 This isn't -- this is not something</p> <p>19 that's limited to Windstream.</p> <p>20 MR. JUSTUS: Okay, can we mark this</p> <p>21 as Exhibit 42, please?</p> <p>22 (Defendants' Exhibit Number 42 was</p> <p>23 marked for identification as of this</p> <p>24 date.)</p> <p>25</p>
Page 231	Page 232
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 BY MR. JUSTUS:</p> <p>3 Q. And let me know when you're ready,</p> <p>4 please?</p> <p>5 A. Yes.</p> <p>6 Q. In Jennifer Smith's -- so backing up,</p> <p>7 Exhibit 42 is e-mails, Charter -1002.</p> <p>8 In the middle of the page is an</p> <p>9 e-mail from Jennifer Smith to Alan (sic) Novasel</p> <p>10 on Tuesday March 5th.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And who is Jennifer Smith?</p> <p>14 A. She reports to Allison. She is a</p> <p>15 director on my team.</p> <p>16 Q. And who is Allison Novasel?</p> <p>17 A. A vice president on my team.</p> <p>18 Q. Did Jennifer and Allison make the</p> <p>19 final decisions as to the creative for this</p> <p>20 direct-mail piece?</p> <p>21 A. Yes.</p> <p>22 And it was similar to a Google</p> <p>23 campaign that we had done just prior, so the</p> <p>24 template was the one we used.</p> <p>25 Q. So Jen's -- Jennifer's e-mail -- or,</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 Ms. Smith's e-mail to Ms. Novasel, it says, "The</p> <p>3 OE utilizes Windstream's Kinetic color pallet."</p> <p>4 Do you see that?</p> <p>5 A. "Similar to Google," yes.</p> <p>6 Q. Does that mean that the envelope for</p> <p>7 the direct-mail piece used colors similar to</p> <p>8 Windstream's colors?</p> <p>9 A. From what they saw in the market,</p> <p>10 apparently, yes.</p> <p>11 Q. So the intent of the use of the color</p> <p>12 gradient on the envelope was to make the envelope</p> <p>13 look like it was using Windstream's colors;</p> <p>14 right?</p> <p>15 A. It was to make it "pop," so -- and</p> <p>16 have more of a likelihood of opening.</p> <p>17 And we used green and blank as other</p> <p>18 options, but they felt that the color gradient</p> <p>19 stood out more.</p> <p>20 Q. So in this e-mail it says, "The OE</p> <p>21 utilizes Windstream's Kinetic color pallet."</p> <p>22 Does that mean that the envelope used</p> <p>23 colors similar to Windstream's colors?</p> <p>24 MR. KINGSTON: Objection, asked and</p> <p>25 answered.</p>

Page 233	Page 234
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 BY MR. JUSTUS:</p> <p>3 Q. You can answer.</p> <p>4 A. I have.</p> <p>5 Q. So is your testimony that the colors</p> <p>6 used on the envelope are not supposed to look</p> <p>7 like Windstream's colors? Is that right?</p> <p>8 A. No.</p> <p>9 They're designed to grab a consumer's</p> <p>10 attention so that it has a higher likelihood of</p> <p>11 opening, similar to a blind OE.</p> <p>12 And the gradation color is one that's</p> <p>13 commonly used in the industry, and has actually</p> <p>14 been written up as something that has a higher</p> <p>15 likelihood of looking at it, paying attention to</p> <p>16 it, and responding to it.</p> <p>17 Q. Okay.</p> <p>18 In your prior 30(b)(6) deposition</p> <p>19 on --</p> <p>20 Was it May 1st?</p> <p>21 A. Yes.</p> <p>22 Q. -- May 1st, you were questioned about</p> <p>23 this precise document, Exhibit 42.</p> <p>24 And the question was: And is the</p> <p>25 idea of the creative integration to make it look</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 like a Windstream envelope?</p> <p>3 And your response was: That would</p> <p>4 seem to be the intent.</p> <p>5 Do you stand by that testimony?</p> <p>6 A. Yes.</p> <p>7 Q. If you could please go to Exhibit 22?</p> <p>8 A. Yes.</p> <p>9 Q. Is Instagram a direct competitor of</p> <p>10 Charter?</p> <p>11 A. No.</p> <p>12 Q. Can you please turn to Exhibit 23?</p> <p>13 And this relates to Lyft; correct?</p> <p>14 A. Yes.</p> <p>15 Q. Is Lyft a direct competitor of</p> <p>16 Charter?</p> <p>17 A. No.</p> <p>18 Q. And how about, is this</p> <p>19 Khloe Kardashian --</p> <p>20 A. Yes.</p> <p>21 Q. -- Exhibit 26?</p> <p>22 Is she a -- is her Revenge Body</p> <p>23 product or service a direct competitor of</p> <p>24 Charter?</p> <p>25 A. No.</p>
Page 235	Page 236
<p>1 K.C. Atkinson - 09/19/19</p> <p>2 MR. JUSTUS: I pass the witness.</p> <p>3 - - -</p> <p>4 RECROSS-EXAMINATION</p> <p>5 - - -</p> <p>6 BY MR. KINGSTON:</p> <p>7 Q. Ms. Atkinson, briefly, can you please</p> <p>8 take Exhibit 12, which I believe is the One Touch</p> <p>9 marketing report?</p> <p>10 A. Yes.</p> <p>11 Q. And at the bottom of Exhibit 12, do</p> <p>12 you see a reference to -- on the bottom of the</p> <p>13 first page of Exhibits 12, do you see a reference</p> <p>14 to "uncertainty about service"?</p> <p>15 A. Yes.</p> <p>16 Q. And is that reference to "uncertainty</p> <p>17 about service" in the One Touch marketing report,</p> <p>18 is it limited to business customers, or does it</p> <p>19 say "some residential and business customers"?</p> <p>20 A. "Some residential and business</p> <p>21 customers."</p> <p>22 MR. KINGSTON: I pass the witness.</p> <p>23 MR. JUSTUS: No further questions.</p> <p>24 MR. KINGSTON: Ms. Atkinson, thank</p> <p>25 you for your time.</p>	<p>1 K.C. Atkinson - 09/19/19</p> <p>2 THE WITNESS: Thank you.</p> <p>3 THE VIDEOGRAPHER: We are off the</p> <p>4 record at 3:56 p.m.</p> <p>5 (At 3:56 p.m., the record was</p> <p>6 closed.)</p> <p>7 (The witness reserved the right to</p> <p>8 read and sign the deposition transcript.)</p> <p>9</p> <p>10 * * * * *</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 oOo  
2 CERTIFICATE  
3  
4 STATE OF CONNECTICUT )  
5 ) ss.  
6 COUNTY OF NEW HAVEN )  
7  
8 I, MERCEDES MARNEY-SHELDON, a court reporter  
9 within the state of Connecticut, and a notary public  
10 for the State of Connecticut, do hereby certify:  
11 That KELLY CHRISTINE ATKINSON, the witness  
12 whose deposition is hereinbefore set forth, was duly  
13 sworn by me, and that such deposition is a true  
14 record of the testimony given by the witness.  
15 I further certify that I am not employed by nor  
16 related to any of the parties to this action by  
17 blood or marriage, and that I am in no way  
18 interested in the outcome of this matter.  
19 IN WITNESS WHEREOF, I have hereunto set my hand  
20 this 3rd day of October, 2019.  
21  
22  
23 \_\_\_\_\_  
24 Mercedes Marney-Sheldon - Shorthand Reporter  
25 Notary Public - State of Connecticut  
Account Number: 167303  
Date Appointed: 08/07/2014  
Expiration Date: 08/31/2023

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1 oOo  
2 ERRATA SHEET  
3 CASE: In re: WINDSTREAM HOLDINGS, INC., et al;  
4 WINDSTREAM HOLDINGS, INC., et al., v.  
5 CHARTER COMMUNICATIONS, INC., et al.  
6 WITNESS: KELLY CHRISTINE ATKINSON  
7 DEPOSITION DATE: SEPTEMBER 19, 2019  
8 PAGE LINE  
9 \_\_\_\_\_| CHANGE: \_\_\_\_\_  
10 REASON: \_\_\_\_\_  
11 \_\_\_\_\_| CHANGE: \_\_\_\_\_  
12 REASON: \_\_\_\_\_  
13 \_\_\_\_\_| CHANGE: \_\_\_\_\_  
14 REASON: \_\_\_\_\_  
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24 REASON: \_\_\_\_\_  
25 \_\_\_\_\_| CHANGE: \_\_\_\_\_  
REASON: \_\_\_\_\_

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1 oOo  
2 JURAT  
3  
4 STATE OF CONNECTICUT )  
5 ) ss.  
6 COUNTY OF \_\_\_\_\_ )  
7  
8 I, KELLY CHRISTINE ATKINSON, the witness  
9 herein, having read the foregoing testimony of the  
10 pages of this deposition, do hereby certify it to be  
11 a true and correct transcript, subject to  
12 corrections, if any, shown on the attached page(s).  
13  
14  
15 \_\_\_\_\_  
16 KELLY CHRISTINE ATKINSON  
17  
18  
19  
20 Subscribed and sworn to before me this  
21 \_\_\_\_\_ day of \_\_\_\_\_, 2019  
22  
23  
24 \_\_\_\_\_  
25 Notary Public



**Debtor**



**Defendants' Designations and Counter Designations**

Page 1	Page 2
<p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>CHAPTER 11 CASE NO. 19-22312(RDD) ----- /</p> <p>In re:</p> <p>WINDSTREAM HOLDINGS, INC., et al.,</p> <p>Debtors,</p> <hr/> <p>WINDSTREAM HOLDINGS, INC., et al., Plaintiffs,</p> <p>vs.</p> <p>CHARTER COMMUNICATIONS, INC., and CHARTER COMMUNICATIONS OPERATING, LLC,</p> <p>Defendants. ----- /</p> <p>The videotaped 30(b)(6) deposition of LATISHA TRUONG, in her capacity as designated corporate representative for defendants, was taken at the law offices of Wiggin and Dana, LLP, Two Stamford Plaza, Stamford, Connecticut, before Mercedes Marney-Sheldon, CT-LSR #530, a registered professional reporter in the state of Connecticut and a notary public for the State of Connecticut, on Thursday, September 19, 2019, at 4:00 p.m.</p>	<p>1 oOo</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 REPRESENTING THE DEBTORS/PLAINTIFFS:</p> <p>5 KATTEN MUCHIN ROSENMAN, LLP</p> <p>6 2900 K Street NW</p> <p>7 North Tower - Suite 200</p> <p>8 Washington, D.C. 20007-5118</p> <p>9</p> <p>10 BY: MICHAEL R. JUSTUS, ESQ.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 REPRESENTING THE DEFENDANTS:</p> <p>15 THOMPSON COBURN, LLP</p> <p>16 One US Bank Plaza</p> <p>17 St. Louis, Missouri 63101</p> <p>18</p> <p>19 BY: JOHN KINGSTON, ESQ.</p> <p>20</p> <p>21 BY: NINO PRZULJ, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 4
<p>1 oOo</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 REPRESENTING THE OFFICIAL COMMITTEE and UNSECURED CREDITORS:</p> <p>5 MORRISON &amp; FOERSTER, LLP</p> <p>6 250 West 55th Street</p> <p>7 New York, New York 10019-9601</p> <p>8</p> <p>9</p> <p>10 BY: JOCELYN E. GREER, ESQ.</p> <p>11</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 SERENA PARKER</p> <p>15 Charter Communications, Inc.</p> <p>16 ADAM VENURINI, Videographer</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 oOo</p> <p>2 ----- I N D E X -----</p> <p>3 TESTIMONY OF: LATISHA TRUONG</p> <p>4 EXAMINATIONS PAGE</p> <p>5 Direct examination by Mr. Justus 7</p> <p>6 Cross-examination by Mr. Kingston 20</p> <p>7 Redirect examination by Mr. Justus 25</p> <p>8</p> <p>9 ----- INFORMATION REQUEST -----</p> <p>10 INSTRUCTION TO WITNESS: (None)</p> <p>11 REQUEST FOR PRODUCTION: (None)</p> <p>12 INFORMATION TO BE FURNISHED: (None)</p> <p>13 STIPULATIONS: (None)</p> <p>14 MOTIONS: (None)</p> <p>15 MARKED FOR RULING: (None)</p> <p>16</p> <p>17 ----- E X H I B I T S -----</p> <p>18 MARKED FOR IDENTIFICATION PAGE</p> <p>19 Defendants' Exhibit 1 8</p> <p>20 PREVIOUSLY MARKED EXHIBIT:</p> <p>21 Second amended notice</p> <p>22</p> <p>23 (Exhibits were retained by the court reporter)</p> <p>24</p> <p>25</p>

Page 5

1 oOo  
2  
3 STIPULATIONS  
4  
5 It is stipulated by counsel for the parties  
6 that all objections are reserved until the time of  
7 trial, except those objections as are directed to  
8 the form of the question.  
9  
10 It is stipulated and agreed between counsel  
11 for the parties that the proof of the authority of  
12 the notary before whom this deposition is taken is  
13 waived.  
14 It is further stipulated that any defects  
15 in the notice are waived.  
16  
17 It is further stipulated that the reading and  
18 signing of the deposition transcript by the witness  
19 may be signed before any notary public.  
20 \*\*\*\*\*  
21  
22  
23  
24  
25

Page 7

1 L. Truong - 09/19/19  
2 behalf of defendants. With me is  
3 Serena Parker and Nino Przulj.  
4 THE VIDEOGRAPHER: Okay. Will the  
5 court reporter please swear in the  
6 witness.  
7  
8 LATISHA TRUONG,  
9 called as a witness, having been first  
10 duly sworn in by the court reporter,  
11 a notary public of the State of Connecticut,  
12 is examined and testifies as follows:  
13  
14 - - -  
15 DIRECT EXAMINATION  
16 - - -  
17  
18 BY MR. JUSTUS:  
19 Q. Good afternoon.  
20 A. Hello.  
21 Q. Can you please state your full name  
22 for the record?  
23 A. Yes. Latisha Truong.  
24 Q. And are you currently an employee of  
25 Charter?

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1 L. Truong - 09/19/19  
2 THE VIDEOGRAPHER: This is Tape 1.  
3 We are on the record at 4:02 p.m.,  
4 Thursday, September 19, 2019.  
5 This is the 30(b)(6) deposition of  
6 Latisha Truong, in the matter of  
7 Windstream Holdings v. Charter.  
8 This deposition is being held at the  
9 offices of Wiggin and Dana, LLP, located  
10 at Two Stamford Plaza, Stamford,  
11 Connecticut 06901.  
12 The court reporter is Mercedes Marney  
13 with U.S. Legal.  
14 I am legal videographer,  
15 Adam Venturini, also with U.S. Legal.  
16 Will counsel please introduce  
17 themselves and state whom they represent.  
18 MR. JUSTUS: Michael Justus of  
19 Katten, on behalf of Windstream and its  
20 affiliated debtors and debtors in  
21 possession.  
22 MS. GREER: Jocelyn Greer, Morrison &  
23 Foerster, on behalf of the official  
24 committee of unsecured creditors.  
25 MR. KINGSTON: John Kingston on

Page 8

1 L. Truong - 09/19/19  
2 A. Yes.  
3 Q. And what is your job title at  
4 Charter?  
5 A. SMB sales.  
6 Q. Is that small and medium business?  
7 A. Yes.  
8 Q. And how long have you been employed  
9 by Charter?  
10 A. Since 2011.  
11 Q. And how long have you been in your  
12 current role?  
13 A. About a year and a half.  
14 Q. And are you based in Charter's  
15 Stamford office?  
16 A. No. I'm based in Columbus, Ohio.  
17 MR. JUSTUS: Could we please give the  
18 witness Exhibit 1?  
19 I don't know where that is.  
20 MR. KINGSTON: I think they might  
21 be -- Ms. Truong, excuse me, if I can?  
22 MR. JUSTUS: It's the notice, the  
23 30(b)(6) notice.  
24 (Defendants' Exhibit Number 1 was  
25 previously marked this date.)



Page 9	Page 10
<p>1 L. Truong - 09/19/19</p> <p>2 MR. KINGSTON: I will give you that,</p> <p>3 and keep the rest of these organized.</p> <p>4 BY MR. JUSTUS:</p> <p>5 Q. Ms. Truong, have you seen this</p> <p>6 document before, Exhibit 1?</p> <p>7 A. (Witness reviews document.)</p> <p>8 MR. KINGSTON: We'll stipulate that</p> <p>9 she hasn't.</p> <p>10 MR. JUSTUS: Okay.</p> <p>11 Well, I'll skip that line of</p> <p>12 questioning and ask you, John:</p> <p>13 John, I think you said that</p> <p>14 Ms. Truong will only be designated for</p> <p>15 Topic 4; is that right?</p> <p>16 MR. KINGSTON: I think that that's</p> <p>17 right.</p> <p>18 Forgive me, Counsel. I don't have a</p> <p>19 copy of Exhibit 1 in front of me.</p> <p>20 But I believe that Exhibit (sic) 4</p> <p>21 references training of sales --</p> <p>22 Thank you.</p> <p>23 -- yeah, Ms. Truong can speak to</p> <p>24 Charter's training and directions</p> <p>25 concerning the advertisements, to check</p>	<p>1 L. Truong - 09/19/19</p> <p>2 for in filing the TRO --</p> <p>3 THE COURT REPORTER: I didn't</p> <p>4 understand you. A little slower.</p> <p>5 THE WITNESS: I was going pretty fast</p> <p>6 there.</p> <p>7 (The record was read back by the</p> <p>8 court reporter.)</p> <p>9 MR. KINGSTON: Yes, ma'am.</p> <p>10 Ms. Truong can testify related to</p> <p>11 Charter's training and directions</p> <p>12 regarding the advertisements, the</p> <p>13 Chapter 11 filing, the TRO, and the</p> <p>14 preliminary injunction.</p> <p>15 BY MR. JUSTUS:</p> <p>16 Q. Okay. And, Ms. Truong, apologies,</p> <p>17 one more time: What is your job title?</p> <p>18 A. Small to medium business sales.</p> <p>19 Q. "SMB sales"?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Okay. And does that involve dealings</p> <p>22 with the sales call center?</p> <p>23 A. No. I'm outside sales, direct sales.</p> <p>24 Q. And what does that mean?</p> <p>25 A. So that means that it's my job to go</p>
Page 11	Page 12
<p>1 L. Truong - 09/19/19</p> <p>2 door-to-door to businesses to sell Spectrum</p> <p>3 services.</p> <p>4 Q. Okay. So it's fair to say you have</p> <p>5 no dealings whatsoever with the sales call</p> <p>6 center?</p> <p>7 A. Correct.</p> <p>8 Q. Okay.</p> <p>9 What training, directions, and</p> <p>10 guidelines have you received from Charter with</p> <p>11 respect to talking about Windstream's bankruptcy?</p> <p>12 A. I received an e-mail in April,</p> <p>13 stating that we were not to mention the</p> <p>14 bankruptcy or use that information to try to gain</p> <p>15 customers.</p> <p>16 And then I was also in a meeting with</p> <p>17 my leadership, who also gave us that same</p> <p>18 direction and information.</p> <p>19 Q. Was that a meeting by phone or in</p> <p>20 person?</p> <p>21 A. In person.</p> <p>22 Q. So your leader -- your local</p> <p>23 leadership in the -- Columbus, Ohio?</p> <p>24 A. Uh-huh.</p> <p>25 Q. Okay.</p>	<p>1 L. Truong - 09/19/19</p> <p>2 Do you remember, was that also in</p> <p>3 April?</p> <p>4 A. Yes.</p> <p>5 Q. And prior to that time, were you</p> <p>6 given any training, directions, or guidelines</p> <p>7 with respect to referencing Windstream's</p> <p>8 bankruptcy?</p> <p>9 A. No. Just in April.</p> <p>10 Q. Was any marketing collateral ever</p> <p>11 made available to you that referenced</p> <p>12 Windstream's bankruptcy?</p> <p>13 A. No.</p> <p>14 Q. Are you aware of any other direct</p> <p>15 sales personnel making statements to customers or</p> <p>16 potential customers about Windstream's</p> <p>17 bankruptcy?</p> <p>18 A. No.</p> <p>19 Q. Were you aware, prior to the April</p> <p>20 e-mail and meeting, that Windstream had filed for</p> <p>21 bankruptcy?</p> <p>22 A. I read a news article in February,</p> <p>23 but I -- I quickly dismissed it, because I don't</p> <p>24 really deal with any Windstream customers,</p> <p>25 generally.</p>

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1 L. Truong - 09/19/19  
2 Q. And that article was something you  
3 found on your own; it wasn't sent to you by  
4 someone else within Charter?  
5 A. Correct.  
6 Q. When you talk to a potential  
7 customer, and they decide to switch from their  
8 current provider to Charter, do you ever ask who  
9 their current provider is that they're switching  
10 from?  
11 A. The only time it's relevant is if  
12 we're porting a phone number. We need to know  
13 who that carrier is, based on stipulations on  
14 port-time intervals.  
15 But other than that, it's not  
16 relevant to getting services with Spectrum.  
17 Q. And if someone wants to switch to  
18 Charter Spectrum phone service, do you ask them  
19 if they want to port their phone number?  
20 A. Yes.  
21 Q. Okay, each time?  
22 A. Every time, yeah.  
23 Q. And if they say yes, then you have to  
24 ask who their current carrier is?  
25 A. Correct.

Page 14

1 L. Truong - 09/19/19  
2 Q. And do you make a note of who the  
3 current carrier is that you're going to be  
4 porting the number from?  
5 A. No.  
6 So when we call in our order, I don't  
7 write anything down. We call in our orders.  
8 There's -- nobody on the phone asks  
9 us, unless we're porting a phone number. And  
10 there's nowhere to notate that in our billing  
11 system.  
12 Q. So you make a phone call after you  
13 close the sale?  
14 A. Correct.  
15 Q. And who do you call?  
16 A. I call our sales support number to  
17 place the order. We give them the phone number,  
18 we tell them who the provider is. But they don't  
19 notate that anywhere. They just use that  
20 information to chose when the port interval is  
21 going to happen to schedule the installation.  
22 Q. Can you go into a little bit more  
23 detail on that, you say "port interval"?  
24 A. Yes.  
25 Q. What does that mean?

Page 15

1 L. Truong - 09/19/19  
2 A. So, basically, if a customer is  
3 switching from one provider to another, there's a  
4 certain day period that that other company will  
5 hold the phone number before they will allow us  
6 to have it.  
7 So every company operates differently  
8 when it comes to a port interval.  
9 So we have to look at who that  
10 company is, to decide how many days, or when  
11 we're able to schedule that customer, based on  
12 the current phone provider.  
13 Q. So in order to do the porting  
14 process, you have to know who the previous  
15 provider was?  
16 A. Right. If they're porting their  
17 phone number, yes.  
18 Q. And you're saying you -- as far as  
19 you know, you don't think there's a record, that  
20 the porting process took place on X date from  
21 X company to Charter or Spectrum?  
22 A. No.  
23 There's a database that we -- they  
24 look up the phone number to see what that date  
25 would be before that company releases the phone

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1 L. Truong - 09/19/19  
2 number. And then as soon as it looks up, that  
3 information isn't saved anywhere.  
4 Q. And do you personally have access to  
5 see what the software system looks like that the  
6 sales support people are using when you call  
7 them?  
8 A. I have read-only access. I'm not  
9 able to actually go in and see the information.  
10 I can just see the name and the address of the  
11 customer, and that's it.  
12 Q. So there's other information that you  
13 can't see?  
14 A. Correct.  
15 Q. Okay.  
16 All right. Has any Windstream  
17 customer that you've ever spoken to during a  
18 sales pitch ever mentioned Windstream's  
19 bankruptcy?  
20 A. I had one specific customer,  
21 Judy Spencer, with Physicians Weight Loss, during  
22 the questions, she had mentioned -- I had asked  
23 her what her Internet speed was.  
24 And she mentioned, Oh, I have  
25 OneStream. My Internet speed is very slow.

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1 L. Truong - 09/19/19  
2 We got into the conversation about  
3 increasing Internet with Spectrum, saving her  
4 money.  
5 And then she turned around and said,  
6 Oh, by the way, I received a letter from  
7 OneStream, and their bankruptcy. I got it for my  
8 house. I have not received one for my business.  
9 Is this going to impact my business? You know,  
10 what do you know about this bankruptcy?  
11 So she was the only customer that had  
12 mentioned the OneStream bankruptcy to me.  
13 Q. Did she show you that letter?  
14 A. She didn't. She held it, and I could  
15 only see the back of the page. And she kind of  
16 read through it. But I wasn't able to see the  
17 document that she was holding.  
18 Q. You couldn't see anything on the back  
19 of the page?  
20 A. No.  
21 Q. Was there anything on the back of the  
22 page or was it blank?  
23 A. I don't recall. I wasn't really  
24 looking that closely.  
25 Q. And did Ms. Spencer express a belief

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1 L. Truong - 09/19/19  
2 that Windstream was going out of business?  
3 A. She did, based on the letter that she  
4 had received.  
5 Q. And how did you respond to that?  
6 A. This was after my meeting in April,  
7 where our leadership directed us not to talk  
8 about the Windstream bankruptcy at all.  
9 So, in the back of my mind,  
10 I proceeded with caution.  
11 I just let Judy know that it was  
12 irrelevant to our conversation about switching  
13 her services to Spectrum.  
14 THE COURT REPORTER: Just a little  
15 slower. I can only go so fast.  
16 THE WITNESS: Sorry.  
17 THE COURT REPORTER: "I let Judy know  
18 that it was irrelevant"...?  
19 THE WITNESS: ...to switching  
20 services to Spectrum.  
21 Sorry, I lost my train of thought.  
22 Can you repeat --  
23 BY MR. JUSTUS:  
24 Q. I think that answered my question.  
25 And then was this -- this is in Ohio?

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1 L. Truong - 09/19/19  
2 A. Uh-huh.  
3 Q. Is it Columbus, Ohio, you said?  
4 A. So she was in Newark, Ohio.  
5 Q. Newark, Ohio.  
6 And you said it was after the April  
7 call -- e-mail and meeting -- after the April  
8 e-mail and meeting?  
9 A. Correct.  
10 Oh, I was going to say, I just told  
11 her that it -- it's not for me to talk about  
12 anything to do with Windstream because it is  
13 irrelevant to our conversation. And any  
14 questions she has about the bankruptcy, she  
15 should contact Windstream.  
16 Q. Did Ms. Spencer switch to Charter  
17 Spectrum?  
18 A. She did not.  
19 Q. Okay.  
20 And that's the only time any  
21 customer -- potential customer that you've spoken  
22 to mentioned the Windstream bankruptcy?  
23 A. Correct.  
24 MR. JUSTUS: Is there anything  
25 I should talk about?

Page 20

1 L. Truong - 09/19/19  
2 MS. GREER: I don't think so.  
3 MR. JUSTUS: Okay.  
4 I pass the witness, John.  
5 - - -  
6 CROSS-EXAMINATION  
7 - - -  
8 BY MR. KINGSTON:  
9 Q. Ms. Truong, I'll go back to your  
10 conversation with Mr. Spencer in Newark, Ohio.  
11 Can we do that, please?  
12 A. Yes.  
13 Q. When you were talking to Ms. Spencer,  
14 did she appear calm or did she appear excited?  
15 A. She appeared -- I wouldn't say either  
16 of those. She appeared concerned.  
17 Q. She appeared concerned to you?  
18 A. Uh-huh.  
19 Q. And -- and, yes -- I'm sorry.  
20 So one of the rules in depositions  
21 that I neglected to talk to you about, was it's  
22 important to answer "yes" or "no" so the  
23 court reporter can have a clean record of what  
24 we're -- what the questions I'm asking, and the  
25 answers that you're giving.

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1 L. Truong - 09/19/19  
2 A. Okay.  
3 Q. Does that make sense?  
4 A. Yes.  
5 Q. All right.  
6 So did Ms. Spencer appear concerned  
7 to you?  
8 A. Yes.  
9 Q. And did Ms. Spencer indicate that the  
10 reason she was concerned is because she believed  
11 Windstream was going out of business?  
12 A. Yes.  
13 Q. And Ms. Spencer indicated that the  
14 reasons she was concerned about Windstream going  
15 out of business was because she had received a  
16 letter?  
17 A. Yes.  
18 Q. And Ms. Spencer indicated that the  
19 reason she was concerned about Windstream going  
20 out of business is because she had received a  
21 letter from Windstream?  
22 A. Yes.  
23 Q. All right.  
24 You understand, Ms. Truong, that  
25 Charter sent a direct mail to some 800,000-plus

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1 L. Truong - 09/19/19  
2 people in various states?  
3 A. Yes.  
4 Q. And did you review an Excel  
5 spreadsheet, listing the people to whom that  
6 mailer was sent?  
7 A. Yes.  
8 Q. And was that spreadsheet searchable?  
9 A. Yes.  
10 Q. And did you review a search of the  
11 spreadsheet, including all of the people to whom  
12 the March 2019 direct mail was made, for the name  
13 "Spencer"?  
14 A. Yes.  
15 Q. And did you -- through that search,  
16 were you able to identify a Judy Spencer in  
17 Newark, Ohio?  
18 A. No.  
19 Q. Is it a fair inference, then,  
20 Ms. Truong, that the letter that Ms. Spencer was  
21 referring to, while she was expressing these  
22 concerns, was not the direct mail that came from  
23 Charter in March of 2019?  
24 MR. JUSTUS: Objection, leading the  
25 witness.

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1 L. Truong - 09/19/19  
2 BY MR. KINGSTON:  
3 Q. Is it a fair or an unfair inference,  
4 Ms. Truong, that the letter that Ms. Spencer was  
5 concerned about did not come from Charter, given  
6 your review of the March 2019 mailing list?  
7 A. That is fair, yes.  
8 Q. Did anybody at Charter ever instruct  
9 you to predict that Windstream was going out of  
10 business when you were attempting to make sales?  
11 A. No.  
12 Q. Did anybody at Charter ever instruct  
13 you to predict that there would be interruptions  
14 of Windstream's services?  
15 A. No.  
16 Q. Did anybody at Charter ever instruct  
17 you to suggest that Windstream would be  
18 experiencing operational problems related to the  
19 bankruptcy?  
20 A. No.  
21 Q. Did you ever have a conversation with  
22 a potential sales contact where you were the  
23 first person to mention Windstream's bankruptcy?  
24 A. I'm sorry, can you repeat the  
25 question?

Page 24

1 L. Truong - 09/19/19  
2 Q. I'll take another run at that.  
3 I have cotton-mouth in the middle of my question.  
4 Do you mind if I start over?  
5 A. Sure.  
6 Q. Did you ever mention Windstream's  
7 bankruptcy first in a conversation with a sales  
8 prospect?  
9 A. No.  
10 Q. Was the "don't talk about  
11 Windstream's bankruptcy" message ever reinforced  
12 at team meetings?  
13 A. Yes.  
14 Q. Is that something you would talk  
15 about on a regular basis?  
16 A. I can recall three meetings that  
17 we've talked about it.  
18 Q. And did you receive an electronic  
19 mail message with a copy of the temporary  
20 restraining order entered in this case?  
21 A. Yes.  
22 Q. And did you receive an electronic  
23 mail message with a copy of the preliminary  
24 injunction entered in this case?  
25 A. Yes.

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1 L. Truong - 09/19/19  
2 MR. KINGSTON: I pass the witness.  
3 MR. JUSTUS: Okay, I have a couple  
4 more questions.  
5 - - -  
6 REDIRECT EXAMINATION  
7 - - -  
8 BY MR. JUSTUS:  
9 Q. Ms. Truong, you testified  
10 that you searched a list of  
11 eight-hundred-and-some-thousand people for the  
12 name "Judy Spencer"; right?  
13 A. Uh-huh.  
14 Q. Isn't it true that accounts can be  
15 under different names than, say, the name of the  
16 person who answers the door when you're going  
17 door to door?  
18 MR. KINGSTON: Objection, lack of  
19 foundation.  
20 You can answer.  
21 THE WITNESS: Yes.  
22 BY MR. JUSTUS:  
23 Q. Are you aware of any circumstances  
24 where someone might answer the door and have a  
25 different name than what their actual account is

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1 L. Truong - 09/19/19  
2 MR. KINGSTON: Mr. Kardos.  
3 MR. JUSTUS: Okay.  
4 BY MR. JUSTUS:  
5 Q. Well, you --  
6 MR. KINGSTON: I -- actually, I'm not  
7 positive that it's Mr. Kardos. But he can  
8 speak to something along those lines.  
9 I know that it's not Ms. Truong.  
10 BY MR. JUSTUS:  
11 Q. And I think you already answered this  
12 question, but I have to ask it one more time,  
13 because I can't remember.  
14 It's possible that someone could  
15 answer the door, and you could talk to them, and  
16 they may have a different name than the person  
17 who owns the house at that address or owns an  
18 account at that address; right?  
19 A. I still don't think I'm understanding  
20 the question.  
21 Q. I think you said yes the first time,  
22 but I can't remember.  
23 So you go door to door, and you,  
24 literally, knock on the door; right?  
25 A. Uh-huh.

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1 L. Truong - 09/19/19  
2 under?  
3 MR. KINGSTON: Same objection.  
4 THE WITNESS: No.  
5 We do a credit check, so if they have  
6 an account with us, it would match their  
7 social security number.  
8 BY MR. JUSTUS:  
9 Q. And, actually, I think I'm asking the  
10 wrong question.  
11 So the database, or the spreadsheet,  
12 of the 800,000 people, those were the names and  
13 addresses that Charter sent its mailer to; right?  
14 A. Yes.  
15 Q. Yeah, just a name and a mailing  
16 address?  
17 A. Uh-huh.  
18 Q. Okay. Where did Charter get those  
19 names and addresses?  
20 MR. KINGSTON: I will object, lack of  
21 foundation.  
22 MR. JUSTUS: So different witness for  
23 that, you're saying?  
24 MR. KINGSTON: (Counsel nods head.)  
25 MR. JUSTUS: And who would that be?

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1 L. Truong - 09/19/19  
2 Q. And you don't know for sure that the  
3 person who answers the door, that you talk to,  
4 has the same name as the person who owns that  
5 house or that would have an account at that  
6 address; right?  
7 A. Yes.  
8 Q. Okay.  
9 MR. JUSTUS: No more questions.  
10 MR. KINGSTON: We'll read and sign.  
11 And we'll read and sign for all  
12 corporate-rep witnesses.  
13 Ms. Truong, thank you for your time.  
14 THE VIDEOGRAPHER: Okay. We are off  
15 the record at 4:23 p.m.  
16 (At 4:23 p.m., the record was  
17 closed.)  
18 (The witness reserved the right to  
19 read and sign the deposition transcript.)  
20  
21 \* \* \* \* \*  
22  
23  
24  
25

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**Defendants' Designations and Counter Designations**



**Debtor Counter Designations**

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

IN RE	)	
	)	
	)	
WINDSTREAM HOLDINGS, INC., et al.,	)	Chapter 11
	)	
	)	
Debtors.	)	(Jointly Administered)
_____	)	
	)	
WINDSTREAM HOLDINGS, INC., et al,	)	Case No. 19-22312 (RDD)
	)	
	)	
Plaintiffs,	)	Adv. Proc. No. 19-08246
	)	(RDD)
	)	
vs.	)	
	)	
	)	
CHARTER COMMUNICATIONS, INC. And	)	
CHARTER COMMUNICATIONS OPERATING,	)	
LLC,	)	
	)	
	)	
Defendants.	)	

DEPOSITION OF

SHONNE K. BANDY

\*\*\*\*\*

Taken in behalf of Defendants

September 19, 2019

400 Columbia Street, Suite 140

Vancouver, Washington 98660

\*\*\*\*\* Confidential \*\*\*\*\*

(For Attorney's Eyes Only)

REPORTED BY: Tracey L. Tracy, RPR, CCR, CSR

DRAFT COPY



Page 2	Page 3
<p>1 APPEARANCES</p> <p>2 For the Debtors and Plaintiffs:</p> <p>3 Ryan J. Larsen</p> <p>4 Katten Muchin Rosenman, LLP</p> <p>5 2029 Century Park East</p> <p>6 Suite 2600</p> <p>7 Los Angeles, CA 90067-3012</p> <p>8 310.788.4544</p> <p>9 310.712.8223 Fax</p> <p>10 ryan.larsen@kattenlaw.com</p> <p>11</p> <p>12 For the Defendants:</p> <p>13 Justin P. Mulligan</p> <p>14 Thompson Coburn, LLP</p> <p>15 One US Bank Plaza</p> <p>16 St. Louis, MO 63101</p> <p>17 314.552.6227</p> <p>18 314.552.7000 Fax</p> <p>19 jmulligan@thompsoncoburn.com</p> <p>20</p> <p>21 For the Official Committee of Unsecured Creditors of</p> <p>22 Windstream Holdings, Inc.:</p> <p>23 Steven T. Rappoport</p> <p>24 Morrison &amp; Foerster, LLP</p> <p>25 250 West 55th Street</p> <p>New York, NY 10019-9601</p> <p>212.336.4171</p> <p>212.468.7900 Fax</p> <p>srappoport@mofo.com</p>	<p>1 EXAMINATION INDEX</p> <p>2 EXAMINATION BY: PAGE NO.</p> <p>3 Mr. Mulligan 4</p> <p>4</p> <p>5 EXHIBIT INDEX</p> <p>6 EXHIBIT NO. DESCRIPTION PAGE NO.</p> <p>7 Exhibit No. 1 16-page color copy of Spectrum 18</p> <p>8 Business Value Added Reseller</p> <p>9 Agreement.</p> <p>10 Exhibit No. 2 1-page copy of a letter from 31</p> <p>11 Spectrum to Earthlink Business,</p> <p>12 LLC, dated 03/22/2019.</p> <p>13 Exhibit No. 3 9-page color copy of Notes for 38</p> <p>14 Ticket, Bates Stamp Nos.</p> <p>15 WIN002428 - WIN002436.</p> <p>16 Exhibit No. 4 2-page copy of an email string, 57</p> <p>17 Bates Stamp Nos. WIN002139 -</p> <p>18 WIN002140.</p> <p>19 Exhibit No. 5 2-page copy of an email string, 71</p> <p>20 Bates Stamp Nos. WIN002339 -</p> <p>21 WIN002340.</p> <p>22 Exhibit No. 6 1-page color copy of a worklog 84</p> <p>23 table.</p> <p>24</p> <p>25 Exhibit No. 7 21-page color copy of Notes for 85</p> <p>Ticket, Bates Stamp Nos.</p> <p>WIN002437 - WIN002457.</p> <p>Exhibit No. 8 20-page copy of Declaration of 122</p> <p>Shonne Bandy, including</p> <p>attachments.</p> <p>Exhibit No. 9 11-page copy of Supplemental 138</p> <p>Initial Disclosures of</p> <p>Plaintiff Windstream Holdings,</p> <p>Inc. and Affiliated Debtors.</p>
Page 4	Page 5
<p>1 BE IT REMEMBERED that on Thursday,</p> <p>2 September 19, 2019, at 400 Columbia Street, Suite 140,</p> <p>3 Vancouver, Washington 98660, at 8:52 a.m., before Tracey</p> <p>4 L. Tracy, RPR, CCR, CSR, appeared SHONNE K. BANDY, the</p> <p>5 witness herein;</p> <p>6 WHEREUPON, the following proceedings</p> <p>7 were had, to wit:</p> <p>8</p> <p>9 &lt;&lt;&lt;&lt;&lt;&lt;&gt;&gt;&gt;&gt;&gt;&gt;</p> <p>10</p> <p>11 SHONNE K. BANDY, having been first duly sworn</p> <p>12 by the Certified Court Reporter,</p> <p>13 testified as follows:</p> <p>14</p> <p>15 EXAMINATION</p> <p>16 BY MR. MULLIGAN:</p> <p>17 Q Can you please state your full name for the record.</p> <p>18 A Shonne Katrina Bandy.</p> <p>19 Q What is your home address?</p> <p>20 A 6009 Northeast 99th Street, Vancouver, Washington 98665.</p> <p>21 Q Perfect. And are you on any medications today that would</p> <p>22 impair your ability to testify truthfully or fully?</p> <p>23 A No.</p> <p>24 Q Can you, as you sit here right now, think of any reason</p> <p>25 as to why you'd be unable to testify truthfully or fully</p>	<p>1 today?</p> <p>2 A No.</p> <p>3 Q As we were speaking just moments ago, you've never had</p> <p>4 your deposition taken before; is that correct?</p> <p>5 A Correct.</p> <p>6 Q Okay. So I'll go over some of the normal kind of</p> <p>7 guidelines. Your counsel may have gone over them with</p> <p>8 you earlier. But we have a court reporter here, so for</p> <p>9 her sanity and ease, it'd be helpful if you let me finish</p> <p>10 my question before answering, and I'll let you finish</p> <p>11 your answer before asking my next question. I'm sure at</p> <p>12 some point we're going to talk over each other, because</p> <p>13 that's how natural conversations go, but I'll try to make</p> <p>14 the least of that. Is that fair?</p> <p>15 A Yes.</p> <p>16 Q And then for answering questions, because she is taking</p> <p>17 it down, it's helpful to answer in full responses, not</p> <p>18 our normal vernacular of uh-huhs or shoulder shrugs or</p> <p>19 head nods. Is that fair?</p> <p>20 A I will do my best.</p> <p>21 Q Thank you.</p> <p>22 And throughout, we'll hopefully keep this as short</p> <p>23 as possible. But if at any time you need a break, as</p> <p>24 long as it's not right in the middle of a question, we're</p> <p>25 happy to take a break whenever you need. Is that fair?</p>

Page 6	Page 7
<p>1 A Understood.</p> <p>2 Q And if at any time throughout the day you don't</p> <p>3 understand a question that I ask, please feel free to ask</p> <p>4 me to repeat it or clarify the question. If you don't,</p> <p>5 I'm going to assume that you understood the question that</p> <p>6 I asked. Is that fair?</p> <p>7 A Understood.</p> <p>8 Q Okay. Thank you.</p> <p>9 What did you do to prepare for today's deposition?</p> <p>10 MR. LARSEN: Let me just interject</p> <p>11 there. Please answer the question, but as we discussed</p> <p>12 before, I don't want you to include any attorney-client</p> <p>13 privileged conversations that may be responsive. So for</p> <p>14 example, anything you and I discussed or you discussed</p> <p>15 with any in-house attorney at Windstream or another</p> <p>16 attorney at my firm, I don't want you to disclose that,</p> <p>17 okay? But otherwise, please answer his question.</p> <p>18 THE WITNESS: I reviewed the document</p> <p>19 that I signed that spurred this deposition, which was</p> <p>20 my -- what do you call it, the --</p> <p>21 Q (By Mr. Mulligan) Are you talking about the declaration?</p> <p>22 A The declaration, yes.</p> <p>23 Q Perfect. Did you review any other documents in</p> <p>24 preparation for the deposition today?</p> <p>25 A I reviewed the documents included in the declaration.</p>	<p>1 Q Okay. Anything else? Any other documents?</p> <p>2 A Not that I can recall.</p> <p>3 Q Other than your attorneys or Windstream's attorneys, did</p> <p>4 you speak to anyone regarding this lawsuit in preparation</p> <p>5 for the deposition today?</p> <p>6 A Not that I can recall.</p> <p>7 Q Did you speak to any other Windstream employees in</p> <p>8 preparation for your deposition today?</p> <p>9 A I did not.</p> <p>10 Q And are you represented by counsel here today?</p> <p>11 A I am.</p> <p>12 Q And is that through Windstream, or did you retain counsel</p> <p>13 separately?</p> <p>14 A That's through Windstream.</p> <p>15 Q Okay. So is Windstream paying for your counsel's</p> <p>16 representation here today, or are you paying separately?</p> <p>17 A Correct. Windstream is.</p> <p>18 Q What's your highest form of education that you obtained?</p> <p>19 A I have two master's degrees.</p> <p>20 Q What are those in?</p> <p>21 A I have an MNCM, master's in network and communications</p> <p>22 management, and a GWCWC, which is a graduate wireless</p> <p>23 certificate in wireless communications.</p> <p>24 Q Can you kind of just give me a brief kind of explanation</p> <p>25 or snippet as to what each of those entails. What's the</p>
Page 8	Page 9
<p>1 education geared to provide you?</p> <p>2 A Master's in network and communications management gives</p> <p>3 you a CEO overview of how to create or design a IT</p> <p>4 network for any company -- small, medium, or large-size</p> <p>5 enterprise. The wireless certificate is more of a</p> <p>6 specialized education in wireless technology.</p> <p>7 Q What type of wireless technology?</p> <p>8 A Communications. In specific, more geared towards</p> <p>9 telecom.</p> <p>10 Q When you mentioned the CEO overview for IT networks, what</p> <p>11 does that mean?</p> <p>12 A It means that if I was hired as executive management, I</p> <p>13 would be able to make decisions as to how to create a</p> <p>14 network or design an IT network for a company.</p> <p>15 Q Do you currently work for Windstream?</p> <p>16 A I do.</p> <p>17 Q What's your position with the company?</p> <p>18 A I am a Trouble Resolution Specialist II.</p> <p>19 Q What does that entail? What are your responsibilities in</p> <p>20 that role?</p> <p>21 A I manage resolution and addressing issues with trouble</p> <p>22 tickets, and generally managing a client GNC, as they</p> <p>23 have a help desk that needs resolution of trouble on</p> <p>24 their GNC retail store IT networks.</p> <p>25 Q So you mentioned trouble tickets. What kind of issues</p>	<p>1 are you presented with through trouble tickets?</p> <p>2 A There are a myriad of issues that can go wrong with</p> <p>3 Internet in the retail stores.</p> <p>4 Q So is your role primarily focused on retail customers</p> <p>5 versus end-user consumers and their telecommunication</p> <p>6 services?</p> <p>7 A My job is wholly encompassed in GNC.</p> <p>8 Q Okay. So you wouldn't take any trouble tickets or</p> <p>9 complaints from any other consumers other than GNC?</p> <p>10 A I am oftentimes used as an overflow call representative</p> <p>11 to take calls for other companies who are also having</p> <p>12 trouble in their networks, and then if those companies</p> <p>13 have anything to do with today's deposition.</p> <p>14 Q Okay. How often are you called in to help with some of</p> <p>15 the overflow representatives?</p> <p>16 A Every other day.</p> <p>17 Q What type of Windstream customers are involved with those</p> <p>18 calls? Are they end-user consumers, like an individual</p> <p>19 who buys a telephone service through Windstream, or is it</p> <p>20 more focused on retail consumers?</p> <p>21 A No, they are not individuals. They are enterprise and</p> <p>22 what we call LEC's, like Spectrum, who may call in to get</p> <p>23 higher-level DS3 troubleshooting.</p> <p>24 Q And you mentioned -- you said the word "LEC." Is that --</p> <p>25 A LEC is what we use as a generic term for the Internet</p>

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<p>1 service providers across the country who have -- part of</p> <p>2 their transport is connected to Windstream transport.</p> <p>3 Q Okay. Is that spelled -- I think I've seen it in a</p> <p>4 couple documents. Is it L-E-C?</p> <p>5 A Correct.</p> <p>6 Q And you mentioned enterprise customers or clients. Is</p> <p>7 there a split in Windstream as, you know, residential or</p> <p>8 end-user consumers and then enterprise customers? Is</p> <p>9 that how it's divided in Windstream?</p> <p>10 A Correct. I'm in advanced services. We normally deal</p> <p>11 with other companies' help desks who cannot resolve</p> <p>12 issues on their own. We take over at a higher level.</p> <p>13 Q So if an individual was calling to cancel their telephone</p> <p>14 service with Windstream, that wouldn't be something that</p> <p>15 you would receive?</p> <p>16 A That might be a misdirected call that I would have to</p> <p>17 transfer to a different department.</p> <p>18 Q But you wouldn't handle that personally?</p> <p>19 A No.</p> <p>20 Q Are you aware that Windstream has declared bankruptcy?</p> <p>21 A Yes.</p> <p>22 Q When did you first hear about Windstream's declaration of</p> <p>23 Chapter 11 bankruptcy?</p> <p>24 A This year. Early in the year.</p> <p>25 Q What was your initial reaction to hearing that Windstream</p>	<p>1 had declared bankruptcy?</p> <p>2 A I do not recall.</p> <p>3 Q Do you know whether it is Windstream's plan or goal to</p> <p>4 continue its operations after bankruptcy?</p> <p>5 MR. LARSEN: Objection. Calls for</p> <p>6 speculation. There's no foundation.</p> <p>7 THE WITNESS: I am not.</p> <p>8 Q (By Mr. Mulligan) Has anyone at Windstream ever</p> <p>9 communicated that it's their goal to continue operations</p> <p>10 after bankruptcy?</p> <p>11 MR. LARSEN: Objection. Communicated</p> <p>12 to her --</p> <p>13 MR. MULLIGAN: Correct.</p> <p>14 MR. LARSEN: -- or to anybody?</p> <p>15 THE WITNESS: There was a companywide</p> <p>16 announcement that I watched regarding business as usual.</p> <p>17 I just remember that term as addressing any fears</p> <p>18 regarding bankruptcy.</p> <p>19 Q (By Mr. Mulligan) You mentioned addressing any fears.</p> <p>20 What did you mean by that?</p> <p>21 A That's what they said in the conference -- was a</p> <p>22 teleconference.</p> <p>23 Q Do you know who all was on the teleconference?</p> <p>24 A I remember the CEO.</p> <p>25 Q Is there any guarantee that Windstream will be able to</p>
Page 12	Page 13
<p>1 continue business as usual after bankruptcy?</p> <p>2 MR. LARSEN: Objection. There's no</p> <p>3 foundation. Calls for speculation.</p> <p>4 THE WITNESS: I'm not qualified to</p> <p>5 make that determination.</p> <p>6 Q (By Mr. Mulligan) Has anyone at Windstream ever</p> <p>7 communicated to you that they are guaranteeing that the</p> <p>8 company will continue after bankruptcy?</p> <p>9 A I have no recollection of any guarantees.</p> <p>10 Q Has anyone at the company ever communicated to you that</p> <p>11 it's possible that Windstream will not be able to</p> <p>12 continue operations after bankruptcy?</p> <p>13 A I'm sorry. Can you repeat that question.</p> <p>14 Q Has anyone at Windstream ever communicated to you that</p> <p>15 it's possible that Windstream may not be able to continue</p> <p>16 its operations after bankruptcy?</p> <p>17 A No.</p> <p>18 Q Have you had any communications with anyone at Windstream</p> <p>19 about the possibility that the company may not be able to</p> <p>20 continue its operations after bankruptcy?</p> <p>21 A Not that I recall.</p> <p>22 Q So you're currently the trouble resolution specialist</p> <p>23 No. 2. Did you hold a role before that with Windstream?</p> <p>24 A I did not.</p> <p>25 Q When did you start with Windstream?</p>	<p>1 A Late January this year.</p> <p>2 Q So January 2019. Where did you work prior to Windstream?</p> <p>3 A I worked at a variety of companies. Are you asking me</p> <p>4 companies that I held a similar position?</p> <p>5 Q We'll just start with the company immediately before</p> <p>6 Windstream. Where did you work at that point?</p> <p>7 A Immediately prior to Windstream, I worked at Microchip in</p> <p>8 Gresham, Oregon.</p> <p>9 Q What was your role at Microchip?</p> <p>10 A I worked in a clean room fab environment, creating</p> <p>11 microchips.</p> <p>12 Q In that role, were you responsible for taking any</p> <p>13 complaint calls or anything like that, similar to your</p> <p>14 role at Windstream?</p> <p>15 A No.</p> <p>16 Q Have you had a role at any previous employment similar to</p> <p>17 the one you have at Windstream now where your</p> <p>18 responsibility was to take customer calls regarding</p> <p>19 issues they may be having with the services?</p> <p>20 A Yes.</p> <p>21 Q Where was that?</p> <p>22 A I've had roles at a handful of companies where I've</p> <p>23 either been a director of computer labs at schools, or</p> <p>24 I've worked for telecom companies such as Verizon for</p> <p>25 over 10 years, dealing with calls and managing technical</p>

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1 support.  
2 Q When did you work for Verizon?  
3 A Between 2005 and 2012.  
4 Q So I believe you mentioned earlier that your primary  
5 responsibility as a trouble resolution specialist with  
6 Windstream is with GNC as a customer of Windstream; is  
7 that correct?  
8 A That is my primary role.  
9 Q How large of a customer is GNC for Windstream?  
10 MR. LARSEN: Objection. Vague.  
11 Ambiguous. Undefined as to what "large" means in this  
12 context.  
13 THE WITNESS: One of the largest  
14 clients.  
15 Q (By Mr. Mulligan) Are you the only employee dedicated to  
16 issues that GNC may have with its services?  
17 A No, I'm not.  
18 Q How many Windstream employees are focused primarily on  
19 servicing GNC as a Windstream customer?  
20 A That I know of, there are three of us managing over 6,000  
21 stores at any given time.  
22 Q And the three individuals, including yourself, are each  
23 of you primarily responsible for receiving phone calls or  
24 trying to assist with any issues GNC may be having at its  
25 over 6,000 locations?

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1 A Correct. We do not receive phone calls primarily. We  
2 communicate otherwise.  
3 Q How do you communicate otherwise? How does an issue come  
4 about and how does GNC report the issue?  
5 A The GNC equipment that they have at their retail stores  
6 is monitored, so automatic ticket creation occurs as well  
7 as individual manual tickets created by GNC through an  
8 Internet portal. This portal manages both types of  
9 tickets.  
10 Q Okay. So either the equipment GNC is using will -- if  
11 it's having an issue, will send an automatic alert; or if  
12 a customer realizes they're having issues, they can go  
13 into this portal and, I guess, notify Windstream that  
14 they're having issues?  
15 A That is correct. Technically, the equipment is monitored  
16 by a system called Netcool, as you will see in the notes  
17 attached to my document. Netcool is a monitoring system  
18 that will ping the equipment every five minutes, and if  
19 it does not respond after three attempts, a ticket will  
20 be created digitally.  
21 Q How many tickets are created on average, if you could let  
22 me know, for GNC on a given day?  
23 A That number changes from day to day. It is not  
24 consistent. I have seen in the past year working there  
25 anywhere from 30 to 200 tickets created in one day.

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1 Q And how long can it take to resolve those issues?  
2 A That number is unquantifiable, because it depends upon  
3 many factors. It depends on whether there's a response  
4 from the site itself, it depends upon whether there's a  
5 response from GNC help desk, and it depends upon  
6 processes going on in GNC that we are not privy to.  
7 Q Have you seen issues take longer than a day to correct  
8 for a GNC location?  
9 A I have.  
10 Q Have you seen issues take longer than a week to correct  
11 at a GNC location?  
12 A I have.  
13 Q In your experience since January 2019, what's the longest  
14 you've seen it take to resolve an issue for a particular  
15 GNC location?  
16 A I do not recall.  
17 Q Would you agree that it's fairly common based upon the  
18 fact that you may receive anywhere between 30 and 200  
19 issues per day that GNC experiences issues that it needs  
20 to report to Windstream?  
21 MR. LARSEN: Objection. It calls for  
22 speculation as to what GNC may think.  
23 Q (By Mr. Mulligan) I can repeat the question. Based on  
24 your experience since January 2019, seeing anywhere  
25 between 30 to 200 tickets issued by GNC to Windstream,

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1 based on any issue that they may be having, wouldn't you  
2 agree that it's not uncommon for GNC to experience an  
3 issue that it has to report to Windstream?  
4 A It is not uncommon for GNC to report issues to  
5 Windstream.  
6 Q So in your position as a trouble resolution specialist  
7 No. 2, who do you report directly to?  
8 A I report to Jeff Domingo.  
9 Q Can you spell his last name.  
10 A D-o-m-i-n-g-o.  
11 Q What is Jeff's title with Windstream?  
12 A I do not recall. I apologize.  
13 Q No problem. Do you know what his responsibilities are,  
14 primarily, with Windstream?  
15 A His responsibilities recently changed in the last week,  
16 so I'm not privy to all of his responsibilities.  
17 Q Just generally speaking, kind of, what is his role?  
18 A Generally speaking, he manages emerging technology and  
19 advanced services.  
20 Q What are the advanced services that he assists with?  
21 A Advanced services is a category in which I work with GNC  
22 whereby the clients that we manage have their own IT help  
23 desks, and we are a level above a regular help desk. The  
24 regular help desk for the clients normally assist in  
25 layer one troubleshooting.

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1 Q When you mentioned the general help desk, is that a  
2 general help desk within Windstream, or are you talking  
3 about the customer's own general help desk?  
4 A A customer's own help desk.  
5 Q So I don't want to assume, but does GNC have its own help  
6 desk department for the company?  
7 A GNC has its own help desk.  
8 Q Do you have any -- let me rephrase. Are there any  
9 individuals or employees at Windstream that report  
10 directly to you?  
11 A There are not.  
12 Q Are you familiar with the value-added reseller agreement  
13 that Windstream has with Charter Communications?  
14 A I am not.  
15 (Exhibit No. 1 marked for  
16 identification.)  
17 Q (By Mr. Mulligan) And maybe it's just because of the --  
18 I was using a term you might not be familiar with, but  
19 are you aware that Windstream at times uses Charter to  
20 help provide services to Windstream customers?  
21 A I am.  
22 Q Do you have any personal knowledge as to the contract  
23 between Windstream and Charter Communications to provide  
24 those services?  
25 A I am aware of service-level agreements we create with

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1 LEC, such as Spectrum. I have a copy of the  
2 service-level agreement at my desk so that I can  
3 troubleshoot properly.  
4 Q And for what's been marked as Exhibit 1 here, with the  
5 title Spectrum Business Value Added Reseller Agreement,  
6 is this the service-level agreement that you're referring  
7 to, or is that a different document?  
8 A I haven't had time to go through this in full. (Witness  
9 peruses document.) I'm still reading.  
10 This contract is a general contract and does not  
11 specify line rates, margins, or any of the other  
12 service-level agreement troubleshooting that I manage.  
13 Q Okay. Did you have any involvement in drafting the  
14 agreement shown in Exhibit 1?  
15 A No.  
16 Q Do you have any education or training in drafting or  
17 interpreting contracts?  
18 A Yes.  
19 Q What is that? What's your training or education?  
20 A Part of my master's degree trained me in general  
21 specifics for a contract negotiation of different types  
22 of networks, as well as previous employment. I was  
23 responsible for drafting and maintaining contracts.  
24 Q So maybe to assist us kind of throughout the day, how  
25 would you describe the relationship between, for example,

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1 Charter and Windstream to provide what I've seen, at some  
2 times, "last mile" services? How would you describe that  
3 relationship?  
4 A Their relationship is contractual.  
5 Q I mean, just like kind of what services are provided?  
6 What's the general arrangement? How does Charter --  
7 what's the interplay between Charter and Windstream under  
8 these types of agreements?  
9 A Charter Spectrum/Time Warner is a provider of an Internet  
10 transport that will be a part of GNC Internet in certain  
11 locations across the country. Therefore, we are not --  
12 Windstream is not in control of the entire circuit.  
13 Spectrum Time Warner is in control of a certain portion  
14 of certain circuits.  
15 Q Does Windstream have a agreement with any other Internet  
16 providers other than Charter to provide similar services  
17 to customers?  
18 MR. LARSEN: Objection. There's no  
19 foundation. Calls for speculation.  
20 THE WITNESS: I believe that  
21 information is confidential.  
22 Q (By Mr. Mulligan) Well, are you aware that there is an  
23 agreement between the parties in this case to keep  
24 information confidential and private, related to this  
25 lawsuit? So under that agreement, your attorney can

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1 designate whatever he needs to as confidential?  
2 MR. LARSEN: That's correct.  
3 I wouldn't worry about it. Just answer his  
4 questions if you know, and we'll deal with that.  
5 THE WITNESS: There are other  
6 companies involved in circuit creation.  
7 Q (By Mr. Mulligan) Do you know what companies that is?  
8 A I'm not aware of the entire list.  
9 Q Which ones are you aware of?  
10 A I am aware of probably 20 companies.  
11 Q Could you provide me with an example of a few of the  
12 companies that would provide similar services as Charter  
13 Spectrum?  
14 A Granite, SageNet, AT&T. Does that suffice?  
15 Q That should. If I need more, I'll ask.  
16 What types of customers are serviced under this type  
17 of agreement or relationship? Is it mainly enterprise  
18 customers, or residential? Or end users?  
19 A Could you clarify which agreement you're referring to.  
20 Q The relationship between Charter Spectrum and Windstream  
21 to provide this Internet transport, you know, the  
22 additional circuit. Is that geared towards or focused on  
23 enterprise customers of Windstream's or end users?  
24 A I'm not aware of the use of the circuits for the entire  
25 company. I'm only familiar with the use of the circuits

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1 in my department.

2 Q And in your department, those circuits would be used

3 primarily for enterprise customers?

4 A Correct.

5 Q Do you know how the payments are conducted under these

6 types of agreements? You know, Windstream paying

7 Charter. Does Windstream pay Charter directly for the

8 service that Charter provides, or do they pay Windstream?

9 A That depends.

10 Q What does that depend on?

11 A The type of circuit that was purchased. Some circuits

12 are bring your own access. Some circuits are provided by

13 Windstream.

14 Q What does "provide your own access" mean?

15 A In some cases, GNC sites will opt to choose their own

16 provider. In those cases, for various reasons, we do not

17 maintain the entirety of those circuits. They are

18 responsible to contact whoever they pay for the circuit.

19 We only provide equipment in that case.

20 Q When a company like Charter is providing some Internet

21 transport along the lines of a service to it, for

22 instance GNC, is GNC notified that Charter is also

23 involved in providing services?

24 A I am unaware how the communication occurs between the

25 order department and GNC. Is that what you're asking me?

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1 not "bring your own access." Us, meaning Windstream.

2 Q Right. So similar to how Charter provides Windstream

3 with part of the circuit and its line providing services

4 to the end consumer, does Windstream provide similar

5 services to Charter? You know, an added circuit to get

6 to the end consumer?

7 A I believe there are circuits designed that way, correct.

8 It's not in my department or expertise.

9 Q Are you aware of any times where the end customer's

10 services were interrupted because of an issue with the

11 circuit provided by Windstream?

12 A Yes.

13 Q Does any particular one come to mind, or does it happen

14 frequently that you don't know?

15 A I don't recall any specifics, but I do know there is an

16 outage list. The outage list will sometimes identify a

17 Windstream circuit. Other times, it identifies a force

18 majeure, which would be a weather condition. Sometimes

19 there are power outages across the nation that affect

20 thousands of companies. We keep a record to help with

21 troubleshooting.

22 Q So on the times where it's a Windstream circuit, that

23 would be an incident where one of Charter's customers has

24 an issue with its Internet services because of a

25 Windstream-specific circuit?

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1 Q Well, I just want to know if GNC locations would know

2 that their Internet is being serviced by both Charter

3 communications and Windstream.

4 A No. They are not always aware of who is involved, other

5 than Windstream.

6 Q You mentioned they are not always aware. Are there times

7 where GNC will be notified that Charter Communications is

8 part of the provision of their Internet services?

9 A Inadvertently at times, a provider of a certain type of

10 circuit may bring equipment to the site that is labeled

11 -- such as for instance, if Spectrum brings a piece of

12 equipment to the site to provide a higher bandwidth and

13 we have Windstream equipment there connected to that

14 equipment, that equipment may have a label with the

15 service provider on the equipment itself.

16 Q So that'd be a way of the customer finding out

17 inadvertently. Does Windstream ever make it a point to

18 tell its customers that Charter Communications is

19 involved in providing their Internet services?

20 A No.

21 Q So if, for example, a customer like GNC is having issues

22 with its Internet services, are they to report it to

23 Windstream or are they told to report it to, for

24 instance, Charter Communications?

25 A They are always required to contact us if the circuit is

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1 A Yes, I believe that happens. Again, that's not my

2 department to troubleshoot.

3 Q And are there times where Windstream will purposely

4 disconnect its circuit for that customer?

5 A I have not heard of such instances.

6 Q You mentioned Windstream having a similar kind of

7 relationship or agreement with other telecommunication

8 companies other than Charter. You listed Granite and

9 AT&T, for example. Are you aware of any time where

10 Windstream has been alerted of an issue with the

11 customer's services because of a circuit provided by

12 those other third parties, for instance AT&T or Granite?

13 A Yes.

14 Q Are you aware of whether or not those issues were caused

15 by a purposeful action by AT&T or Granite to interrupt

16 services of the customer?

17 A No. It is extremely rare for a situation such as it was

18 in this record that I signed where a client disconnected

19 for a nonpay or a billing reason. That's why it's a

20 memorable situation.

21 Q You said it's rare, but have you seen it occur with any

22 other company, other than Charter Communications?

23 A I have not.

24 Q So for example, the disconnections or interference with

25 services for a circuit provided by AT&T, what type of



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1 no service for an extended period of time that continued  
2 to be disconnected. They were upset to the point of  
3 emailing us. When they have a site that is down and  
4 needs emergency help, they will oftentimes email us. And  
5 they also needed to provide an alternate method of  
6 Internet service for the site so they did not lose  
7 financial transactions.  
8 Q But that GNC interaction that you're speaking about now  
9 was related to the May 2019 disconnections; is that  
10 correct?  
11 A That's correct.  
12 Q Okay. So I'm just trying to -- we'll get to the May  
13 ones, of course, but I'm just trying to see what your  
14 knowledge is on any disconnections that may have been  
15 caused by Charter or allegedly caused by Charter in March  
16 of 2019.  
17 And so do you have any personal knowledge as to how  
18 customers reacted to any disconnection by Charter in  
19 March 2019?  
20 MR. LARSEN: Objection. I think it's  
21 asked and answered. There's no foundation. I think  
22 she's testified that she's not aware of this issue, so  
23 obviously she's not going to know what a customer may  
24 have thought about something she's not aware of.  
25 MR. MULLIGAN: Okay.

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1 Windstream?  
2 A I'm unaware of the answer to that question.  
3 Q But just to clarify, you've never seen the letter shown  
4 in Exhibit 2?  
5 A Correct.  
6 Q So you'd have no knowledge as to why this letter was sent  
7 by Charter Communications?  
8 A No.  
9 Q Similar to the March 16th to March 19th disconnections  
10 that we were speaking about earlier, do you have any  
11 personal knowledge as to any disconnections caused by  
12 Charter in March 26th, 2019?  
13 A You're referring to events that occurred prior to my  
14 affidavit. I would need to research those to be able to  
15 answer your questions. I have no recollection of those  
16 situations at the moment.  
17 Q So as we sit here today, you have no recollection of  
18 being involved in any disconnections caused by Charter of  
19 Windstream's last mile customers on or around March 26th,  
20 2019; is that correct?  
21 A I do recall that there were multiple instances of  
22 disconnection due to nonpay, but I do not remember the  
23 specifics of each case, only that it was a recurring  
24 issue that I had to escalate to a higher level.  
25 Q Were you personally involved on those issues in

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1 Q (By Mr. Mulligan) So just to clarify, you don't have any  
2 personal information or knowledge that you can recall at  
3 this time related to disconnections by Charter in  
4 March 2019?  
5 A I may have information in my notes somewhere, but I do  
6 not recall at this moment.  
7 Q What notes would that be that you're referring to?  
8 A The logs on tickets.  
9 Q Do you maintain any notes beyond the ticket logs?  
10 A I maintain all the emails I receive from GNC.  
11 (Exhibit No. 2 marked for  
12 identification.)  
13 Q (By Mr. Mulligan) Ms. Bandy, feel free to review this  
14 Exhibit 2 fully, but my question is: Have you ever seen  
15 this letter from Charter Communications to Windstream  
16 before?  
17 A No.  
18 Q And let me clarify. It's actually to Earthlink. Is  
19 Earthlink related to Windstream?  
20 A Earthlink was the name of the company before Windstream  
21 merged with Earthlink or purchased Earthlink. I'm not  
22 privy to the financial transactions between the two  
23 companies, but we are the same.  
24 Q Okay. And then I've also seen the company name Broadview  
25 as well. Is that similar to how Earthlink is related to

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1 March 2019?  
2 A I remember being personally involved in sending the  
3 escalation to restore the circuits.  
4 Q Who would you send the escalation to?  
5 A It depends on the design of the circuit. Usually, I  
6 contact the account manager, and the account manager  
7 forwards any issues to whomever needs to address the  
8 issues, such as billing department.  
9 Q So would you escalate that to someone within Windstream,  
10 or are you escalating that to someone in the third-party  
11 provider, such as Charter Communications?  
12 A It's a many-pronged escalation because I do not know when  
13 I'm told that a circuit is being disconnected for nonpay.  
14 A, whether it's true; B, whether we are the ones  
15 responsible for paying it; or C, if -- if it has actually  
16 been paid and just crossed in the mail, so to speak.  
17 Q So as we sit here today, what do you recall regarding any  
18 disconnections allegedly caused by Charter on or around  
19 March 26th, 2019?  
20 A Only what I've told you in the last few questions.  
21 Q Do you know when you became aware of those  
22 disconnections?  
23 A When I worked on the ticket.  
24 Q Do you recall speaking to anyone at Charter regarding the  
25 disconnections on or around March 26th, 2019?

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1 A I recall I had multiple phone calls to Charter in which I  
2 was advised circuits were disconnected and -- either due  
3 to nonpay, or I was told by a Spectrum Charter personnel  
4 that I needed to contact the billing department.  
5 Q And that was in conversations you had with Charter in  
6 March of 2019?  
7 A They were conversations. I don't recall the exact date,  
8 but they were surrounding the time of my documented case.  
9 Q By "your documented case," are you referring to the  
10 incidents set forth in your declaration?  
11 A Yes.  
12 Q And you mentioned that you -- in your conversations with  
13 Charter -- were informed to contact the billing  
14 department; is that correct?  
15 A Yes.  
16 Q And did they provide contact information for the billing  
17 department?  
18 A No.  
19 Q Did you ask for contact information to the billing  
20 department?  
21 A Yes.  
22 Q Did they refuse, or did they simply not know that  
23 information?  
24 A They were uncooperative, and said that I needed to  
25 contact the account manager.

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1 Q You said they were uncooperative. In what way were they  
2 uncooperative?  
3 A They -- I recall the people on the technical support  
4 department saying, I cannot help you with this circuit.  
5 I cannot give you any more information. You need to  
6 contact the billing department. This is a highly unusual  
7 response for technical support.  
8 Q Do you know if they -- do you personally know if the  
9 people you spoke to had the information for who you were  
10 supposed to contact at the billing department?  
11 A I do not know.  
12 Q Do you know whether or not the individuals at Charter on  
13 the technical support side had any ability to take any  
14 action regarding this matter, if it was a billing matter?  
15 A All I know is what they said. They said, I can see here  
16 what happened, but I cannot discuss this with you.  
17 Because you're a national account, you need to contact a  
18 different department.  
19 Q Do you know whether or not those Charter employees were  
20 unable to help because they were refusing to assist  
21 Windstream, or merely because their department could not  
22 take any action?  
23 MR. LARSEN: Objection. Calls for  
24 speculation.  
25 THE WITNESS: Yeah, I can't speculate

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1 what their motivations were or what they were thinking.  
2 I only know what they said.  
3 Q (By Mr. Mulligan) And by "what they said," is that this  
4 is a billing issue and they can't assist and that you'll  
5 have to contact the billing department?  
6 MR. LARSEN: Objection. I think that  
7 misstates her testimony.  
8 Go ahead.  
9 THE WITNESS: Yeah, they said what I  
10 told you they said, and -- We're unable to restore the  
11 circuit, or We're unable to troubleshoot the circuit,  
12 which is usually what technical support does.  
13 Q (By Mr. Mulligan) But in this instance, if there was a  
14 billing issue, there was not a technical issue with the  
15 circuit; is that correct?  
16 A That is what I asked them. They would not answer my  
17 question.  
18 Q Are you aware of any technical issue with these circuits  
19 that caused the interruption in the GNC services?  
20 A I'm not aware of a technical issue.  
21 Q So if there's no technical issue and only a billing  
22 issue, how would the technical department be able to  
23 assist?  
24 A I only called the technical department because I am not  
25 billing.

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1 Q But you have no knowledge as to why the Charter technical  
2 department was unable to provide assistance to Windstream  
3 in the disconnections?  
4 MR. LARSEN: Objection. It's been  
5 asked and answered, and it calls for speculation.  
6 THE WITNESS: I told you what the  
7 technical support people said. It was a mystery to me.  
8 I was not given enough information to be able to answer  
9 that question.  
10 Q (By Mr. Mulligan) You mentioned asking for a contact  
11 number for the billing department; is that correct?  
12 A I asked them who we needed to contact and they said, You  
13 need to contact your account manager. And I don't know  
14 who that is.  
15 Q Okay. So they didn't refuse to provide that information.  
16 They just -- they told you they didn't know who that was;  
17 is that correct?  
18 A Correct.  
19 Q Do you know who at Windstream knows who their national  
20 account manager is at Charter Communications?  
21 A I'm aware of who manages vendor relations.  
22 Q Who's that?  
23 A Stacey Manzano.  
24 Q What's Stacey Manzano -- well, first of all, for the  
25 court reporter, do you know how to spell Manzano?



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1 A M-a-n-z-a-n-o.  
2 Q And is Stacey S-t-a-c-e-y, or just Y?  
3 A I believe it's S-t-a-c-e-y.  
4 Q What's Stacey's title at Windstream?  
5 A Vendor relations.  
6 Q Did you have any communications with Stacey Manzano after  
7 being told that you needed to contact the Charter  
8 national account manager?  
9 A I did send an email in which I cc'd Stacey Manzano.  
10 Q Do you know what actions, if any, Stacey Manzano took  
11 after receiving your email?  
12 A I'm not privy to those email strings.  
13 Q Are you aware of any last mile customers that whose  
14 services were disconnected by Charter in April of 2019?  
15 A I'm -- I don't understand if you're asking me about GNC,  
16 or any customers.  
17 Q Are you aware of any customers that were disconnected by  
18 Charter in April 2019?  
19 A No, I may have lists of disconnections for GNC in my  
20 remedy ticket, but I do not have lists of other customers  
21 that I deal with.  
22 (Exhibit No. 3 marked for  
23 identification.)  
24 Q (By Mr. Mulligan) Ms. Bandy, I'm handing you what's been  
25 marked as Exhibit 3, and it's a multiple-page document

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1 marked at the bottom. You'll see the little numbers WIN  
2 002428 through WIN 002436. Do you have all those pages?  
3 A One moment. (Witness peruses document.) I do.  
4 Q And feel free to review the document in full. But my  
5 first question is just going to be if you could let us  
6 know what this document represents.  
7 A (Witness peruses document.) This looks similar to the  
8 document in my affidavit, whereby the logs for the Remedy  
9 ticket system have notes, and the notes include the same  
10 types of notes that are on this document.  
11 Q Would these logs include all the notes related to a  
12 particular issue reported to Windstream?  
13 MR. LARSEN: Objection. Vague and  
14 ambiguous as to what logs. The logs in this exhibit, or  
15 all that exist that she has access to?  
16 MR. MULLIGAN: The log in Exhibit 3.  
17 THE WITNESS: You're asking me if this  
18 -- what this log is?  
19 Q (By Mr. Mulligan) Yes. Is the log in Exhibit 3 meant to  
20 include all notes related to the particular issue  
21 reported for this particular ticket?  
22 MR. LARSEN: I'll object as to there's  
23 no foundation that she prepared this document or had  
24 anything to do with putting it together.  
25 THE WITNESS: This may not include the

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1 entirety of the notes, but it does appear to reflect an  
2 issue with a particular site.  
3 Q (By Mr. Mulligan) How are these notes prepared at  
4 Windstream? Is there a particular program that these are  
5 entered into?  
6 A These are the types of notes that we do paste or type  
7 into Remedy ticket system.  
8 Q And are those notes typed or pasted into the system as an  
9 ordinary course of business?  
10 A They are.  
11 Q So do you see the initial create date listed in Exhibit 3  
12 for April 26th, 2019?  
13 A I do.  
14 Q And then the submitter is Netcool?  
15 A Yes.  
16 Q Is that what we were kind of talking about earlier is  
17 Netcool tried pinging a server at a customer three times,  
18 and if not, it'll issue this ticket?  
19 A Yes. Netcool is the monitoring system that automatically  
20 creates a ticket if there is no response from the  
21 equipment.  
22 Q And then shortly after the ticket is created, do you see  
23 the entry at 11:27 a.m. by Prateek Sharma?  
24 A I do.  
25 Q Do you know who Prateek is?

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1 A The name is familiar to me as an overseas technical  
2 support rep.  
3 Q I have a following couple entries by Prateek. If you  
4 know, what steps are being taken at this time related to  
5 this ticket that's been issued?  
6 A I can conjecture that Prateek was troubleshooting the  
7 circuit to identify which layer of troubleshooting needed  
8 to occur. This happens by pinging different IP addresses  
9 as shown on Page 1 at 11:27, and it includes pulling up  
10 the information of the router and the aggregate server,  
11 which is shown at 11:28 a.m.  
12 Q So if we look to the third page of Exhibit 3, it's marked  
13 2430. Do you see the entry at 11:29 by Prateek Sharma?  
14 A I do.  
15 Q And where it says, Unable to reach customer equipment?  
16 A Yes.  
17 Q If you know, what does that mean or indicate?  
18 A That indicates that Prateek created an actual public note  
19 that the customer would be able to view. The notes prior  
20 to that would have been private information for our eyes  
21 only in technical support.  
22 So when we troubleshoot a circuit, we generally  
23 speaking will post a private note or notes, and then we  
24 will come to a conclusion of the next step that needs to  
25 happen and post a public note advising GNC of what the

1 next step will be.  
2 Q How do you tell based on the entries here whether the  
3 note is private or public to the end customer? For  
4 instance, GNC?  
5 A Well, if you are in the Digital Remedy system, it will be  
6 labeled as public or private. In Page WIN 2428, the  
7 first page, it shows a screenshot of the Remedy system.  
8 And at the bottom of that screen, you'll see tabs --  
9 summary communications, et cetera. The communications  
10 tab is the one that you would click on to be able to see  
11 if a note was private or public, since the screenshot  
12 does not show what it would be if you were on the  
13 communications tab, you cannot see that. (Indicating.)  
14 But a second reason why I would know that is because  
15 of the format of the template, where we capitalize the  
16 word Currently, next step, and previous troubleshooting,  
17 et cetera, that template is commonly used in our public  
18 notes only. And that is on Page 2430. (Indicating.)  
19 Q So the next step, under the category Next Step on 2430,  
20 it mentions Awaiting level 1 troubleshooting. What does  
21 that refer to?  
22 A That refers back to the GNC help desk as actions required  
23 by GNC to verify that there aren't other reasons for the  
24 outage, including loss of power, customer disconnected  
25 the equipment, cable came loose, cable went bad, and so

1 on and so forth. That is the responsibility of the GNC  
2 help desk to fix on-site.  
3 Q On the following page, 2431, do you see the entry at  
4 12:32 by Nate Newsome?  
5 A I do.  
6 Q Do you know who Nate Newsome is?  
7 A Nate is an employee of GNC. Most likely, part of the GNC  
8 help desk.  
9 Q What type of information is Nate Newsome providing in  
10 this entry, if you can tell us?  
11 A Nate Newsome is acting on behalf of GNC to respond to the  
12 request for Layer 1 troubleshooting. He is posting a  
13 template, pasting this template manually into the notes,  
14 based on his own computer system at GNC, filling out the  
15 different questions on what troubleshooting has been done  
16 on-site.  
17 So under Circuit Type, you see numbers and question  
18 marks. Those are template questions he needs to answer  
19 in order to request for Windstream to take further  
20 action.  
21 Q Okay. On the following page after that, on 2432 of  
22 Exhibit 3, do you see the entry by yourself at 3:17 p.m.?  
23 A I do.  
24 Q Was this the first time you became involved in this  
25 ticket on April 26th, 2019?

1 A I do not know, because I am not privy to the entire  
2 worklog.  
3 Q By entire worklog, what do you mean?  
4 A There's no indication that this is the entirety of all  
5 the notes on this Remedy ticket.  
6 Q If there are more notes, would that be something you'd be  
7 able to determine?  
8 A I would need to be in the system to determine that.  
9 Q But if you were in the system, you'd be able to determine  
10 if this was the entirety?  
11 A Correct.  
12 Q And then in that note at 3:17 p.m. on April 26th, 2019 by  
13 yourself, do you see where it mentions Ticket status  
14 referred external?  
15 A Correct.  
16 Q What does that mean?  
17 A In the Remedy ticket system, if you refer back to the  
18 first page on WIN 2428, at the very top of the Remedy  
19 ticket, you'll see Status. And that status is a  
20 drop-down menu of basically the status of the ticket  
21 currently or the status -- next step that needs to be  
22 taken. And so we choose a drop-down based on what is  
23 current status and what is the next step that needs to be  
24 taken.  
25 "External" is the first category. Under "external,"

1 there are subreasons, like external meaning we're  
2 referring it back to GNC. When we get a ticket, usually  
3 it's a response from our request for external action. So  
4 I picked up this ticket. It says "Referred external,"  
5 meaning that the previous action before I picked up this  
6 ticket was that GNC was supposed to provide their light  
7 status and the template that was above that note. Light  
8 status means the color and status of the lights on the  
9 equipment on site.  
10 Q And then your April 26th notes here, in the entry at  
11 3:17 p.m. on the first one mentioning GNC is providing  
12 light status and Alt -- I'm assuming for alternate --  
13 A Correct.  
14 Q -- contact Dustin, providing a number. Who is Dustin?  
15 A I am just repeating what was in the template above that.  
16 So in the template that was provided by Nate Newsome,  
17 previously mentioned on WIN 2431, if you look at the  
18 No. 2, Does the store have VoIP, voice over IP, question  
19 mark. If the store has voice over IP, then when the  
20 Internet goes down, we cannot call them because their  
21 phone also goes down.  
22 So they provide an alternate contact so that we can  
23 contact the site on somebody's cell phone or a different  
24 method of communication. So in this case, Nate Newsome  
25 typed "Dustin" and his phone number as a method to

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1 contact the site for further troubleshooting if needed.  
2 Q Okay. And then your second entry in the 3:17 p.m. notes  
3 on 2432 is called LEC, unable to file ticket.  
4 What does that mean?  
5 A That means I contacted whoever was in charge of the  
6 circuit. I am assuming that because you have this  
7 document, that it was Spectrum. Yes, it does show the  
8 private note below: Called Time Warner Spectrum at this  
9 number, spoke with Jeremy, he sees the business class  
10 phone circuit but no Internet, and he advised me to speak  
11 with national account support as that circuit is no  
12 longer ours to troubleshoot.  
13 Q Where did you get the number for contacting Time Warner  
14 Cable/Spectrum that's included in your notes?  
15 A We have a list of telephone contact numbers online that I  
16 refer to daily.  
17 Q What department at Charter would this number correspond  
18 to?  
19 A That would have been technical support for circuit  
20 providers.  
21 Q Based on your recollection, is this the first time that  
22 you had contacted someone at Charter and been told that  
23 you need to speak to a national account support member  
24 regarding these disconnects?  
25 A To my recollection, I believe this was the first time

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1 anyone ever told me such a statement in the technical  
2 support department, which is why I previously referred to  
3 it when you were asking me questions a few minutes ago.  
4 Q Okay. Prior to April 26th, 2019, did anyone at  
5 Windstream circulate a memo or email notifying Windstream  
6 employees that if you have issues with disconnects with  
7 Charter, you need to contact the national account support  
8 number, not technical?  
9 A I do not recall any such memo.  
10 Q So April 26th was the first you were being informed that  
11 this needed to go through a national account at Charter  
12 and not the technical support?  
13 A I do not know if this was the very first time, but to my  
14 recollection, it seems to have been the first time since  
15 I worked at Windstream.  
16 Q And in your conversations with Jeremy at Charter  
17 Communications, did he inform you why there had been a  
18 disconnection?  
19 A He was not forthright. That is why I typed his words in  
20 quotes, because it did not give me a straight answer.  
21 Q Do you know whether or not he had the answer to why it  
22 was disconnected?  
23 MR. LARSEN: Objection. Calls for  
24 speculation.  
25 THE WITNESS: I cannot speculate that.

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1 Q (By Mr. Mulligan) And when you said "he was not  
2 forthright," what do you mean by that?  
3 A It's not an answer as to why a circuit is down.  
4 Q But do you know whether or not he had the answer to why  
5 the circuit was down?  
6 MR. LARSEN: Objection. Calls for  
7 speculation.  
8 THE WITNESS: I couldn't read his  
9 mind. I don't know what he was looking at.  
10 Q (By Mr. Mulligan) Do you have any knowledge as to  
11 whether Jeremy at Charter Communications was purposely  
12 withholding any information from you?  
13 A I cannot speculate as to whether he was motivated to  
14 withhold information or not.  
15 Q But beyond telling you that the circuit was no longer  
16 ours to troubleshoot, meaning his department, he did  
17 provide you with information as to the fact that you  
18 needed to contact a national account support individual;  
19 is that correct?  
20 A Yes.  
21 Q Then your next entry is: Contacted supervisors via email  
22 to advise next steps. What does that mean?  
23 A As I mentioned previously, I send emails with  
24 multi-pronged directions because I do not know who to  
25 contact next exactly. So I contact people who would know

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1 who to contact.  
2 Q Do you know who you contacted via email to advise on next  
3 steps related to this April 26th, 2019 conversation you  
4 had with Jeremy?  
5 A Do you have any documents in my affidavit showing emails?  
6 Q I'm sure we do, but let's just go. We'll continue  
7 through this call log, and then we'll get to the emails.  
8 So following your entry at 3:17, there's an entry by  
9 Brian Dukes at 3:36 p.m. Do you see that?  
10 A I do.  
11 Q Who is Brian Dukes?  
12 A He's a lead of my department.  
13 Q How is a lead different than your role in the department?  
14 A A lead's responsibilities are to support technical  
15 support reps such as myself in matters that are going to  
16 take up more time than is warranted for the situation or  
17 has extended knowledge and experience in particular  
18 situations that I may not have encountered before.  
19 Q Do you know what actions Brian Dukes was taking to  
20 resolve this issue at this time on April 26th, 2019?  
21 MR. LARSEN: Objection. There's no  
22 foundation that he did anything.  
23 THE WITNESS: I only see his note, his  
24 template, giving information to GNC of the status of the  
25 ticket, mentioning that GNC did provide light status, did

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1 services?  
2 A I can't speculate as to Charter's thoughts or motivations  
3 or reasons for saying such things.  
4 Q Do you have any knowledge or information to support the  
5 belief that Charter intentionally disconnected these  
6 services to cause harm to Windstream?  
7 A Again, I cannot speculate as to intention.  
8 Q Do you know if -- just to clarify, this ticket in  
9 Exhibit 3 would be relating to a GNC customer; is that  
10 correct?  
11 A Which ticket? The ticket in this document?  
12 Q The ticket we've been looking at, correct.  
13 A This ticket is a GNC store. Correct.  
14 Q Do you know or have any personal information as to  
15 whether or not this GNC store lost any sales as a result  
16 of this disconnect?  
17 A GNC often loses sales. I am going to speculate they did  
18 lose sales, since the circuit went down at 10:42 a.m. on  
19 April 26th and did not restore until closing, which was  
20 8:19 p.m. That's actually past closing. They close at  
21 8:00 in the evening, so it was 20 minutes past their  
22 closing time, meaning they lost an entire business day.  
23 I do not know how many customers, paying customers, were  
24 unable to purchase products that day, because they did  
25 not provide that information to me.

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1 Q No one at GNC told you whether or not they'd lost any  
2 sales because of this disconnection or interruption in  
3 services?  
4 A I would need to go through my emails to see if they  
5 mentioned it.  
6 Q As you sit here today, do you recall ever being told by  
7 GNC on April 26th, 2019 that they lost sales because of  
8 this disconnection?  
9 A Ever being told, yes. April 26th, I do not recall.  
10 Q And when you mentioned "ever being told," what do you  
11 mean by that?  
12 A They have told us that they are losing sales repeatedly  
13 when we call the site.  
14 Q Related to this specific disconnection?  
15 A I do not recall the specific disconnection as to whether  
16 they mentioned losing business.  
17 Q Does GNC Stores have any backup Internet provisions in  
18 case its Internet services are disconnected or there's an  
19 interruption with the services?  
20 A That depends.  
21 Q On what?  
22 A The site. There are some sites that are configured  
23 differently than other sites.  
24 Q What type backup provisions would some sites have to  
25 continue Internet operations if their main server went

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1 down?  
2 A The help desk located in Pennsylvania for GNC has an  
3 account with approximately 50 wireless LTE routers that  
4 they can overnight to stores who need alternate Internet.  
5 In the case where we suspect they may be down for more  
6 than 24 hours, GNC makes a decision whether to send a  
7 backup router to that site or not. That's one situation  
8 where they may receive a backup Internet.  
9 Q Is that GNC's decision and not Windstream's as to whether  
10 backup wireless is provided?  
11 A Correct.  
12 Q Do you know whether or not the GNC location at issue in  
13 this April 26th, 2019 ticket had a backup wireless  
14 router?  
15 A I would need to read the notes to see if there's any  
16 mention of it. One moment. (Witness peruses document.)  
17 Because the site went down and came back up the same day,  
18 I do not see any notes for sending a backup LTE router.  
19 Q Would the notes always indicate whether or not the store  
20 had a backup wireless router?  
21 A No. That would be discovered in -- coming through my  
22 email inbox, coming through the WAVE account. WAVE is  
23 another application whereby we show all the devices that  
24 that site has ordered.  
25 Q If the Internet is down, can GNC still make sales via

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1 cash at that location?  
2 A I would need to call the site to ask that question  
3 individually.  
4 Q If the store has no Internet, are they able to make  
5 credit card sales?  
6 A Not usually. The PIN pad that they use to swipe credit  
7 cards is connected to our router. It will not work if  
8 there is no Internet.  
9 (Exhibit No. 4 marked for  
10 identification.)  
11 Q (By Mr. Mulligan) I'm handing you what's been marked as  
12 Exhibit 4. It's a two-page document marked WIN 002139  
13 through WIN 002140. Do you have both those pages?  
14 A I do.  
15 Q Feel free to read the email chain in its entirety. We'll  
16 start with the one from you on April 26th, 2019 at  
17 3:15 p.m.  
18 A 3:35 p.m.?  
19 Q On the second page?  
20 A Oh, the second page.  
21 MR. LARSEN: Right here.  
22 THE WITNESS: Oh, I see. (Peruses  
23 document.)  
24 Q (By Mr. Mulligan) Do you see the first sentence where  
25 you are -- do you know who this initial email by you on

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<p>1 able to pull up the account by address. The conversation</p> <p>2 noted on April 26th at 3:36 p.m. on WIN 2432 seems to</p> <p>3 correspond with Exhibit 4, the email from Brian Dukes on</p> <p>4 April 26th at 3:35 p.m., which was one minute earlier.</p> <p>5 Q But does that provide any indication that GNC spoke</p> <p>6 directly to Charter about this disconnection?</p> <p>7 A Yes. He says, I called Spectrum at 888-812-2591 and</p> <p>8 spoke to Warlcar.</p> <p>9 Q And that would be Brian Dukes, right?</p> <p>10 A Brian Dukes.</p> <p>11 Q And he works for Windstream, correct?</p> <p>12 A He does.</p> <p>13 Q And so my question was: Does this have any indication</p> <p>14 that a GNC employee spoke to --</p> <p>15 A Oh, I'm sorry. No.</p> <p>16 Q Are you aware of any communications Charter had with a</p> <p>17 GNC employee related to this disconnection?</p> <p>18 A I am not.</p> <p>19 MR. MULLIGAN: Let's take a 5 or</p> <p>20 10-minute break.</p> <p>21 (Recess from 10:45 a.m. to</p> <p>22 10:54 a.m.)</p> <p>23</p> <p>24 EXAMINATION (Continuing)</p> <p>25 BY MR. MULLIGAN:</p>	<p>1 Q Before our break, do you recall us reading an email where</p> <p>2 you had experienced an issue with AT&amp;T and a</p> <p>3 disconnection that they may have had?</p> <p>4 A I do.</p> <p>5 Q Do you recall what the reason was for the disconnection</p> <p>6 with AT&amp;T services?</p> <p>7 A I do not recall. I would need to look at my notes on the</p> <p>8 case.</p> <p>9 Q So you do not recall whether or not it was a technical</p> <p>10 issue or a billing issue related to AT&amp;T services?</p> <p>11 A (Witness peruses document.) I believe the conversation</p> <p>12 may have mentioned billing or nonpay.</p> <p>13 Q So that would be similar to the issue you were</p> <p>14 experiencing with Charter's disconnection?</p> <p>15 A Same wording was used, yes. That is why I included it in</p> <p>16 the email.</p> <p>17 Q Okay. Do you have any knowledge as to whether AT&amp;T was</p> <p>18 disconnecting services to create an uncertainty in the</p> <p>19 minds of consumers as to whether or not Windstream's</p> <p>20 services were in jeopardy?</p> <p>21 A I can't speculate as to AT&amp;T's intention.</p> <p>22 Q And you'd mentioned -- I think you pronounce it Jira</p> <p>23 tickets; is that right?</p> <p>24 A Jira.</p> <p>25 Q J-i-r-a?</p>
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<p>1 A Correct.</p> <p>2 Q And those are tickets that are directed to the billing</p> <p>3 department from the more technical side of things; is</p> <p>4 that correct?</p> <p>5 A Jira tickets are multi-phased type of -- it's a different</p> <p>6 computer system. You can choose different reasons for</p> <p>7 the ticket, such as billing, IT. Any other internal</p> <p>8 Windstream problems are handled by an internal Windstream</p> <p>9 department.</p> <p>10 Q So as opposed to the Netcool --</p> <p>11 A Remedy.</p> <p>12 Q -- kind of ticket system that is kind of between you and</p> <p>13 the customer, is Jira more geared to within Windstream</p> <p>14 and communicating between different departments?</p> <p>15 A Correct.</p> <p>16 Q And one of those could be billing?</p> <p>17 A Correct.</p> <p>18 Q So if your department came across an issue that was more</p> <p>19 appropriate for the billing department, you would issue</p> <p>20 the ticket instead of reaching out directly to a billing</p> <p>21 person; is that correct?</p> <p>22 A Commonly. There are times where you may email someone to</p> <p>23 find out if it is a billing issue. You need to get the</p> <p>24 correct information to be able to choose the Jira</p> <p>25 subject.</p>	<p>1 Q Do you know -- is there a person in the billing</p> <p>2 department that you would contact or know to contact if</p> <p>3 you were having an issue related to billing?</p> <p>4 A There is a Windstream phone list where I could find a</p> <p>5 phone number, but I have never reached out to billing.</p> <p>6 Q After your experience with the disconnection in</p> <p>7 April 2019, are you aware of any email or memo or notice</p> <p>8 being circulated throughout Windstream as to, if this</p> <p>9 issue arises, please direct it to billing instead of</p> <p>10 technical?</p> <p>11 A Can you clarify the question.</p> <p>12 Q Yeah. So was it fairly unusual to hear -- about the</p> <p>13 April disconnection -- that it needs to go through</p> <p>14 billing instead of just being handled throughout the</p> <p>15 technical department?</p> <p>16 A It was extremely unusual to be told there's a billing</p> <p>17 issue in the technical department.</p> <p>18 Q And after being told that and it being an unusual case,</p> <p>19 are you aware of Windstream taking any efforts to notify</p> <p>20 others at Windstream that if this issue arises again, it</p> <p>21 should be directed to billing instead of the technical</p> <p>22 department?</p> <p>23 A No.</p> <p>24 Q Does Windstream ever issue, you know, departmentwide</p> <p>25 notes or memos as to how an issue should be handled or a</p>

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<p>1 A No.</p> <p>2 Q Did she provide any information indicating that the</p> <p>3 nonpayer code was being placed in there on purpose by</p> <p>4 anyone at Charter?</p> <p>5 A She did not indicate any intentions.</p> <p>6 Q Do you have any knowledge or information supporting the</p> <p>7 belief that she or anyone at Charter was putting in the</p> <p>8 nonpayer code on purpose to interfere with Windstream's</p> <p>9 customer services?</p> <p>10 A I can't speculate as to intention or belief.</p> <p>11 Q And then she indicates she coded an extended credit code</p> <p>12 to give the escalation team time to credit the account</p> <p>13 five to seven days. Do you see that?</p> <p>14 A I do.</p> <p>15 Q Was this an effort she was taking to help ensure that</p> <p>16 these services were not disconnected by this nonpayer</p> <p>17 code again?</p> <p>18 MR. LARSEN: Objection. There's no</p> <p>19 foundation. Calls for speculation.</p> <p>20 THE WITNESS: I don't know why she was</p> <p>21 doing whatever she was doing on her end. I could only</p> <p>22 notate what she was telling me.</p> <p>23 Q (By Mr. Mulligan) Do you see the following sentence that</p> <p>24 says, By 14th is when the credit should go through, and</p> <p>25 extension covers the days up to the 17th?</p>	<p>1 A I see that.</p> <p>2 Q Do you have an understanding as to what she meant by that</p> <p>3 statement?</p> <p>4 A It is perplexing due to the fact that I was talking to</p> <p>5 her on May 8th that it would take that long to restore</p> <p>6 service with credit.</p> <p>7 Q Do you have any personal knowledge as to what goes into</p> <p>8 Charter's system to credit an account for nonpayment?</p> <p>9 A I do not.</p> <p>10 Q Do you have any personal knowledge as to whether or not</p> <p>11 it's normal that it would take five to seven days to</p> <p>12 credit an account for nonpayment?</p> <p>13 A Because I am not trained in Spectrum billing processes, I</p> <p>14 cannot speculate as to what is normal and what is not.</p> <p>15 Q So you have no knowledge or information to dispute that</p> <p>16 five to seven days was just the normal process at</p> <p>17 Charter?</p> <p>18 MR. LARSEN: Objection. There's no</p> <p>19 foundation that that's the normal process.</p> <p>20 THE WITNESS: It's not my job to know</p> <p>21 what's normal and what processes are supposed to be</p> <p>22 taken.</p> <p>23 Q (By Mr. Mulligan) But you have no knowledge or</p> <p>24 information that Charter was purposely delaying the</p> <p>25 entrance of the credit onto the account at issue here?</p>
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<p>1 A I cannot speculate as to purposeful or not purposeful.</p> <p>2 Q Then she indicates, She recommends calling again on the</p> <p>3 16th to ensure the credits have posted by then. Do you</p> <p>4 see that?</p> <p>5 A I do.</p> <p>6 Q Do you know why she was encouraging you to contact again</p> <p>7 to make sure that the credits went through?</p> <p>8 A That indicates a lack of confidence in her measures</p> <p>9 taken.</p> <p>10 Q What makes you say that?</p> <p>11 A If a credit does not credit an account, then you would</p> <p>12 need to call back.</p> <p>13 Q But she had indicated that the extension she had entered</p> <p>14 was good until the 17th, correct?</p> <p>15 A She did.</p> <p>16 Q And then she was saying to call again on the 16th just to</p> <p>17 make sure; is that correct?</p> <p>18 A I see that, yes.</p> <p>19 Q Was that an effort by her to help follow up and make sure</p> <p>20 that if the credit hadn't gone through yet, then maybe</p> <p>21 another extension could be placed on the account?</p> <p>22 A Asking a national account rep to call back to make sure</p> <p>23 that what she did took indicates a lack of confidence in</p> <p>24 her measures.</p> <p>25 Q Do you know whether or not it was because of a lack of</p>	<p>1 confidence in her measures and not just a attempt to make</p> <p>2 sure that this does not happen again?</p> <p>3 A I do not know what her intentions were.</p> <p>4 Q Do you know all the reasons as to why a credit may or may</p> <p>5 not take effect for a Charter account?</p> <p>6 A I cannot know all the reasons why Charter does what they</p> <p>7 do. I have no knowledge of Charter's systems.</p> <p>8 Q But as far as what was communicated to you, she was</p> <p>9 encouraging you to reach out again on the 16th so that if</p> <p>10 they needed -- Charter needed to take any further action</p> <p>11 to help ensure that it wasn't disconnected again, they</p> <p>12 could before the extension expired.</p> <p>13 MR. LARSEN: Objection. I think it's</p> <p>14 been asked and answered several times.</p> <p>15 THE WITNESS: That sounded like a</p> <p>16 statement. Was that a question?</p> <p>17 Q (By Mr. Mulligan) I'll ask a different question. Do you</p> <p>18 have any evidence or knowledge that Willette at Charter</p> <p>19 was refusing to take any other -- any steps necessary to</p> <p>20 help correct this issue?</p> <p>21 A Do I have any indication that Willette was taking steps</p> <p>22 to correct the issue? Only what is noted in this</p> <p>23 paragraph.</p> <p>24 Q I think my question may have been a little different in</p> <p>25 effect. Do you have any knowledge or information to</p>



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<p>1 conversations between billing and Spectrum.</p> <p>2 Q (By Mr. Mulligan) If you look to Page 2448.</p> <p>3 A (Witness complies.) Yes.</p> <p>4 Q Do you see the entry on May 7th, 2019 at 8:23 a.m. by</p> <p>5 Netcool?</p> <p>6 A May 7th, 8:23 a.m., Netcool. Yes.</p> <p>7 Q Is this entry indicating that the GNC's services are back</p> <p>8 up and functioning?</p> <p>9 A That is part of the alarm system that is flagging that</p> <p>10 the circuit restored.</p> <p>11 Q Does that indicate that this is the earliest it was</p> <p>12 restored, or could it have been restored earlier and</p> <p>13 Netcool is just alerting it now?</p> <p>14 A Netcool pings every five minutes.</p> <p>15 Q So this is a pretty fair indication as to when that</p> <p>16 system had been restored?</p> <p>17 A Correct.</p> <p>18 Q Do you see the -- well, for that May 2nd to May 7th</p> <p>19 disconnection, do you know whether any of GNC's services</p> <p>20 or business was interrupted as a result of the Internet</p> <p>21 being down?</p> <p>22 A I'm not privy to all the disconnections on all the</p> <p>23 accounts. I'm not sure what you're asking me.</p> <p>24 Q Well, this specific store related to --</p> <p>25 A Okay.</p>	<p>1 Q -- the ticket we were looking at between May 2nd, 2019 to</p> <p>2 when it was back up on May 7th, 2019. Do you know</p> <p>3 whether or not any of that location's business operations</p> <p>4 were interrupted as a result of the Internet going down?</p> <p>5 A I know their business operations were heavily impacted.</p> <p>6 I also recall conversations in email with GNC, and they</p> <p>7 indicated that.</p> <p>8 Q What services were being interrupted?</p> <p>9 A When Internet goes down, they are unable to function on</p> <p>10 the register. They're unable to function on their PIN</p> <p>11 pad for credit card transactions. They are unable to</p> <p>12 function on their tablet to work with the access point we</p> <p>13 provide. They have no communications via Internet at all</p> <p>14 in the store until they are able to get a backup system</p> <p>15 running.</p> <p>16 Q Do you know whether or not this GNC location had a backup</p> <p>17 system available?</p> <p>18 A It does say, on WIN 2448, Store has two temp LTE routers</p> <p>19 on site, advised store they can return those, because the</p> <p>20 Netcool system indicated the circuit was restored.</p> <p>21 Q Do you know when that store received the two temp LTE</p> <p>22 routers?</p> <p>23 A I do not.</p> <p>24 Q Do you know whether or not that store had them on site</p> <p>25 when they first experienced issues on May 2nd, 2019?</p>
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<p>1 A Let me look at the notes one moment. (Witness peruses</p> <p>2 document.) I would need to see a list of the emails from</p> <p>3 GNC to see when they asked us to configure the LTE router</p> <p>4 to send to the store.</p> <p>5 Q And those would be emails separate from this, these</p> <p>6 worklog notes?</p> <p>7 A Yes.</p> <p>8 Q Are those kept in Windstream's employees' individual</p> <p>9 email accounts?</p> <p>10 A Yes.</p> <p>11 Q Do you know whether or not Windstream employees have</p> <p>12 searched their email records for communications with GNC</p> <p>13 regarding this disconnection?</p> <p>14 A I did.</p> <p>15 Q And you produced those to the attorneys for Windstream in</p> <p>16 this case?</p> <p>17 A I did. Do you have those emails?</p> <p>18 Q Not to my recollection, but we will check into that.</p> <p>19 So Ryan Fahey's note on May 7th, 2019 where he</p> <p>20 indicates, Store has two temp LTE routers on site,</p> <p>21 advised store they can return those. Why were they</p> <p>22 encouraged to return them?</p> <p>23 A They do not want to pay for circuits they are not using.</p> <p>24 Q Who is "they"?</p> <p>25 A GNC.</p>	<p>1 Q Are you aware that the Internet service at that GNC</p> <p>2 location experienced another disconnection again on May</p> <p>3 7th, 2019?</p> <p>4 A If the Netcool indicates that, it does. May 7th at 9:28</p> <p>5 a.m. on WIN 2449, it went down again.</p> <p>6 Q So that's roughly an hour after Ryan Fahey had indicated</p> <p>7 that GNC could return the temp LTE routers?</p> <p>8 A That's roughly an hour after the Netcool system showed it</p> <p>9 was up, that the Netcool system showed it went down.</p> <p>10 Q What's the purpose of the temp LTE routers?</p> <p>11 A Backup Internet.</p> <p>12 Q Is the goal of the backup Internet to allow the customer</p> <p>13 to operate as normal until the primary Internet is</p> <p>14 restored?</p> <p>15 A Yes.</p> <p>16 Q So as far as you know, is GNC able to operate business as</p> <p>17 normal when they are operating off of the backup temp LTE</p> <p>18 routers?</p> <p>19 A It is not always business as normal. It is often a</p> <p>20 hindered manner of business because not all of their end</p> <p>21 devices are connected to the temporary routers due to the</p> <p>22 fact that the temporary routers do not have enough ports.</p> <p>23 They usually connect their registers and often their PIN</p> <p>24 pads.</p> <p>25 Q So when operating on a backup LTE router, is GNC able to</p>

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1 make all credit card sales that it may need to?  
2 A No.  
3 MR. LARSEN: Objection. Calls for  
4 speculation.  
5 Q (By Mr. Mulligan) How not?  
6 A Because Internet with cellular service is spotty and not  
7 reliable and not as reliable as landline Internet, such  
8 as this circuit was.  
9 Q Are you aware of GNC ever notifying you regarding this  
10 disconnection that it was unable to make sales while  
11 using the temp LTE routers?  
12 A I do have a document that mentions their LTE wireless  
13 router went down during this ticket.  
14 Q Would the LTE router have gone down because of anything  
15 Charter did?  
16 A No.  
17 Q Do you know when this GNC location returned the temp LTE  
18 routers?  
19 A No.  
20 Q Do you know whether or not they still had them when the  
21 Internet service went down again at 9:28 a.m. on May 7th,  
22 2019?  
23 A All I know is what is noted in this log. This log notes  
24 that they had them. It doesn't note when they had them.  
25 Q So you do not know, based on your knowledge or

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1 information, when this GNC location returned its temp LTE  
2 routers?  
3 A Correct.  
4 Q Do you see the entry on May 7th, 2019 by Jeff Trebesh,  
5 T-r-e-b-e-s-h?  
6 A On WIN 2449?  
7 Q Correct.  
8 A 9:36 a.m., yes.  
9 Q Do you know who Jeff Trebesh is?  
10 A He's a GNC employee.  
11 Q Do you understand what he's indicating when he says, User  
12 called in started Windstream, and then hook up Cisco 881?  
13 A Yes.  
14 Q What is that referring to?  
15 A "User" indicates the store called the GNC help desk.  
16 Jeff Trebesh answered. They mentioned that the  
17 Windstream circuit that they had was reconnected. They  
18 hooked up a Cisco 881 -- which was the model of their  
19 Windstream equipment, the router -- and was working for  
20 about five minutes and then went down again.  
21 So they indicated that even if the circuit Netcool  
22 at 9:28 indicated the circuit went down, at 9:36 Jeff  
23 said the store called to tell them the circuit went down  
24 and he was attempting to get it back up by power cycling  
25 the equipment, which didn't work. So he pasted the

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1 template below those notes for us to work on it further.  
2 Q Do you see on the following page, WIN 2450, the entry by  
3 Ryan Fahey on May 7th, 2019 at 10:08 a.m.?  
4 A Yes.  
5 Q And he indicates in his notes, Called LEC again and found  
6 there was still an issue with the records?  
7 A Yes.  
8 Q Do you know whether or not the LEC that he contacted was  
9 the technical support number or the national account  
10 number?  
11 A I do not. Let me check. One moment. (Witness peruses  
12 document.) It appears he called 877-892-4662, which is  
13 on WIN 2451. He paste -- he wrote that below the entry  
14 at 10:08 a.m. in a private note.  
15 Q Are you talking about the -- so on Page 2451, the one  
16 that we looked at earlier saying, Spoke with Jen, she  
17 told me the service is suspended due to the nonpayment?  
18 A Yes.  
19 Q So we had previously looked at that note earlier, and you  
20 indicated that that was a conversation you had with Jen?  
21 A This is a different note.  
22 Q If you want to take a look at Exhibit 5 for me.  
23 A (Witness complies.) Yes.  
24 Q Do you see the email from you on May 8th, 2019 on Page  
25 WIN 2339?

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1 A Oh, I do see that, yes. It is the same conversation.  
2 Q So my question is: Were you the one that had that  
3 conversation with Jen, or was it Ryan?  
4 A (Witness peruses document.) That was Ryan having that  
5 conversation, pasting it into the note log.  
6 Q So on your email on May 8th, 2019 in Exhibit 5, you're  
7 merely relaying the notes Ryan had taken?  
8 A Correct. That's why in the subject line, I wrote, Notes  
9 from the ticket disconnect.  
10 Q So were you on that call with Ryan and Jen?  
11 A (Witness peruses document.) It looks like I was on the  
12 call with Willette. Let me just verify that. (Witness  
13 peruses document.) On the 8th -- yes. As you can see on  
14 WIN 2455, I was on the call with Willette. I had two  
15 entries there. On May 7th, Ryan Fahey called and spoke  
16 with Jen.  
17 Q Okay. So you were on the May 8th call with Willette?  
18 A Mm-hmm.  
19 Q But you were not on the May 7th call with Jen?  
20 A Correct.  
21 Q So you have no personal knowledge as to what was said in  
22 that call between Ryan and Jen?  
23 A I have personal knowledge of the log notes.  
24 Q But that's merely what Ryan conveyed to you in his notes,  
25 correct?



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<p>1 A Correct.</p> <p>2 (Recess from 12:20 p.m. to</p> <p>3 12:26 p.m.)</p> <p>4</p> <p>5 EXAMINATION (Continuing)</p> <p>6 BY MR. MULLIGAN:</p> <p>7 Q Turning back to Exhibit 7 on Page WIN 2451, we were</p> <p>8 looking at that entry by Ryan Fahey on May 7th at 10:08</p> <p>9 a.m.</p> <p>10 A Yes.</p> <p>11 Q And that's when he indicated he spoke with Jen at</p> <p>12 Charter?</p> <p>13 A Spectrum. Mm-hmm.</p> <p>14 Q And then if we look to the following page, the entry by</p> <p>15 Ryan Fahey at 12:27 p.m. Do you see that entry?</p> <p>16 A Not on the following page.</p> <p>17 Q The middle of the page on 2452.</p> <p>18 A (Witness peruses document.) Oh. Yes.</p> <p>19 Q And that's at 12:27 p.m., and Ryan Fahey indicates,</p> <p>20 Called store and had them power cycle the Cisco router,</p> <p>21 service restored?</p> <p>22 A Yes.</p> <p>23 Q So based on these ticket notes, the GNC store services</p> <p>24 were only down for a little over two hours; is that</p> <p>25 correct?</p>	<p>1 A Based on the Netcool alarms -- (Witness peruses</p> <p>2 document.) It was down at 9:28 a.m. on the 7th and back</p> <p>3 up at 11:47 a.m. on the 7th. 9, 10, 11 -- it was a</p> <p>4 little over two hours when the circuit was up or down.</p> <p>5 The store is unaware when the circuit goes up or</p> <p>6 down if they're not paying attention to the light status</p> <p>7 on their equipment, so we often will call them to have</p> <p>8 them power cycle to restore their service.</p> <p>9 Q Okay. But at least as of 12:27 p.m. on May 7th after</p> <p>10 Ryan had called the store, their Internet service had</p> <p>11 been restored at that time?</p> <p>12 A Yep.</p> <p>13 Q Are you personally aware of any sales that that GNC store</p> <p>14 was unable to make as a result of their Internet being</p> <p>15 down at that time?</p> <p>16 A I don't recall.</p> <p>17 Q Has anyone ever relayed to you information to you as to</p> <p>18 whether or not that GNC store lost any sales during</p> <p>19 that --</p> <p>20 A As I mentioned before, I believe I had emails from GNC</p> <p>21 complaining about loss of business.</p> <p>22 Q Related to this specific disconnection, or could that</p> <p>23 have been about a different disconnection?</p> <p>24 A Yes, this specific disconnection.</p> <p>25 Q Do you know how much business they lost as a result of</p>
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<p>1 it?</p> <p>2 A No.</p> <p>3 Q Is GNC still a customer of Windstream's?</p> <p>4 A Yes.</p> <p>5 Q Have any of their stores cancelled their services with</p> <p>6 Windstream as a result of the disconnections we've been</p> <p>7 speaking about today?</p> <p>8 A I do not know.</p> <p>9 Q On the next page, WIN 2453, do you see the entry on</p> <p>10 May 8th, 2019 by Jonathan Fischer?</p> <p>11 A Yes.</p> <p>12 Q Who is Jonathan Fischer?</p> <p>13 A A GNC employee.</p> <p>14 Q And he indicates, Spoke with Cindy at the store, store is</p> <p>15 back down, we powercycled the router and modem, please</p> <p>16 review and store is still down.</p> <p>17 Do you see that?</p> <p>18 A I do.</p> <p>19 Q Is he indicating that the store's Internet had been</p> <p>20 disconnected or is down again?</p> <p>21 A Yes. After the word Worklog: WS, and he's addressing</p> <p>22 Windstream to let us know.</p> <p>23 Q On the next page, do you see the entry by yourself on Ma</p> <p>24 8th, 2019 at 11:10 a.m.?</p> <p>25 A Yes.</p>	<p>1 Q Do you see where you indicated, Called LEC to insist they</p> <p>2 stop disconnecting this line?</p> <p>3 A Yes.</p> <p>4 Q Who did you contact?</p> <p>5 A As indicated by the private note below this public note,</p> <p>6 I -- I contacted Jen again and spoke with Willette and --</p> <p>7 I pasted the Jen conversation and spoke with Willette.</p> <p>8 That is two paragraphs on WIN 2455.</p> <p>9 Q Do you know whether you used the same number that Ryan</p> <p>10 previously used to call Jen to speak to Willette?</p> <p>11 A I believe I did. That is why I pasted that note.</p> <p>12 Q Was Willette able to restore GNC's Internet service?</p> <p>13 A Apparently not.</p> <p>14 Q Where do you indicate that she was unable to?</p> <p>15 A I do not see a Netcool indicating that it restored at the</p> <p>16 same time as the conversation.</p> <p>17 Q Do you see your entry at 4:55 p.m. on May 8th, 2019 on</p> <p>18 Page WIN 2456?</p> <p>19 A Yes.</p> <p>20 Q Where you indicate, Spoke with Nick at 210-928-8209, he</p> <p>21 rebooted router and circuit restored?</p> <p>22 A I see that.</p> <p>23 Q Do you know whether or not the service was restored</p> <p>24 because of actions taken by Willette?</p> <p>25 A (Witness peruses document.) I do not know if that was</p>

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1 the reason why the circuit restored.  
2 Q Do you know whether or not Willette purposely delayed  
3 taking any action to restore GNC's Internet services?  
4 A I can't speculate as to her intention.  
5 Q Do you have any evidence or information to support the  
6 belief that she intentionally delayed in restoring GNC's  
7 services?  
8 A I don't have evidence as to intention.  
9 Q Do you have any information or evidence that any Charter  
10 employee at any time purposely took actions to delay  
11 restoring services to Windstream's customers?  
12 A I can't speculate as to intention.  
13 (Exhibit No. 8 marked for  
14 identification.)  
15 Q (By Mr. Mulligan) I just handed you what has been marked  
16 as Exhibit 8. It is the declaration submitted by you in  
17 connection with this lawsuit. I'll let you review, but  
18 does this Exhibit 8 contain the full declaration that you  
19 submitted in this case?  
20 A One moment. (Witness peruses document.) It appears so,  
21 yes.  
22 Q Did you write this declaration?  
23 A I signed this declaration and helped to write it.  
24 Q Was anyone else involved in authoring this declaration,  
25 other than Windstream's attorneys and yourself?

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1 MR. LARSEN: Let me also jump in.  
2 Also, other than Windstream's outside counsel. Unless  
3 you meant both.  
4 Q (By Mr. Mulligan) Any attorneys. Was there anyone else  
5 involved in drafting this declaration, other than  
6 yourself and any of Windstream's attorneys?  
7 A There's no one else who drafted it, besides myself and  
8 the legal staff.  
9 Q Were any other Windstream employees, including but not  
10 limited to Ryan Fahey, involved in assisting you in  
11 drafting this declaration?  
12 A No one assisted me in drafting it, other than the legal  
13 team and my immediate management.  
14 Q And who was the immediate management that assisted?  
15 A Joey Sheremeta.  
16 Q What involvement did Joey Sheremeta have in drafting this  
17 declaration?  
18 A Consultation.  
19 Q On what?  
20 MR. LARSEN: Let me just caution you  
21 before you answer. If that consultation came about  
22 during a call or a meeting where attorneys are present,  
23 I'm going to invoke privilege and instruct you not to  
24 answer. Likewise, if that conversation was as a result  
25 of an attorney telling Mr. Sheremeta or yourself to

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1 follow up with one another, I'm also going to invoke  
2 privilege. If neither of those situations occurred, then  
3 you can answer the question. Do you understand?  
4 THE WITNESS: I cannot answer that  
5 question.  
6 Q (By Mr. Mulligan) Did Joey Sheremeta provide you with  
7 any specific information to include in this declaration?  
8 MR. LARSEN: Same objection and same  
9 instruction, if that information was provided at the  
10 behest of counsel.  
11 THE WITNESS: I cannot answer that  
12 question.  
13 Q (By Mr. Mulligan) Is there any information in this  
14 information that's not based on your own personal  
15 knowledge and that instead had been provided to you by a  
16 different Windstream employee?  
17 A (Witness peruses document.) Not that is indicated as  
18 such in the document.  
19 Q Okay. Could we look at Paragraph 3 of your declaration.  
20 Do you see where you state, Except as otherwise  
21 indicated, all facts set forth in this declaration are  
22 based upon my personal knowledge, my discussions with  
23 other members of Windstream's management team and  
24 advisors.  
25 Do you see that portion?

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1 A Yes.  
2 Q What members other than Joey Sheremeta did you talk to in  
3 order to prepare this declaration?  
4 A What members did I speak with?  
5 Q Mm-hmm.  
6 A Members of the legal team and Joey Sheremeta.  
7 Q Were there any other Windstream employees that you talked  
8 to in preparation for this declaration?  
9 A No.  
10 Q And Paragraph 3 continues with saying, My review of  
11 relevant documents and information concerning  
12 Windstream's operations, financial affairs, and  
13 restructuring initiatives.  
14 Do you see that?  
15 A I see that.  
16 Q What documents or information did you review regarding  
17 Windstream's operations in preparing this declaration?  
18 A (Witness peruses document.) I just reviewed what was  
19 provided to me in the declaration.  
20 Q So that would be the -- I believe two documents attached  
21 to the declaration as Exhibit A and Exhibit B. Is that  
22 what you're referring to?  
23 A Yes, and all the documents that I submitted to the legal  
24 team as exhibits.  
25 Q Did you review all those documents before signing this

Page 138	Page 139
<p>1 the notes we looked at in Exhibit 7?</p> <p>2 A The view is different, because I put -- labeled whether</p> <p>3 it was public or private horizontally rather than</p> <p>4 vertically, as it is posted in Exhibit 7. So it was</p> <p>5 easier to read that way. This is a lot more similar to</p> <p>6 what we see when we open the Digital Remedy system.</p> <p>7 Q Okay. So other than tweaking the format and adding the</p> <p>8 public and private label, would this Exhibit B contain</p> <p>9 any information that is not already included in</p> <p>10 Exhibit 7?</p> <p>11 A (Witness peruses document.) No.</p> <p>12 Q Ms. Bandy, are you personally aware of any false or</p> <p>13 misleading statements that Charter has allegedly made</p> <p>14 regarding Windstream in its bankruptcy, outside of the</p> <p>15 disconnections we've discussed today?</p> <p>16 A I am aware of postcards that were mailed out, insinuating</p> <p>17 that Windstream was not a stable company.</p> <p>18 Q Have you seen any of those postcards?</p> <p>19 A I have not.</p> <p>20 Q So would it be fair to say that any information that you</p> <p>21 have regarding those false or misleading statements by</p> <p>22 Charter would be based on information that's been</p> <p>23 conveyed to you by someone else?</p> <p>24 A This information was conveyed to me by the legal team.</p> <p>25 (Exhibit No. 9 marked for</p>	<p>1 identification.)</p> <p>2 Q (By Mr. Mulligan) And just to take a step back to what</p> <p>3 you referred to as the postcards by Charter, have you</p> <p>4 been informed that the statements made by Charter</p> <p>5 conveyed that there was some uncertainty related to</p> <p>6 Windstream's business?</p> <p>7 A I do not know.</p> <p>8 Q Do you know whether or not any of the actions Charter</p> <p>9 took related to the disconnections we've discussed today</p> <p>10 were taken for the purpose of creating an appearance of</p> <p>11 uncertainty in Windstream's business?</p> <p>12 A I cannot speculate as to intention.</p> <p>13 Q Do you know whether or not any of the employees</p> <p>14 responsible for the last mile services provided to</p> <p>15 Windstream and its customers were involved with any of</p> <p>16 the allegedly false or misleading statements that Charter</p> <p>17 is alleged to have made in this case?</p> <p>18 A I cannot answer that question.</p> <p>19 Q Okay. So looking at Exhibit 9, this is the supplemental</p> <p>20 initial disclosures of Plaintiff Windstream Holdings,</p> <p>21 Inc., and affiliated debtors. Have you ever seen this</p> <p>22 document before?</p> <p>23 A No.</p> <p>24 Q If you turn to Page 4. Do you see your name listed in</p> <p>25 the second-to-last column on that page?</p>
Page 140	Page 141
<p>1 A Yes.</p> <p>2 Q And if you flip back a page, you'll see that the right</p> <p>3 column is labeled Subjects?</p> <p>4 A Yes.</p> <p>5 Q And it lists in your section that the subjects of</p> <p>6 information that you may be -- may have discoverable</p> <p>7 information on is the disconnection of Windstream</p> <p>8 customer by Charter in May 2019. Do you see that?</p> <p>9 A Yes.</p> <p>10 Q If you were called to testify in this matter at trial,</p> <p>11 are you aware of any information beyond the disconnection</p> <p>12 of Windstream customer by Charter in May 2019 that you'll</p> <p>13 be asked to testify on?</p> <p>14 MR. LARSEN: Objection. That's vague</p> <p>15 and ambiguous. And an incomplete hypothetical. I don't</p> <p>16 know how she would possibly know that now.</p> <p>17 THE WITNESS: I don't know how to</p> <p>18 answer that question.</p> <p>19 Q (By Mr. Mulligan) Do you have any personal knowledge</p> <p>20 related to any allegations in this lawsuit, beyond the</p> <p>21 disconnections that we've discussed today related to</p> <p>22 Charter and Windstream's customers?</p> <p>23 A No.</p> <p>24 Q Are you familiar with Windstream's Kinetic services?</p> <p>25 A Vaguely.</p>	<p>1 Q Do you know what color scheme is used by Windstream in</p> <p>2 connection with the Kinetic services?</p> <p>3 A No.</p> <p>4 Q Are you aware of any individuals that have been confused</p> <p>5 or misled by any mailings that Charter has sent out</p> <p>6 related to Windstream?</p> <p>7 A No.</p> <p>8 Q Do you have any personal knowledge as to any damages</p> <p>9 Windstream has suffered as a result of any actions taken</p> <p>10 by Charter?</p> <p>11 A Can you clarify the question.</p> <p>12 Q Yeah. Are you aware of any customers that Windstream has</p> <p>13 lost as a result of Charter's alleged actions in this</p> <p>14 lawsuit?</p> <p>15 A No.</p> <p>16 Q Do you have any personal knowledge as to the expenses</p> <p>17 Windstream has incurred in order to correct any actions</p> <p>18 taken by Charter in this case?</p> <p>19 A I'm aware of you sitting here and the lawyers sitting</p> <p>20 here and me sitting here, and that incurs charges.</p> <p>21 Q Beyond the fact that a lawsuit was filed, are you aware</p> <p>22 of any corrective steps, whether that be through</p> <p>23 corrective mailers or the like, that Windstream has taken</p> <p>24 to correct any actions taken by Charter?</p> <p>25 A I'm not.</p>

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1 Q Are you personally aware of any profits that Charter has  
2 received as a result of any of its alleged actions in  
3 this lawsuit?  
4 A I'm not.  
5 Q Has anyone at Windstream informed GNC that these  
6 disconnections were caused by Charter and not Windstream  
7 itself?  
8 A I do not recall.  
9 Q You don't recall one way or the other?  
10 A No.  
11 Q Is it possible that another Windstream employee has  
12 communicated that to GNC?  
13 MR. LARSEN: Objection. Calls for  
14 speculation.  
15 THE WITNESS: I could not tell you.  
16 Q (By Mr. Mulligan) This is your first deposition. If  
17 there's a long pause here, it's probably because I'm  
18 close to being done. So it's a good thing.  
19 MR. MULLIGAN: All right. I don't  
20 believe I have any further questions. I appreciate your  
21 time.  
22 THE WITNESS: Great. Thank you very  
23 much.  
24 MR. LARSEN: Hold up just a sec.  
25 MR. RAPPOPORT: I don't have any

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1 MR. MULLIGAN: Yes. I appreciate it.  
2 (Signature reserved.)  
3 (Deposition concluded at  
4 1:06 p.m.)  
5 -----  
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1 questions.  
2 MR. LARSEN: I have no questions  
3 either, but I do want to get on the record: The  
4 attorneys are going to designate the entire transcript as  
5 attorney's eyes only, pursuant to the terms of the  
6 protective order. My understanding is that the practice  
7 in this case is, once we get it, we'll have seven days to  
8 dedesignate the majority of that, but until then, that's  
9 how we're going to designate it.  
10 MR. MULLIGAN: That's fine.  
11 THE COURT REPORTER: Before we go off  
12 the record, are we going to order today?  
13 MR. MULLIGAN: Can I get a card from  
14 you. I'm not sure how the rest of the team has been  
15 doing it.  
16 MR. LARSEN: We'll need a copy of it,  
17 yes. You've got my card, right?  
18 THE COURT REPORTER: Yes.  
19 MR. RAPPOPORT: I'll get whatever  
20 their order is.  
21 MR. MULLIGAN: I'll just put in an  
22 order for an electronic. No need for a hard copy right  
23 now.  
24 THE COURT REPORTER: So just to  
25 confirm, you are ordering?

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1 A F F I D A V I T  
2  
3 STATE OF WASHINGTON )  
4 ) ss.  
5 County of Pierce )  
6  
7 I, Shonne K. Bandy, hereby declare under penalty of  
8 perjury that I have read the foregoing deposition and  
9 that the testimony contained herein is a true and correct  
10 transcript of my testimony, noting the attached  
11 corrections.  
12  
13  
14  
15 \_\_\_\_\_  
16 Shonne K. Bandy  
17  
18  
19  
20 Date: \_\_\_\_\_  
21  
22  
23  
24  
25

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1 STATE OF WASHINGTON ) I, Tracey L. Tracy, RPR, CCR, CSR  
2 ) ss a certified court reporter  
3 County of Pierce ) in the State of Washington, do  
4 hereby certify:

5 That the foregoing deposition of SHONNE K. BANDY was  
6 taken before me and completed on September 19, 2019, and  
7 thereafter was transcribed under my direction; that the  
8 deposition is a full, true and complete transcript of the  
9 testimony of said witness, including all questions, answers,  
10 objections, motions and exceptions;

11 That the witness, before examination, was by me duly  
12 sworn to testify the truth, the whole truth, and nothing but  
13 the truth, and that the witness reserved the right of  
14 signature;

15 That I am not a relative, employee, attorney or counsel  
16 of any party to this action or relative or employee of any  
17 such attorney or counsel and that I am not financially  
18 interested in the said action or the outcome thereof;

19 That I am herewith securely sealing the said deposition  
20 and promptly delivering the same to Justin P. Mulligan.

21 IN WITNESS WHEREOF, I have hereunto set my signature on  
22 the 25th day of September, 2019.

23  
24  
25

Tracey L. Tracy, RPR, CCR, CSR  
Certified Court Reporter No. 3430  
(Certification expires 04/19/20.)

DRAFT COPY



**Debtor**



**Defendants**

<p style="text-align: right;">Page 1</p> <p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>CHAPTER 11 CASE NO. 19-22312(RDD) ----- /</p> <p>In re:</p> <p>WINDSTREAM HOLDINGS, INC., et al.,</p> <p style="padding-left: 40px;">Debtors,</p> <hr style="width: 20%; margin-left: 0;"/> <p>WINDSTREAM HOLDINGS, INC., et al.,</p> <p style="padding-left: 40px;">Plaintiffs,</p> <p>vs.</p> <p>CHARTER COMMUNICATIONS, INC., and CHARTER COMMUNICATIONS OPERATING, LLC,</p> <p style="padding-left: 40px;">Defendants.</p> <p>----- /</p> <p>The videotaped 30(b)(6) deposition of FREDERICK GUNZEL in his capacity as designated corporate representative for defendants, was taken at the law offices of Wiggin and Dana, LLP, Two Stamford Plaza, Stamford, Connecticut, before Mercedes Marney-Sheldon, CT-LSR #530, a registered professional reporter in the state of Connecticut and a notary public for the State of Connecticut, on Thursday, September 19, 2019, at 5:00 p.m.</p>	<p style="text-align: right;">Page 2</p> <p>1 oOo</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 REPRESENTING THE DEBTORS/PLAINTIFFS:</p> <p>5 KATTEN MUCHIN ROSENMAN, LLP</p> <p>6 2900 K Street NW</p> <p>7 North Tower - Suite 200</p> <p>8 Washington, D.C. 20007-5118</p> <p>9</p> <p>10 BY: MICHAEL R. JUSTUS, ESQ.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 REPRESENTING THE DEFENDANTS:</p> <p>15 THOMPSON COBURN, LLP</p> <p>16 One US Bank Plaza</p> <p>17 St. Louis, Missouri 63101</p> <p>18</p> <p>19 BY: JOHN KINGSTON, ESQ.</p> <p>20</p> <p>21 BY: NINO PRZULJ, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 oOo</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 REPRESENTING THE OFFICIAL COMMITTEE and UNSECURED CREDITORS:</p> <p>5</p> <p>6 MORRISON &amp; FOERSTER, LLP</p> <p>7 250 West 55th Street</p> <p>8 New York, New York 10019-9601</p> <p>9</p> <p>10 BY: JOCELYN E. GREER, ESQ.</p> <p>11</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 SERENA PARKER</p> <p>15 Charter Communications, Inc.</p> <p>16 ADAM VENURINI, Videographer</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 oOo</p> <p>2 ----- I N D E X -----</p> <p>3 TESTIMONY OF: MATTHEW KARDOS</p> <p>4 EXAMINATIONS PAGE</p> <p>5 Direct by Mr. Justus 7</p> <p>6 Cross by Mr. Kingston 31</p> <p>7 Redirect by Mr. Justus 73</p> <p>8 Recross by Mr. Kingston 74</p> <p>9 Redirect by Mr. Justus 74</p> <p>10 ----- INFORMATION REQUEST -----</p> <p>11 PAGE</p> <p>12 REQUESTS: Request by Mr. Justus to mark Exhibit 45 as "Confidential" 16</p> <p>13</p> <p>14 INSTRUCTION TO WITNESS: (None)</p> <p>15</p> <p>16 INFORMATION TO BE FURNISHED: (None)</p> <p>17</p> <p>18 STIPULATIONS: (None)</p> <p>19</p> <p>20 MOTIONS: (None)</p> <p>21</p> <p>22 MARKED FOR RULING: (None)</p> <p>23</p> <p>24 ----- E X H I B I T S -----</p> <p>25 MARKED FOR IDENTIFICATION PAGE</p> <p>Exhibit 44 12</p> <p>E-mail string labeled Charter 020848 - 020852</p> <p>Exhibit 45 15</p> <p>Letter referencing three disconnects of Windstream customers (Marked "Confidential")</p> <p>Exhibit 46 17</p> <p>E-mail string labeled Charter 45203 - 45206</p>

Page 5	
1	oOo
2	----- INDEX CONTINUED -----
3	----- E X H I B I T S -----
4	MARKED FOR IDENTIFICATION PAGE
5	Exhibit 47 20
6	E-mail labeled Charter 020839
7	Exhibit 48 45
8	Multi-page document captioned "Notice of Chapter 11 Bankruptcy Case."
9	
10	Exhibit 49 58
11	E-mail from Charter to Windstream seeking information about last-mile accounts
12	Exhibit 50 60
13	Multi-page document
14	Exhibit 51 63
15	Correspondence from Mr. Ross to others
16	
17	
18	
19	
20	
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23	
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1 F. Gunzel - 9/19/2019

2 behalf of defendants. With me are Serena

3 Parker and Nino Przulj.

4 THE VIDEOGRAPHER: Will the court

5 reporter please swear in the witness.

6 FREDERICK JOHN GUNZEL

7 called as a witness, having been first duly

8 sworn by a Notary Public of the State of

9 Connecticut, was examined and testified as

10 follows:

11 - - -

12 DIRECT EXAMINATION

13 - - -

14 BY MR. JUSTUS:

15 Q. Okay. Thank you.

16 Mr. Gunzel, can you please state your

17 full name for the record.

18 A. Frederick John Gunzel.

19 Q. Can you spell Gunzel, please.

20 A. G-U-N-Z-E-L.

21 Q. And are you currently an employee of

22 Charter?

23 A. I am.

24 Q. And what is your job title?

25 A. Vice president of enterprise

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1 F. Gunzel - 9/19/2019

2

3 THE VIDEOGRAPHER: This is tape 1.

4 We are now on the record at 5:12 p.m.,

5 Thursday September 19th, 2019. This is

6 the 30(b)(6) deposition of Frederick

7 Gunzel in the matter of Windstream

8 Holdings and Charter. This deposition is

9 being held at the law offices of Wiggin

10 and Dana, LLP, located at 2 Stamford

11 Plaza, Stamford, Connecticut 06901.

12 The court reporter is Mercedes Marney

13 with US Legal. I'm the legal

14 videographer, Adam Venturini also with US

15 Legal.

16 Would counsel please introduce

17 themselves and state whom they represent.

18 MR. JUSTUS: Michael Justus of

19 Katten, on behalf of Windstream and its

20 affiliated debtors and debtors in

21 possession.

22 MS. GREER: Jocelyn Greer of Morrison

23 & Foerster, on behalf of the official

24 committee of unsecured creditors.

25 MR. KINGSTON: John Kingston on

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1 F. Gunzel - 9/19/2019

2 planning.

3 Q. And what does enterprise planning

4 entail?

5 A. The department or my job

6 specifically?

7 Q. Either. I'm just trying to get a

8 general sense.

9 A. Sure, yeah. So, you know, enterprise

10 is a business unit of Charter, or Spectrum

11 Enterprise. And the planning function really is

12 the finance function. And there's a lot of

13 things that go along with it. There's FP-

14 (indiscernible).

15 (Admonishment by the Court Reporter.)

16 THE COURT REPORTER: "And there's a

17 lot of things that go along with" --

18 THE WITNESS: With that function.

19 So there's your classic financial

20 planning and analysis group. There's

21 billing and collections. There is

22 marketing and planning. There's also deal

23 support.

24 And then there's, you know, some

25 other operational functions that go with



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1 F. Gunzel - 9/19/2019  
2 that.  
3 BY MR. JUSTUS:  
4 Q. And it's mostly related to financial  
5 matters? Is that what it does?  
6 A. It is, yeah. You know, Spectrum  
7 calls it planning, but it's really -- at any  
8 other company, it would be the financing team.  
9 Q. Okay. And how long have you been  
10 with Charter?  
11 A. With Charter, three years. Charter  
12 purchased Time Warner Cable, as you're aware, so  
13 I was --  
14 (Clarification requested by the Court  
15 Reporter.)  
16 THE WITNESS: With Charter three  
17 years.  
18 Charter purchased Time Warner Cable.  
19 Three years ago, I was with Time Warner.  
20 So all in 10 years.  
21 BY MR. JUSTUS:  
22 Q. Okay. And how long have you been in  
23 your current role?  
24 A. Three years.  
25 Q. Are you based in Charter's Stamford

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1 F. Gunzel - 9/19/2019  
2 office?  
3 A. Yes.  
4 Q. Okay. All right.  
5 MR. JUSTUS: And, John, I understand  
6 that Mr. Gunzel is here on topics 11 and  
7 25, both of which relate to the Spectrum  
8 business value-added seller agreement.  
9 Do I have that right?  
10 MR. KINGSTON: Yes, I think that's  
11 right.  
12 MR. JUSTUS: Okay.  
13 BY MR. JUSTUS:  
14 Q. So, Mr. Gunzel, when I say the  
15 Spectrum business value-added seller agreement  
16 that involves Windstream, do you know what I'm  
17 talking about?  
18 A. I do.  
19 Q. Okay. So the questions I want to ask  
20 you are actually very straightforward. It's  
21 really one topic. And the topic is, under that  
22 agreement, from the time that Windstream filed  
23 bankruptcy -- filed for bankruptcy protection  
24 until now, there have been some disconnections of  
25 service through some Windstream customers under

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1 F. Gunzel - 9/19/2019  
2 that agreement, the value-added agreement.  
3 So most of what I'm going to ask you  
4 is just how many of those disconnections have  
5 occurred and when, and things like that. Just  
6 straightforward factual matters.  
7 So let me start and tell you what I  
8 think I know, and you can correct me if I'm  
9 wrong. I think that's the quickest and easiest  
10 way to do it.  
11 A. Sure.  
12 Q. So I understand that around  
13 March 15th there was a weekend, and there were  
14 about 295 disconnections; is that right?  
15 A. I have it at 289.  
16 Q. 289.  
17 A. But your timeline is accurate.  
18 Q. Okay. And then thereafter, there was  
19 another disconnection in April; is that right?  
20 A. There were four after that --  
21 Q. Okay.  
22 A. -- that spanned, I think, April, May.  
23 Q. Okay. Were there any disconnections  
24 under that agreement with Windstream in June?  
25 A. Not that I'm aware of.

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1 F. Gunzel - 9/19/2019  
2 Q. How about July?  
3 A. Not that I'm aware of.  
4 Q. How about August?  
5 A. Not that I'm aware of.  
6 Q. And September to date?  
7 A. Not that I'm aware of.  
8 Q. And would you be aware if any had  
9 occurred?  
10 A. Absolutely.  
11 Q. So we can safely say none June, July,  
12 August, September?  
13 A. Yes.  
14 Q. Okay.  
15 Okay. I'm just going to quickly show  
16 you a couple documents relating to disconnects,  
17 and make sure that the ones I have here are  
18 reflected in the numbers you just gave me.  
19 MR. JUSTUS: Can we please mark this  
20 as 44.  
21 (Plaintiffs' Exhibit Number 44 was  
22 marked for identification, as of this  
23 date.)  
24 BY MR. JUSTUS:  
25 Q. Just go ahead and take a look at

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1 F. Gunzel - 9/19/2019  
2 Exhibit 44, and let me know when you're ready.  
3 A. (Witness reviews document.)  
4 Okay.  
5 Q. Does this --  
6 MR. JUSTUS: And Exhibit 44, for the  
7 record, is e-mails, Charter 020848 through  
8 020852.  
9 BY MR. JUSTUS:  
10 Q. Mr. Gunzel, do you recognize this  
11 e-mail string to relate to a disconnect of a  
12 Windstream customer under that value-added seller  
13 agreement we talked about?  
14 A. I don't. This appears to be a  
15 cancellation of a new connect, and not a  
16 disconnect.  
17 Q. Can you walk me through the  
18 difference? I don't know --  
19 A. I'm just -- there's not a lot of  
20 detail. Why was this order rejected is the --  
21 you know, the second page? Is there an issue?  
22 There's nothing -- you know what? I  
23 missed the back. Opportunity number and SRO.  
24 I'm on, I guess, the back page.  
25 Q. So 20851 --

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1 F. Gunzel - 9/19/2019  
2 I -- I don't recall. But definitely one in  
3 Florida and one in Texas.  
4 Q. Okay. And the 289 figure for the  
5 March 15th weekend --  
6 A. Yeah.  
7 Q. -- how was that number calculated?  
8 A. I have a list of the accounts  
9 specifically and I add them up.  
10 Q. So you personally added up --  
11 A. Yes.  
12 Q. -- a list of accounts that --  
13 A. I add every --  
14 Q. -- had a disconnect issue.  
15 A. Correct.  
16 THE COURT REPORTER: If you could let  
17 him finish --  
18 THE WITNESS: I'm sorry.  
19 THE COURT REPORTER: -- before you  
20 answer.  
21 MR. JUSTUS: Okay. Please mark this  
22 as Exhibit 45.  
23 (Plaintiffs' Exhibit Number 45 was  
24 marked for identification, as of this  
25 date.)

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1 F. Gunzel - 9/19/2019  
2 A. Then we go into why was this order --  
3 our schedule -- the e-mails are -- so our  
4 scheduling, this is coming from Windstream had  
5 placed -- at least the way it appears to me,  
6 Windstream had placed an order for a new connect.  
7 And this looks like initially it was rejected.  
8 We said, no, we're canceling the order. It looks  
9 like it got resolved, but this has nothing to do  
10 with the disconnect, and everything to do with a  
11 new connect.  
12 Q. Why was it rejected? Does it say  
13 here?  
14 A. I don't know.  
15 Q. Okay. So this would not have been  
16 counted in the four disconnects in April and May  
17 that you noted?  
18 A. No. No. This would not have been  
19 active at that time.  
20 Q. Okay. I guess before we get to this  
21 next exhibit, let me ask first, the four  
22 disconnects in April and May, do you recall what  
23 geographic areas those occurred in?  
24 A. I believe one was in Florida; one was  
25 in Texas. The other two, off the top of my head,

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1 F. Gunzel - 9/19/2019  
2 BY MR. JUSTUS:  
3 Q. Just go ahead and look at it. Let me  
4 know when you're ready.  
5 A. (Witness reviews document.)  
6 MR. JUSTUS: And we designate  
7 Exhibit 45 confidential for the record.  
8 REQ  
9 BY MR. JUSTUS:  
10 Q. I'll go ahead and represent to you  
11 I'm not going to ask you about the legal  
12 positions taken in this letter, just the facts of  
13 the three listed disconnects.  
14 A. Okay.  
15 Q. Okay. Ready?  
16 A. Yeah.  
17 Q. All right. As I understand it, this  
18 letter references three disconnects of Windstream  
19 customers.  
20 On the first page it references a  
21 May 16th, 2019, disconnect of last-mile  
22 connectivity at Signature Healthcare in Ohio.  
23 Is that one of the four April, May  
24 disconnects that you had referenced prior?  
25 A. It is, yeah.

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<p>1 F. Gunzel - 9/19/2019</p> <p>2 Q. Okay.</p> <p>3 A. All three of these are in that group?</p> <p>4 Q. So we have one Ohio, one New York,</p> <p>5 and one Florida?</p> <p>6 A. Right.</p> <p>7 Q. And so you had said definitely</p> <p>8 Florida and Texas. So the other two are Ohio and</p> <p>9 New York?</p> <p>10 A. Okay.</p> <p>11 Q. Well, I'm asking: Does that sound</p> <p>12 right?</p> <p>13 A. It -- yes.</p> <p>14 Q. And the Texas disconnect is not</p> <p>15 referenced in this letter?</p> <p>16 A. It is not.</p> <p>17 Q. Okay.</p> <p>18 MR. JUSTUS: Can you please mark this</p> <p>19 as 46.</p> <p>20 (Plaintiffs' Exhibit Number 46 was</p> <p>21 marked for identification, as of this</p> <p>22 date.)</p> <p>23 BY MR. JUSTUS:</p> <p>24 Q. Just go ahead and take a look, and</p> <p>25 let me know when you're ready.</p>	<p>1 F. Gunzel - 9/19/2019</p> <p>2 A. (Witness reviews document.)</p> <p>3 MR. JUSTUS: And Exhibit 46, for the</p> <p>4 record, is e-mails, Charter 45203 to</p> <p>5 45206.</p> <p>6 THE WITNESS: (Witness reviews</p> <p>7 document.)</p> <p>8 Okay.</p> <p>9 BY MR. JUSTUS:</p> <p>10 Q. Okay. So Exhibit 46 are e-mails</p> <p>11 dated between May 8th and -- well, they're all</p> <p>12 from May 8th; is that right?</p> <p>13 A. That appears to be correct.</p> <p>14 Q. Okay. Do you read this e-mail string</p> <p>15 as referencing a disconnect of a Windstream --</p> <p>16 A. I do.</p> <p>17 Q. -- or more than one, perhaps?</p> <p>18 A. It's just one.</p> <p>19 Q. Just one.</p> <p>20 A. There's a single account number being</p> <p>21 referenced on the second page.</p> <p>22 Q. Okay. So on 45204, on the bottom</p> <p>23 right corner, that page number?</p> <p>24 A. Yeah.</p> <p>25 Q. There's a single account number.</p>
Page 19	Page 20
<p>1 F. Gunzel - 9/19/2019</p> <p>2 A. Uh-huh.</p> <p>3 Q. And the subject line of these e-mails</p> <p>4 say, "Spectrum disconnect three times in error."</p> <p>5 A. Uh-huh.</p> <p>6 Q. Does that mean the same account was</p> <p>7 disconnected three times?</p> <p>8 A. It does.</p> <p>9 Q. On the same day or does it not say?</p> <p>10 A. It doesn't say.</p> <p>11 Q. Okay. So this was in May.</p> <p>12 So do you know which one of the four</p> <p>13 May disconnects we've talked about that this</p> <p>14 relates to?</p> <p>15 A. Based on the account number, this is</p> <p>16 the Texas one.</p> <p>17 Q. Okay. So there we have it.</p> <p>18 So other than the 289 disconnects in</p> <p>19 March, that we've talked about, and the four</p> <p>20 additional disconnects in April and May, each of</p> <p>21 which we've now talked about, you're not aware of</p> <p>22 any other disconnects?</p> <p>23 A. I'm not aware of any other</p> <p>24 disconnects.</p> <p>25 Q. And you would likely know.</p>	<p>1 F. Gunzel - 9/19/2019</p> <p>2 A. Let me clarify. I'm not aware of any</p> <p>3 other non-pay disconnects.</p> <p>4 If a customer calls in and</p> <p>5 voluntarily disconnects, they call Windstream and</p> <p>6 they say I'm disconnecting from you voluntarily,</p> <p>7 sure, that can happen.</p> <p>8 Q. Is non-pay the only type of</p> <p>9 involuntary disconnect?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. All right.</p> <p>12 MR. JUSTUS: Please mark this as</p> <p>13 Exhibit 47.</p> <p>14 (Plaintiffs' Exhibit Number 47 was</p> <p>15 marked for identification, as of this</p> <p>16 date.)</p> <p>17 BY MR. JUSTUS:</p> <p>18 Q. Please let me know when you're ready.</p> <p>19 MR. JUSTUS: For the record,</p> <p>20 Exhibit 47 is e-mail Charter 020839.</p> <p>21 THE WITNESS: (Witness reviews</p> <p>22 document.)</p> <p>23 Okay.</p> <p>24 BY MR. JUSTUS:</p> <p>25 Q. Okay. So Exhibit 47 has an e-mail</p>

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1 F. Gunzel - 9/19/2019  
2 from May 9th and an e-mail from May 16th, right?  
3 A. Uh-huh.  
4 Q. The May 9th e-mail is from Tasha  
5 Bonds-Yates (ph.) --  
6 A. Yes.  
7 Q. -- to Tim Laughlin?  
8 A. Yes.  
9 Q. Do you know who those two people are?  
10 A. I do.  
11 Q. And they are both Charter employees?  
12 A. They are.  
13 Q. And are they within the same job  
14 function as you?  
15 A. Similar.  
16 Q. Within the finance function?  
17 A. They really are account receivable  
18 management for our SMB types of clients.  
19 Q. For the small business clients?  
20 A. Small biz.  
21 Q. As opposed to residential?  
22 A. Well, no. They have residential and  
23 small biz. We consider that cable ops.  
24 (Clarification requested by the Court  
25 Reporter.)

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1 F. Gunzel - 9/19/2019  
2 THE WITNESS: Cable ops.  
3 So think of them as tactical for  
4 collections.  
5 BY MR. JUSTUS:  
6 Q. Okay. It says, "New approval" -- in  
7 the May 9th e-mail it says, "New approval  
8 request. Please reply with your approval to move  
9 forward with quarantined bankruptcy protections  
10 for SMB accounts."  
11 So what does that refer to?  
12 A. So as a company, we have a lot of  
13 rules that go into not overcounting our  
14 describers, because we're publicly traded.  
15 And all of our billing systems are  
16 designed that if you get to a certain point in  
17 debt, especially on the SMB and residential  
18 customer base, they go down automatically. The  
19 billing system -- you hit a certain level of  
20 debt, you have not paid your bill, the billing  
21 system is designed to soft disconnect you and  
22 take your services down, for a variety of  
23 reasons.  
24 The quarantine really is taking this  
25 group of customers that we've identified through

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1 F. Gunzel - 9/19/2019  
2 a lot of work and saying, okay, for these ones,  
3 because of the bankruptcy, we're going to treat  
4 them different. We're not going to disconnect  
5 them automatically.  
6 Q. And so this is referring to  
7 Windstream customers --  
8 A. Correct.  
9 Q. -- under the Spectrum value-added  
10 services agreement? Okay.  
11 And so prior to -- well, let's go to  
12 the May 16th e-mail at the top. It just says  
13 "approved."  
14 A. Uh-huh.  
15 Q. So on or after May 16th, this  
16 quarantined protection went into effect?  
17 A. Correct.  
18 Q. Do you know when it went into effect?  
19 A. Specifically no.  
20 Q. Was it something that would take a  
21 long time to implement?  
22 A. So Windstream has approximately 14  
23 and a half thousand service accounts with  
24 Charter. So it would have taken some time to do  
25 that, but it's not like we're going into every

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1 F. Gunzel - 9/19/2019  
2 account individually and doing it. There's  
3 macros that are run, and things can be updated in  
4 the billing system via macro for large  
5 populations of accounts.  
6 Sorry. Things can be updated via  
7 macro for large populations of accounts.  
8 BY MR. JUSTUS:  
9 Q. Was that process complete today?  
10 A. It is complete today. It didn't  
11 complete today, but it is complete as of today.  
12 Q. As of today it's completed?  
13 A. Correct.  
14 Q. Do you know when it was completed?  
15 A. I don't.  
16 Q. Ballpark?  
17 A. I don't.  
18 Q. And so prior to May 16th, there was  
19 no quarantine protection in place?  
20 A. There was the risk. We were at that  
21 point, I think, had gathered all of the accounts  
22 together and had identified them. And that  
23 was -- you know, it's one thing to have the  
24 mechanics to take them out of the collections  
25 mix, but you need to know who to take out.

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1 F. Gunzel - 9/19/2019  
2 So I think part of the reason why it  
3 took a while to get done was just identifying all  
4 the individual accounts and billing and making  
5 sure we had the correct population.  
6 Q. And when did that process begin?  
7 A. That kicked off as soon as we got the  
8 bankruptcy order.  
9 Q. And which order do you mean? Sorry.  
10 There's been several.  
11 A. I guess the one that was -- the one  
12 that was distributed on or around February 25th.  
13 We started searching through to gather --  
14 Q. Once Windstream filed for bankruptcy?  
15 A. Correct.  
16 Q. And then it took from that time in  
17 February until May 9th to finish the process; is  
18 that right?  
19 A. I don't know if it's right, but that  
20 timing sounds in the ballpark.  
21 Q. And what was the process for trying  
22 to identify the Windstream customers that needed  
23 to be quarantined?  
24 A. Sure. So, you know, Windstream  
25 doesn't go by just Windstream, as you know.

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1 F. Gunzel - 9/19/2019  
2 Windstream goes by a lot of different --  
3 (Admonishment by the Court Reporter.)  
4 A. Windstream doesn't go by just  
5 Windstream. Windstream has a lot of companies  
6 that they've purchased and merged with over the  
7 years.  
8 Part of our research came from  
9 initially going through and, you know, searching  
10 for Windstream and Windstream subsidiaries to get  
11 the names.  
12 Part of it came from, we had gotten  
13 information back from legal saying here is the  
14 complete list of Windstream and Windstream  
15 affiliates.  
16 Then we essentially have a billing --  
17 we have billing systems. We have seven of them.  
18 And then we have a CRM called sales  
19 force. And between the billers and CRM, it was  
20 query searching anything under those names that  
21 we could find.  
22 We did get a list back from  
23 Windstream that identified approximately 4500  
24 accounts.  
25 We had gotten that back when we were

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1 F. Gunzel - 9/19/2019  
2 in the middle of our process, and we had  
3 already -- already identified well over 10,000.  
4 So we knew that their list was relatively  
5 incomplete.  
6 So it was a lot of hard work to get  
7 them identified and then flagged to take them out  
8 of the collection schemes.  
9 Q. Okay. Going back to the May 9th  
10 e-mail where it says "summary." Still on the  
11 same Exhibit 47.  
12 A. Oh, I'm sorry. Yes.  
13 Q. It says, "Summary: Due to the recent  
14 Windstream bankruptcy, there have been some  
15 inefficiencies identified in our bankruptcy  
16 process to properly protect accounts from further  
17 collection actions during bankruptcy automatic  
18 stays."  
19 And so what were the inefficiencies  
20 identified?  
21 A. So our billing system is, like I  
22 said, designed to disconnect if you don't pay.  
23 It's automatic. Especially on these types of  
24 accounts. Once you hit a certain, you know, day  
25 mark and a certain debt, it just takes your

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1 F. Gunzel - 9/19/2019  
2 service down. I would say that's the  
3 inefficiency. It's not designed to keep people  
4 up if they owe us money. It's designed to  
5 disconnect you if you owe us money.  
6 Q. So as a result of this process, has  
7 that feature been disabled, or is that feature  
8 still in place, the automatic disconnect?  
9 A. For any other account, it's in place.  
10 But the Windstream accounts, the quarantine  
11 really speaks to we can flag an account to say  
12 treat it differently.  
13 Q. And so the 289 disconnects in March,  
14 was that as a result of the automatic disconnect  
15 process?  
16 A. Absolutely.  
17 Q. How about the four in April and May?  
18 A. No. Those were -- all four of those  
19 were relatively unique situations, every single  
20 one of them.  
21 One, there was -- well, maybe more  
22 than one. At least two, there were charges  
23 applied to an account that should have never been  
24 applied to those accounts. You could consider  
25 those post petition charges. So in reality, I

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1 F. Gunzel - 9/19/2019  
2 think, you know, they were fair game.  
3 However, understanding the  
4 relationship with Windstream, we didn't want to  
5 touch anything. So there were charges placed on  
6 accounts that shouldn't have been, and that  
7 triggered disconnects.  
8 The other two, I can't remember the  
9 specifics on it, but it wasn't a matter of, you  
10 know, we hadn't -- it was probably a matter of we  
11 had not found them yet, those other two.  
12 Q. So they were not added to the  
13 quarantine list --  
14 A. Right. So what we do is, you know,  
15 we work within what's called a parent-child  
16 billing relationship (indiscernible) with our  
17 billers --  
18 (Clarification requested by the Court  
19 Reporter.)  
20 THE WITNESS: A parent-child billing  
21 relationship.  
22 And think of that as an account that  
23 bills. And then underneath that, there's  
24 several thousand accounts that provide the  
25 service. So the only place the dollars go

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1 F. Gunzel - 9/19/2019  
2 is to the account that bills. The other  
3 ones provide service.  
4 So two of those or one of those or  
5 some of those were not aligned properly  
6 into this parent-child hierarchy. So we  
7 couldn't find them.  
8 In addition, they had names like --  
9 nothing to do with Windstream or any of  
10 its subsidiaries or affiliates. So they  
11 could not be identified properly to flag  
12 them.  
13 BY MR. JUSTUS:  
14 Q. Okay. Thank you.  
15 MR. JUSTUS: Okay. I will pass the  
16 witness, John.  
17 MR. KINGSTON: Let me use the  
18 restroom, and I will have a little bit of  
19 redirect.  
20 MR. JUSTUS: Okay. Go off the  
21 record.  
22 Is five minutes okay?  
23 THE VIDEOGRAPHER: Off the record at  
24 5:41 p.m.  
25 (Off the record.)

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1 F. Gunzel - 9/19/2019  
2 THE VIDEOGRAPHER: We are back on the  
3 record at 5:45 p.m.  
4 CROSS-EXAMINATION  
5 -- --  
6 BY MR. KINGSTON:  
7 Q. Mr. Gunzel, tell me your role with  
8 respect to the Windstream value-added reseller  
9 contract.  
10 A. So my role related to Windstream, the  
11 value-added reseller contract is really --  
12 because the relationship is split between  
13 different services, Windstream has services under  
14 SMB and Windstream has services under enterprise.  
15 Enterprise is primarily fed by a  
16 fiber-based service. SMB is fed by a  
17 coax-based fiber service.  
18 (Clarification requested by the Court  
19 Reporter.)  
20 THE WITNESS: SMB is fed by a  
21 coax-based fiber service -- coax-based  
22 service.  
23 But because it's kind of a hybrid  
24 relationship with two types of services,  
25 the AR management, the accounts receivable

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1 F. Gunzel - 9/19/2019  
2 management, falls under me and my team for  
3 the entire relationship.  
4 BY MR. KINGSTON:  
5 Q. So if somebody were to decide to  
6 disconnect Windstream services for failure to pay  
7 a debt, would that be you?  
8 A. Yes, it would.  
9 Q. And at any time since February of  
10 2019, have you instructed that Windstream  
11 services be disconnected for not paying a debt?  
12 A. I have not.  
13 Q. You testified earlier about the fact  
14 that billing systems are geared towards  
15 disconnecting customers that don't pay  
16 automatically.  
17 Do you recall that, sir?  
18 A. I do.  
19 Q. I want to talk to you a little bit  
20 about why that is.  
21 Can we do that?  
22 A. Sure.  
23 Q. Are one of the data points that  
24 telecom companies and cable companies provide to  
25 their -- provide to the public, subscriber



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1 F. Gunzel - 9/19/2019  
2 accounts?  
3 A. Correct. Charter considers them PSU  
4 accounts, primary service unit, but it's the same  
5 thing. It's the account of our customer base.  
6 Q. And so the PSUs are -- from  
7 10,000 feet, would that be sort of picking an  
8 individual subscriber and chop her up into the  
9 services that she purchases?  
10 So if I'm a Charter subscriber and I  
11 have telephone and Internet, that would be two  
12 PSUs?  
13 A. Correct.  
14 Q. Okay. And just because it's easier  
15 for me to think in terms of subscribers, I'm  
16 going to talk about subscriber accounts.  
17 Does that make sense?  
18 A. That's fine.  
19 Q. And you understand that entities like  
20 Charter and Windstream and other entities report  
21 their subscribers to the general public?  
22 A. I do.  
23 Q. And they -- and is it true that the  
24 subscriber accounts are reported to the general  
25 public with the understanding that people may

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1 F. Gunzel - 9/19/2019  
2 decide to purchase or sell shares in the company  
3 that's reporting those subscriber accounts?  
4 A. Yes.  
5 Q. So one of the things you're looking  
6 at if you're thinking about buying stock is what  
7 do the subscriber numbers look like?  
8 A. Absolutely.  
9 Q. And the reason that people who are  
10 considering buying and selling stock are  
11 interested in what -- how many subscribers you  
12 have is because each subscriber represents a  
13 revenue stream that may continue going forward;  
14 isn't that right?  
15 A. Correct.  
16 Q. And it's important not to mislead  
17 people who are considering buying your stock.  
18 Can we agree with that?  
19 A. I agree with that.  
20 Q. And if you identify as a subscriber  
21 somebody who is not paying you, is there a  
22 possibility of misleading people who are buying  
23 your stock?  
24 A. Yes.  
25 Q. And if you're saying, hey, I have

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1 F. Gunzel - 9/19/2019  
2 this many subscribers but a bunch of those  
3 subscribers aren't paying, they think that you  
4 have a revenue stream that you don't actually  
5 have?  
6 A. That is correct.  
7 Q. And one way that you could  
8 artificially inflate -- or that a company could  
9 artificially inflate its subscribers account is  
10 by declining to disconnect customers who stop  
11 paying?  
12 A. That is correct.  
13 Q. And it is true that in decades  
14 passed, officers of companies have actually gone  
15 to prison for declining to disconnect subscribers  
16 who stopped paying?  
17 A. Correct.  
18 Q. And they went to prison for  
19 securities fraud?  
20 A. They did.  
21 Q. And so because it's important not to  
22 identify non-paying customers as subscribers,  
23 Charter's billing systems are geared towards  
24 automatically disconnecting people who don't pay?  
25 A. Yes.

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1 F. Gunzel - 9/19/2019  
2 Q. And is that unusual or usual in the  
3 cable and telecommunications industry?  
4 A. In my experience, that's the norm.  
5 That's usual.  
6 Q. And it makes sense for that to be the  
7 norm because everybody in this industry would  
8 like to avoid --  
9 MR. KINGSTON: I'm sorry.  
10 BY MR. KINGSTON:  
11 Q. And it would make sense for that to  
12 be the norm because everybody in this industry  
13 would like to avoid committing securities fraud?  
14 A. Absolutely.  
15 Q. Okay. And so that's the reason  
16 why -- or one of the reasons why Charter's  
17 billing systems are geared towards automatically  
18 disconnecting customers that don't pay?  
19 A. Yes.  
20 Q. I want to talk to you about whether  
21 or not Charter's billing systems are complicated  
22 or simple.  
23 Can we do that, sir?  
24 A. Yes.  
25 Q. Charter is -- hasn't been the same

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1 F. Gunzel - 9/19/2019  
2 company since 1999, have they?  
3 That's a bad question. Do you mind  
4 if I start over, sir?  
5 A. Please.  
6 Q. Charter bought Time Warner, true?  
7 A. True.  
8 Q. Charter bought another company called  
9 Bright House?  
10 A. Correct.  
11 Q. And both Time Warner and Bright House  
12 were themselves amalgamations --  
13 THE COURT REPORTER: I --  
14 MR. KINGSTON: Amalgamation isn't a  
15 good word?  
16 THE COURT REPORTER: No, it's just  
17 too fast. I'm tired.  
18 MR. KINGSTON: That's okay. Tell me  
19 every single time. I --  
20 MR. JUSTUS: I like when he goes  
21 fast.  
22 THE COURT REPORTER: No, I want to  
23 get out of here too.  
24 BY MR. KINGSTON:  
25 Q. Mr. Gunzel, do you mind if we take

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1 F. Gunzel - 9/19/2019  
2 various mergers, did they have one billing system  
3 or multiple billing systems?  
4 A. Multiple. Time Warner cable had  
5 four, five -- five. Charter had one, but they  
6 had different slices of that one, so that's six.  
7 And then Bright House had two.  
8 Q. And so after the various mergers, all  
9 of those varied billing systems were kind of  
10 cobbled together?  
11 A. Cobbled is a good word, yes.  
12 Q. And how many employees are able to  
13 put in an entry that would ultimately result in a  
14 disconnection of service for nonpayment in  
15 those -- how many billing systems?  
16 A. Eight.  
17 Q. Across those eight billing systems,  
18 how many employees are capable of making an entry  
19 that would ultimately result in a disconnection?  
20 A. Over 25,000. I think in total,  
21 Charter has 96,000 employees, give or take. The  
22 folks that are identified as customer operations  
23 or customer care is approximately 25,000.  
24 Q. So there's roughly 25,000 customer  
25 care employees?

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1 F. Gunzel - 9/19/2019  
2 another run at that?  
3 A. I do not mind.  
4 Q. So time Warner, before it was  
5 purchased by Charter, was an amalgamation of  
6 companies?  
7 A. Correct.  
8 Q. And it was an amalgamation of  
9 companies that all had their own billing systems?  
10 A. Yes.  
11 Q. And Bright House, before it was  
12 purchased by Charter, was itself an amalgamation  
13 of companies?  
14 A. To a lesser extent, yes.  
15 Q. And to a lesser extent, it had a  
16 variety of billing systems within Bright House as  
17 well?  
18 A. It did.  
19 Q. And Charter, before it bought those  
20 companies, was itself an amalgamation; is that  
21 true?  
22 A. Lesser so, but still Charter had --  
23 legacy Charter had its own issues similar.  
24 Q. All right. And did each of those  
25 amalgamations before they were joined in the

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1 F. Gunzel - 9/19/2019  
2 A. Correct.  
3 Q. And those -- among those 25,000  
4 customer care employees, generally, any of them  
5 can make an entry that would ultimately result in  
6 a disconnection of service?  
7 A. They could.  
8 Q. And so it's very easy for service to  
9 be disconnected within these cobbled-together  
10 billing systems?  
11 A. Yes.  
12 Q. And is the fact that it's very easy  
13 for these services to be disconnected in these  
14 cobbled-together billing systems --  
15 (Clarification requested by the Court  
16 Reporter.)  
17 BY MR. KINGSTON:  
18 Q. -- cobbled-together billing systems,  
19 consistent with the notion that one shouldn't  
20 count as subscribers people who aren't paying you  
21 in the telecom and cable industry?  
22 A. Yes.  
23 Q. I want to talk about February and  
24 March of 2019, starting in February, when Charter  
25 received the notice of bankruptcy for Windstream.



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1 F. Gunzel - 9/19/2019  
2 Can we do that, sir?  
3 A. Yes.  
4 Q. Excuse me just one moment.  
5 (Pause.)  
6 BY MR. KINGSTON:  
7 Q. So when Charter first received  
8 Windstream's notice of bankruptcy, it knew that  
9 there were thousands of accounts being serviced  
10 under the last-mile contract?  
11 A. Uh-huh. Yes.  
12 Q. And those thousands of accounts that  
13 Charter was aware of that were being serviced  
14 under the last-mile contract, that wasn't all of  
15 the accounts that ultimately we've uncovered; is  
16 that true?  
17 A. That is true.  
18 Q. And are those accounts listed under a  
19 single name, or are they listed under multiple  
20 names?  
21 A. Multiple names.  
22 Q. All right. Well, tell me a little  
23 bit more about that. So I -- how is it that  
24 accounts under the last-mile contract are listed  
25 under multiple names?

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1 F. Gunzel - 9/19/2019  
2 A. To step through the entire billing  
3 relationship, as I mentioned before, there's  
4 approximately 14,500 individual service accounts  
5 within those eight different billing systems.  
6 Those roll up to approximately 105 individual  
7 billing accounts.  
8 So we have 105 accounts that are  
9 billing, covering 14,500 service accounts.  
10 Q. I want to talk -- I'm going to stop  
11 you and talk a little bit about the difference  
12 between a billing account and a service account.  
13 What's a billing account?  
14 A. Windstream does not want 14,500  
15 individual bills from us. They would like,  
16 preferably, one bill with 14,500 lines that they  
17 can reconcile. So when we bill out large-account  
18 relationships like this, we align the service  
19 accounts with a master billing account so we can  
20 provide that service to the end-point customer.  
21 Q. So there would be a single billing  
22 account that would be the account that is charged  
23 and pays the bills, and below that account would  
24 be dozens or hundreds of service accounts, all of  
25 which receive service, but none of which are ever

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1 F. Gunzel - 9/19/2019  
2 billed --  
3 A. Correct.  
4 Q. -- is that a fair description?  
5 A. That is fair.  
6 Q. And are occasionally the billing  
7 accounts referred to as "parent accounts"?  
8 A. Yes.  
9 Q. And the service accounts would be  
10 referred to as "child accounts"?  
11 A. Child accounts.  
12 Q. Okay. And in cable, as in life, the  
13 parent accounts pay all the bills and the child  
14 accounts run up all the bills?  
15 A. Correct.  
16 Q. And so the services -- so in the  
17 ordinary course, whether they're referred to as a  
18 child account or a service account, those are  
19 accounts that would never be charged?  
20 A. That is correct.  
21 Q. And because they would never be  
22 charged, they would never be in arrears? They  
23 would never be -- they would never not pay -- or  
24 they would never -- do you mind if I start that  
25 over, sir?

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1 F. Gunzel - 9/19/2019  
2 A. Yes, certainly.  
3 Q. Because those accounts would never be  
4 charged, they would never -- or they should not  
5 ever be late on making payments?  
6 A. Not correct. Because, you know,  
7 within the parent account, you know, we know  
8 which -- which accounts underneath the parent  
9 account are billing and what it is.  
10 When a payment comes into the larger  
11 parent account, it's distributed across all the  
12 child accounts. They bill and roll up, payment  
13 goes down, and then so on and so forth.  
14 So things like a one-time charge, an  
15 individual charge, shouldn't ever get applied to  
16 a child account. And all the billing rolls from  
17 the child account to the parent.  
18 Q. So if a one-time charge were applied  
19 to a child account, that would be the result of a  
20 data entry error?  
21 A. It's a mistake, yeah. It would never  
22 go there.  
23 Q. And so it would be possible for a  
24 one-time charge to be plugged into a child, or  
25 service account, if one of these 25,000 customer

1 F. Gunzel - 9/19/2019  
2 care employees made a data entry error?  
3 A. Absolutely.  
4 Q. Okay. So in February of 2019, when  
5 Windstream filed for bankruptcy, sometime  
6 thereafter Charter received a notice of  
7 bankruptcy?  
8 A. Yes.  
9 MR. KINGSTON: Ms. Marney, I'm going  
10 to mark this as Exhibit 48.  
11 (Plaintiffs' Exhibit Number 48 was  
12 marked for identification, as of this  
13 date.)  
14 BY MR. KINGSTON:  
15 Q. And is -- Mr. Gunzel, you've been  
16 handed Exhibit 48, which is a multi-page document  
17 captioned "Notice of Chapter 11 Bankruptcy Case."  
18 Do you recognize Exhibit 48, sir?  
19 A. I do.  
20 Q. And is that the notice of bankruptcy  
21 that Charter eventually received from Windstream  
22 in February -- or February 2019?  
23 A. It is.  
24 Q. And I see 205 different names on that  
25 notice of bankruptcy.

1 F. Gunzel - 9/19/2019  
2 Q. So as far as the time spent in terms  
3 of labor hours on the Charter side, identifying  
4 and protecting Windstream last-mile accounts so  
5 that they wouldn't be turned off if Windstream  
6 didn't pay its bills, that was more than 1800  
7 hours -- excuse me, 1,800 hours?  
8 A. 1,800 hours.  
9 Q. And that was for your team, but --  
10 but was your team the only one working on it?  
11 A. It was not.  
12 Q. Do you know how many hours the other  
13 team -- or an estimate of how many hours the  
14 other team spent on it?  
15 A. I would estimate about the same.  
16 Q. So a fair estimate of the amount of  
17 time that Charter employees have spent ensuring  
18 that Windstream last-mile accounts are not  
19 disconnected would be somewhere in the  
20 neighborhood of 3600 hours?  
21 A. 3,600 hours.  
22 Q. Now, you talked about coaxial  
23 accounts and enterprise accounts.  
24 Do you recall that, sir?  
25 A. I do.

1 F. Gunzel - 9/19/2019  
2 A. I agree.  
3 Q. And those are -- if I turn a few  
4 pages, do you see a variety of other names used  
5 in the last -- in the last eight years?  
6 A. I do.  
7 Q. And is that another 79 additional  
8 names?  
9 A. Without counting them, I would say  
10 approximately yes.  
11 Q. And so did Charter need to search  
12 among these thousands of parent and child  
13 accounts for all of these 280 names?  
14 A. Charter did.  
15 Q. And that was across -- so Charter had  
16 to search for all of those 280 names across all  
17 of these thousands of parent and child accounts  
18 across seven discreet billing systems?  
19 A. Correct.  
20 Q. Was that a time-consuming process?  
21 A. It was very time consuming. There  
22 were several teams on it. My team alone spent  
23 roughly 1800 hours doing that search, and  
24 gathering up as many of these accounts as  
25 possible.

1 F. Gunzel - 9/19/2019  
2 Q. And are coaxial accounts, accounts  
3 that can be automatically disconnected if there  
4 is a non-pay situation?  
5 A. Yes.  
6 Q. Walk me through how that happens.  
7 A. So within the telecommunications  
8 industry, your services need to be provisioned.  
9 Provisioning means we turn you on and you get the  
10 services that you're paying for, whether it be  
11 for your high-speed data, your voice, or your  
12 video. The billing system is the tool that  
13 provisions this, these services, and turns them  
14 on or off.  
15 The billing system -- these are for  
16 coax products. So if, you know, you set up the  
17 billing system, in a way, to say, if a customer  
18 is past due 60 days, turn them off automatically,  
19 the billing system has the power to turn that  
20 account off.  
21 Q. And is one of the reasons why that  
22 automatic process would be in place is to avoid  
23 counting non-paying customers as subscribers?  
24 A. That is correct.  
25 Q. And so this automatic disconnect

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1 F. Gunzel - 9/19/2019  
2 scheme, was that in place for the accounts that  
3 were disconnected in -- last-mile accounts that  
4 were disconnected in around March 15?  
5 A. Yes. They were still on a scheme  
6 that turned them off automatically, and they had  
7 debt.  
8 Q. And so around March 15 -- so it  
9 wasn't as if somebody made the decision, we need  
10 to turn these accounts off sometime in March of  
11 2019?  
12 A. Nobody made that decision. They were  
13 already on that path. They had debt. They hit a  
14 time limit, and the billing system automatically  
15 turned them off.  
16 Q. And so for those accounts not to have  
17 been turned off, they would have been placed into  
18 some sort of protective status?  
19 A. Correct.  
20 Q. Walk me through how the accounts are  
21 placed in protective status.  
22 A. So what automatically disconnects an  
23 account is what's called a scheme in the billing  
24 system. Executives in the companies define the  
25 rules saying, okay, that scheme has to do a

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1 F. Gunzel - 9/19/2019  
2 individual account one at a time. We are saying,  
3 okay, here's a list of 500 accounts in this  
4 billing system. In this geography, move them  
5 from this scheme to this scheme.  
6 Q. Okay. And so identifying those  
7 accounts and moving them from a regular  
8 collection scheme to a protected scheme, that was  
9 part of the work that went into the estimated  
10 3600 hours of work that Charter has spent trying  
11 to ensure that Windstream last-mile customers  
12 aren't disconnected?  
13 A. That is correct.  
14 Q. Okay. And so as of March 15 of 2019,  
15 had Charter been able to identify, among all the  
16 thousands of Windstream accounts, the roughly  
17 200 -- all of the accounts associated with the  
18 roughly 280 names on the notice of bankruptcy?  
19 A. I would say no. I was comfortable  
20 with what we had identified by mid-April, knowing  
21 that we were doing it based on these larger  
22 parent relationships.  
23 However, the couple examples that  
24 came out earlier on the four that happened after  
25 that fact, they were not associated with a parent

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1 F. Gunzel - 9/19/2019  
2 couple of things. Maybe at day 30 we send that  
3 customer a letter saying, you're past due. Day  
4 45 triggers an alert to a rep to place a phone  
5 call. And then at day 60, it automatically  
6 triggers a disconnect.  
7 That's an example of a non-pay  
8 disconnect scheme. And it's a program that runs  
9 against the billing system.  
10 We have a different scheme that would  
11 be considered a VIP scheme, that would still have  
12 the -- send them a letter, would still have  
13 the -- trigger a rep to call them.  
14 But the third one, disconnects you,  
15 would be taken out of that program.  
16 Q. And so would the -- to avoid  
17 disconnection, would the Windstream accounts have  
18 to be manually moved into those sort of schemes?  
19 A. Manually in -- well, it would never  
20 be automatic, because you first have to identify  
21 the group of customers that you want to place on  
22 those VIP schemes.  
23 Now, once we have those groups of  
24 customers, we can build a list and then run  
25 what's called a macro. So we're not going in an

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1 F. Gunzel - 9/19/2019  
2 or they had, you know, some kind of an oddity  
3 with the account that drove them to a disconnect.  
4 I think at this point, we've  
5 identified customers that are not even on this  
6 list that are associated with Windstream. And  
7 we've done that via web searches, industry  
8 paperwork, those sort of things, looking back at,  
9 okay, who has Windstream purchased over the  
10 years. And I think at this point, I'm  
11 comfortable that we've captured them, all of  
12 them.  
13 Q. All right. So roughly 3600 hours  
14 later, we feel comfortable that we've identified  
15 all of the last-mile Windstream accounts and  
16 protected them?  
17 A. That's correct.  
18 Q. And among the accounts that we've  
19 identified and protected include accounts that  
20 aren't connected to debtors identified on the  
21 notice of bankruptcy?  
22 A. Correct. And it could be something  
23 as simple as, you know, this list, Broadview  
24 Networks of Massachusetts.  
25 (Clarification requested by the Court

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1 F. Gunzel - 9/19/2019  
2 Reporter.).  
3 THE WITNESS: Broadview Networks of  
4 Massachusetts.  
5 That might be identified in our tools  
6 and systems as, you know, Broadview period  
7 or Broadview networks of some place else.  
8 So we've got to go through and do  
9 things like that.  
10 There's another one on here called  
11 ARC Networks, and this one sticks out. We  
12 always found that as just ARC, not the  
13 "networks" part.  
14 (Clarification requested by the Court  
15 Reporter.)  
16 THE WITNESS: There's a subsidiary on  
17 here called ARC Networks. I said this one  
18 sticks out because I remember dealing with  
19 this one.  
20 In every piece of information we  
21 have, it's just listed as ARC.  
22 BY MR. KINGSTON:  
23 Q. I want to talk to you about some --  
24 during the same time frame -- well, let me back  
25 up.

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1 F. Gunzel - 9/19/2019  
2 Do you mind if I start over?  
3 A. Sure.  
4 Q. Since -- since Windstream notified  
5 Charter that it was in bankruptcy in February of  
6 2019, has Windstream's -- has Windstream been  
7 late, slow, or slow in paying?  
8 A. They have.  
9 We -- part of the reason to identify  
10 all the accounts was to track very carefully  
11 their pre-petition balance and their  
12 post-petition balance, understanding anything  
13 prepetition we can't touch. We have to keep a  
14 careful eye on that to make sure that we don't  
15 disconnect as a result of a pre-petition balance,  
16 and understanding that the pre-petition balance  
17 is locked down --  
18 (Clarification requested by the Court  
19 Reporter.)  
20 THE WITNESS: Sorry.  
21 And understanding that the  
22 pre-petition balance is locked down and it  
23 won't grow.  
24 What that leaves is the post-petition  
25 balance.

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1 F. Gunzel - 9/19/2019  
2 Windstream with Spectrum bills about  
3 \$3.4 million a month. And it's their  
4 obligation, at least from my  
5 understanding, the rules is that they have  
6 to maintain payment of that post-petition  
7 balance.  
8 BY MR. KINGSTON:  
9 Q. So whatever Windstream owed before  
10 filing its notice of bankruptcy, that's to be  
11 sorted out in the bankruptcy --  
12 A. Correct.  
13 Q. -- but as Windstream continues to run  
14 up bills in the neighborhood of \$3 million a  
15 month, the expectation is that those would be  
16 paid?  
17 A. That is the expectation.  
18 So we had --  
19 Q. Go ahead.  
20 Has reality matched up with that  
21 expectation?  
22 A. Not in every case. We had three  
23 examples between March and August where their  
24 balance doubled as a result of not paying on  
25 time. So in April -- well, think of it this way.

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1 F. Gunzel - 9/19/2019  
2 Their post-petition balance should always be  
3 around \$3.4 million. It should always be a  
4 single month of billing.  
5 In April, their post-petition balance  
6 was \$5.7 million, so approximately \$2.3 million  
7 over. In May, their post-petition balance was  
8 \$6.7 million, approximately \$3.3 million over.  
9 In July, their post-petition balance was  
10 \$5.9 million, approximately \$2.4 million over.  
11 Q. So in April, Windstream was -- had  
12 \$2.3 million that was 60 days overdue?  
13 A. That is correct.  
14 Q. And in May, Windstream had  
15 \$3.3 million that was 60 days past due?  
16 A. Yes.  
17 Q. And in July -- in June?  
18 A. July.  
19 Q. In July, Windstream had \$2.4 million  
20 that was 60 days past due?  
21 A. Yes.  
22 Q. And for April, May, and for all those  
23 millions of dollars that were past due in April,  
24 May, and July, that was all post petition?  
25 A. That is all post petition.

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1 F. Gunzel - 9/19/2019

2 MR. JUSTUS: I'm going to go ahead

3 and object to this line of questioning as

4 beyond the scope and irrelevant.

5 BY MR. KINGSTON:

6 Q. And at any point when Windstream

7 was -- these millions of dollars more than 60

8 days -- or at 60 days past due, did you instruct

9 anybody to disconnect any services --

10 A. I did not, no.

11 Q. Okay. You referenced a disconnect in

12 Clearwater, Florida, a Windstream account?

13 A. Yes.

14 Q. Was that because of a network outage?

15 A. I do believe that one was a network

16 outage.

17 Q. Okay. There was a disconnect of a --

18 an account in -- let me back up.

19 Do you have an understanding as to

20 whether or not Charter reached out to Windstream

21 seeking assistance in identifying last-mile

22 accounts so those accounts can be placed in

23 protective status?

24 A. I do.

25 Q. And did Charter reach out to

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1 F. Gunzel - 9/19/2019

2 Q. And I read -- is that -- who is Chris

3 Czekaj?

4 A. Chris Czekaj is one of the sales

5 leaders within our strategic channel.

6 Q. And Mr. Czekaj's last name is spelled

7 C-Z-E-K-A-J; is that correct?

8 A. That is correct.

9 Q. And I read Mr. Czekaj's April 17,

10 2019, correspondence in the second paragraph as

11 follows: "Following up on our conversation on

12 April 5, 2019, Spectrum business, again, requests

13 that Windstream provides a full list of all end

14 users with Spectrum coax-based services. We will

15 compare your site list against our records. If

16 any sites previously not identified are found in

17 your site list, we will apply protections against

18 service interruptions due to nonpay to these

19 sites."

20 Have I read that correctly?

21 A. Yes.

22 Q. And so is generally the idea

23 Windstream -- give us your list so we can compare

24 it to our list and make sure everybody is

25 protected?

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1 F. Gunzel - 9/19/2019

2 Windstream?

3 A. Charter did reach out to Windstream

4 to have their list.

5 MR. KINGSTON: 49?

6 THE COURT REPORTER: Uh-huh.

7 MR. KINGSTON: Ms. Marney is

8 marking --I do that to you every time.

9 I'll stop. I'm sorry.

10 (Plaintiffs' Exhibit Number 49 was

11 marked for identification, as of this

12 date.)

13 MR. KINGSTON: Can I borrow your copy

14 for a moment? I'll return it in just a

15 second.

16 (Off the record discussion.)

17 BY MR. KINGSTON:

18 Q. Mr. Gunzel, directing your attention

19 to Exhibit 49. I read that to be an

20 electronic-mail message from somebody at Charter

21 to somebody at Windstream seeking information

22 about last-mile accounts.

23 Have I correctly identified

24 Exhibit 49?

25 A. Yes.

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1 F. Gunzel - 9/19/2019

2 A. Yes.

3 (Plaintiffs' Exhibit Number 50 was

4 marked for identification, as of this

5 date.)

6 BY MR. KINGSTON:

7 Q. Mr. Gunzel, Ms. Marney has handed you

8 Exhibit 50, which is a multi-page document. It's

9 a -- includes an electronic mail message from

10 Terrence Ross, counsel for Windstream, to John

11 Kingston, Brian Hockett, and copying a number of

12 other lawyers.

13 Have I correctly described

14 Exhibit 50?

15 A. Yes.

16 Q. And I read the first sentence of --

17 I'm going to direct your attention, sir, to

18 Mr. Ross's April 18 e-mail.

19 A. Okay.

20 Q. I read the first sentence of

21 Mr. Ross's e-mail as follows: "The attached

22 letter was sent yesterday by an employee of your

23 client, Charter Communications, Chris Czekaj, to

24 an employee of our client, Windstream Holdings,

25 Jeanne Dale."

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1 F. Gunzel - 9/19/2019  
2 Have I read that correctly?  
3 A. Yes.  
4 Q. And is Ms. Dale's name spelled  
5 J-E-A-N-N-E, D-A-L-E?  
6 A. Yes.  
7 Q. And if you look to the very last page  
8 of Exhibit 50, do you see the letter in question?  
9 A. I do.  
10 Q. All right. And then directing your  
11 attention back to the first page, I read Mr. Ross  
12 to continue: "As you will see, the letter does  
13 not relate to routine, day-to-day operational  
14 issues, rather it directly relates to an issue in  
15 the adversary proceeding between our respective  
16 clients. Indeed, it is the subject of  
17 interrogatory number 1 propounded by Charter to  
18 Windstream in this litigation."  
19 Have I read that correctly?  
20 A. You have.  
21 Q. Was it your understanding that  
22 Charter propounded an interrogatory to Windstream  
23 seeking the identities of all the last-mile  
24 customers so those customers could be protected?  
25 A. I don't recall that -- neither

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1 F. Gunzel - 9/19/2019  
2 interrogatory or propounded, no.  
3 Q. So that was a conversation you  
4 weren't involved in at Charter -- or, excuse  
5 me -- yeah, at Charter?  
6 A. I was not.  
7 Q. All right. I read Mr. Ross's next  
8 line as follows: "It is inappropriate for your  
9 client to directly contact our client on issues  
10 that are the subject of this litigation."  
11 Have I read that correctly?  
12 A. Yes.  
13 Q. And so I read that to be Windstream's  
14 lawyer telling Charter don't have your clients  
15 talk to our client about the last-mile customer  
16 list.  
17 Do you read it the same way, sir?  
18 A. I do.  
19 Q. Mr. Ross continues: "Indeed, I  
20 specifically told you yesterday during our call  
21 that I understood your request relating to last  
22 mile customers and I would address it."  
23 Have I read that correctly?  
24 A. You have.  
25 MR. JUSTUS: John, I just object that

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1 F. Gunzel - 9/19/2019  
2 the document speaks for itself.  
3 MR. KINGSTON: Very good.  
4 MR. JUSTUS: -- he hasn't seen it, we  
5 don't need to read it into the record.  
6 BY MR. KINGSTON:  
7 Q. Let me ask you this question. Does  
8 having all the correspondence and communications  
9 related to identifying the last-mile customers  
10 funneled through lawyers make it easier or harder  
11 to quickly identify and protect those customers?  
12 A. Much harder.  
13 (Plaintiffs' Exhibit Number 51 was  
14 marked for identification, as of this  
15 date.)  
16 BY MR. KINGSTON:  
17 Q. Mr. Gunzel, Ms. Marney has handed you  
18 a document that's been labeled Exhibit --  
19 THE COURT REPORTER: 51.  
20 BY MR. KINGSTON:  
21 Q. -- 51. Exhibit 51 appears to be  
22 correspondence from Mr. Ross to Mr. Kingston and  
23 Mr. Hockett, again, copying some other attorneys.  
24 Do you see that, sir?  
25 A. I do.

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1 F. Gunzel - 9/19/2019  
2 Q. And I will just direct your attention  
3 to the first paragraph where Mr. Ross states as  
4 follows:  
5 "On or about February 26, 2019, Adam  
6 Zonville (ph.) of Windstream provided the  
7 attached Excel spreadsheet to Carrie Taylor (ph.)  
8 at Charter. We believe that this spreadsheet  
9 contains the names of all last-mile customers at  
10 Windstream serviced by Charter and known to  
11 Windstream as of that date.  
12 "As you know, Windstream has not been  
13 allowed to add any new last-mile customers after  
14 February 28, 2019. Accordingly, this list should  
15 relatively reliable."  
16 Have I read that correctly, sir?  
17 A. You have.  
18 Q. Do you know the list that's being  
19 referred to there?  
20 A. I do.  
21 Q. How many customers were identified on  
22 that list?  
23 A. Approximately 4500.  
24 Q. And that's approximately 10,000 fewer  
25 than the accounts that Charter was able to



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1 F. Gunzel - 9/19/2019  
2 identify?  
3 A. Correct.  
4 Q. And do you agree with the assertion  
5 that the list is relatively reliable?  
6 A. I don't.  
7 Q. And to your knowledge, has Windstream  
8 ever provided a more complete list than that  
9 which was provided on February 28 of 2019 -- or,  
10 excuse me, February 26 of 2019, as referenced in  
11 Mr. Ross's e-mail?  
12 A. Not to my knowledge. There was not a  
13 second list.  
14 Q. By declining to provide Charter with  
15 a list of customers -- of last-mile customers,  
16 did Windstream make it easier or harder for  
17 Charter to identify and protect those customers  
18 from disconnection?  
19 MR. JUSTUS: Object to form.  
20 THE WITNESS: Harder.  
21 BY MR. KINGSTON:  
22 Q. The GNC disconnect in Texas was not  
23 on the list provided by -- of 4500 accounts  
24 provided by Windstream; isn't that true, sir?  
25 A. That is true.

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1 F. Gunzel - 9/19/2019  
2 Q. And was that in April or May? I  
3 can't recall.  
4 A. I believe...  
5 May.  
6 Q. And so in May of 2019, a single GNC  
7 location was accidentally disconnected because one  
8 of 25,000 employees accidentally applied a charge  
9 to an account to which a charge should never be  
10 applied?  
11 A. Correct.  
12 Q. Okay. And at the time that that GNC  
13 account was disconnected in May of 2019,  
14 Windstream was 60 days past due on \$3.3 million?  
15 A. That is correct.  
16 Q. Did you ever give any -- anybody any  
17 instructions to disconnect Windstream or any part  
18 of Windstream because of that \$3.3 million in  
19 post-petition debt that was 60 days past due?  
20 A. I did not.  
21 Q. And the \$120 truck-roll charge that  
22 was accidentally applied to the GNC account, was  
23 that a post-petition truck-roll charge?  
24 A. That was a post-petition truck-roll  
25 account.

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1 F. Gunzel - 9/19/2019  
2 Q. The Physicians Healthcare disconnect  
3 referenced in Ohio was an account that also was  
4 not on the list of accounts provided by  
5 Windstream?  
6 A. That is correct.  
7 Q. The CityMD disconnect that has been  
8 identified by Windstream, that one was also not  
9 on the list of 4500 accounts provided by  
10 Windstream; is that true?  
11 A. That is true.  
12 Q. Okay. With respect to the GNC  
13 account in Texas, was that account disconnected  
14 because one of the 25,000 employees -- customer  
15 care employees accidentally applied a one-time  
16 truck-roll charge --  
17 (Clarification requested by the Court  
18 Reporter.)  
19 BY MR. KINGSTON:  
20 Q. -- truck-roll charge to a service  
21 account?  
22 A. Yes.  
23 Q. And so what's a truck-roll charge?  
24 A. It's a fee for us to send a service  
25 technician to your location for repair.

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1 F. Gunzel - 9/19/2019  
2 Q. So just to summarize for the GNC  
3 account in Texas, it was never identified by  
4 Windstream on its list of accounts, true?  
5 A. True.  
6 Q. It was a post-petition \$120  
7 truck-roll charge?  
8 A. True.  
9 Q. The truck-roll charge of \$120 was  
10 accidentally applied to a Windstream service  
11 account by one of Charter's 25,000 customer care  
12 employees?  
13 A. True.  
14 Q. And at that time, there had been no  
15 instruction from you to take any steps to  
16 disconnect Windstream customers -- or Windstream  
17 last-mile customers despite the fact that  
18 Windstream was, at that time, 60 days past due on  
19 \$3.3 million of post-petition debt?  
20 A. Correct.  
21 Q. Okay. The Signature Healthcare  
22 account in Ohio, was that also the product of a  
23 one-time charge being accidentally applied to a  
24 child or service account?  
25 A. I don't know.

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1 F. Gunzel - 9/19/2019  
2 Q. At the time that the Signature  
3 Healthcare account was disconnected, was that  
4 disconnect the product of any order that you  
5 gave?  
6 A. It was not.  
7 Q. Was it the product of an accidental  
8 error by one of the 25,000 Charter employees?  
9 A. Most likely.  
10 Q. At that time -- when was the  
11 Signature Healthcare one? That was May of 2019?  
12 I have it.  
13 A. You have it?  
14 Q. If you direct your attention to  
15 Exhibit 45, you see reference to a May 16, 2019,  
16 disconnect?  
17 A. Yeah, I got it.  
18 Q. So let me ask you, Mr. Gunzel, if you  
19 weren't going to disconnect Windstream for being  
20 60 days past due on \$3.3 million, would you  
21 disconnect Windstream for a couple hundred  
22 dollars that were a one-time charge to Signature  
23 Healthcare?  
24 MR. JUSTUS: Object to form.  
25 THE WITNESS: I would not.

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1 F. Gunzel - 9/19/2019  
2 BY MR. KINGSTON:  
3 Q. Was the Signature Healthcare  
4 disconnection an accident or on purpose?  
5 A. It was an accident.  
6 Q. Was the Signature Healthcare  
7 disconnect an attempt to collect a debt?  
8 A. It was not.  
9 Q. And, I guess, likewise, there was a  
10 CityMD disconnect in June.  
11 Was the CityMD disconnect in June an  
12 accident or on purpose?  
13 A. It was an accident.  
14 Q. In June of 2019, how much money was  
15 Windstream owing in post-petition debt that was  
16 60 days past due?  
17 A. Nothing in June; however, in July  
18 there was 2.4 million.  
19 Q. Okay. Was the June disconnect  
20 authorized or ordered by you?  
21 A. Was not.  
22 Q. Was the June disconnect an effort to  
23 collect a debt?  
24 A. It was not.  
25 Q. It was an accident among one of

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1 F. Gunzel - 9/19/2019  
2 25,000 different employees?  
3 A. Yes.  
4 Q. Giving your -- given that Charter  
5 provides services to Windstream's last-mile  
6 customers, does Charter know when those customers  
7 cancel their service with Windstream?  
8 A. Only after Windstream communicates  
9 with us.  
10 Q. All right. So if a customer -- if a  
11 last-mile customer leaves Windstream, Windstream  
12 will notify you that that account needs to be  
13 turned off?  
14 A. Correct.  
15 Q. Has Windstream notified you that any  
16 last-mile customer accounts need to be turned  
17 off?  
18 A. Not that I'm aware of.  
19 Q. So as far as Charter's aware, the  
20 number of customers that Windstream has lost  
21 through the last-mile -- so as far as Charter's  
22 aware --  
23 (Clarification requested by the Court  
24 Reporter.)  
25 MR. KINGSTON: Why don't I start that

Page 72

1 F. Gunzel - 9/19/2019  
2 over.  
3 BY MR. KINGSTON:  
4 Q. Mr. Gunzel, do you mind if I do that?  
5 A. I do not.  
6 Q. So as far as Charter is aware, the  
7 number of last-mile customers that Windstream has  
8 lost related to disconnects is zero?  
9 A. Related to non-pay disconnects. They  
10 could have lost customers related to voluntary  
11 disconnects.  
12 Q. So as far as Charter is aware, the  
13 number of customers that Windstream has lost  
14 because of non -- non-paid disconnects under the  
15 last-mile contract is zero?  
16 A. Correct.  
17 Q. All right. And Charter services  
18 14,000-plus accounts --  
19 A. Yes.  
20 Q. -- under the last-mile contract?  
21 A. Yes.  
22 Q. If the last-mile contract is  
23 terminated, will service to those 14,000-plus  
24 customers be discontinued?  
25 A. It would be.



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1 F. Gunzel - 9/19/2019  
2 MR. KINGSTON: I pass the witness.  
3 REDIRECT EXAMINATION  
4 -- --  
5 BY MR. JUSTUS:  
6 Q. Could you please get Exhibit 50 in  
7 front of you, please. Thank you.  
8 A. Okay.  
9 Q. You have Exhibit 50 in front of you?  
10 A. I do.  
11 Q. So this April 18th e-mail from my  
12 partner, Terry Ross, I believe you testified that  
13 this made it harder for your team to do its job  
14 of identifying the last-mile customers; is that  
15 right?  
16 A. I did.  
17 Q. And you also testified earlier that  
18 by mid-April, you were comfortable that you had  
19 already identified almost all of the last-mile  
20 customers, right?  
21 A. I did.  
22 MR. JUSTUS: Pass the witness.  
23 RECROSS-EXAMINATION  
24 -- --  
25

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1 F. Gunzel - 9/19/2019  
2 BY MR. KINGSTON:  
3 Q. Going back to these March of 2019 --  
4 March 15, 2019, disconnects, do you recall our  
5 discussion on that sir?  
6 A. I do.  
7 Q. Were those small business customers?  
8 A. They were.  
9 Q. And so those weren't residential  
10 customers?  
11 A. No.  
12 Q. So direct mailing that went to  
13 residential customers would not have gone to any  
14 of the customers that were disconnected in --  
15 around March 15 of 2019?  
16 A. I can't answer that.  
17 Q. Okay.  
18 MR. KINGSTON: I pass the witness.  
19 MR. JUSTUS: Okay. I do have one  
20 more question.  
21 FURTHER DIRECT EXAMINATION BY MR. JUSTUS  
22 -- --  
23 BY MR. JUSTUS:  
24 Q. All of the disconnects that occurred  
25 that we talked about today, that's all small

Page 75

1 F. Gunzel - 9/19/2019  
2 business customers?  
3 A. Yes.  
4 Q. So no residential customers had  
5 disconnect issues?  
6 A. No.  
7 MR. JUSTUS: I pass the witness.  
8 MR. KINGSTON: We'll read and sign.  
9 MR. JUSTUS: So subject to the one  
10 issue holding it open as to the contract  
11 buyouts --  
12 MR. KINGSTON: Yes, sir.  
13 MR. JUSTUS: -- then we're done.  
14 MR. KINGSTON: I think you preserved  
15 that with the last one.  
16 And we can go off.  
17 THE VIDEOGRAPHER: Okay. We're off  
18 the record at 6:33 p.m.  
19 (At 6:33 p.m., the record was  
20 closed.)  
21 (The witness reserved the right to  
22 read and sign the deposition transcript.)  
23 \* \* \* \* \*  
24  
25

Page 76

1 oOo  
2 C E R T I F I C A T E  
3  
4 S T A T E O F C O N N E C T I C U T )  
5 ) ss.  
6 C O U N T Y O F N E W H A V E N )  
7 I, MERCEDES MARNEY-SHELDON, a court reporter  
8 within the state of Connecticut, and a notary public  
9 for the State of Connecticut, do hereby certify:  
10 That FREDERICK GUNZEL, the witness whose  
11 deposition is hereinbefore set forth, was duly sworn  
12 by me, and that such deposition is a true record of  
13 the testimony given by the witness.  
14 I further certify that I am not employed by nor  
15 related to any of the parties to this action by  
16 blood or marriage, and that I am in no way  
17 interested in the outcome of this matter.  
18 IN WITNESS WHEREOF, I have hereunto set my hand  
19 this 3rd day of October, 2019.  
20  
21  
22  
23 Mercedes Marney-Sheldon - Shorthand Reporter  
24 Notary Public - State of Connecticut  
25 Account Number: 167303  
Date Appointed: 08/07/2014  
Expiration Date: 08/31/2023

1 oOo  
2 J U R A T  
3  
4 STATE OF CONNECTICUT )  
 ) ss.  
5 COUNTY OF \_\_\_\_\_ )  
6  
7  
8 I, FREDERICK GUNZEL, the witness herein,  
9 having read the foregoing testimony of the pages of  
10 this deposition, do hereby certify it to be a true  
11 and correct transcript, subject to corrections, if  
12 any, shown on the attached page(s).  
13  
14  
15 \_\_\_\_\_  
16 FREDERICK GUNZEL  
17  
18  
19  
20 Subscribed and sworn to before me this  
21 \_\_\_\_\_ day of \_\_\_\_\_, 2019  
22  
23  
24 \_\_\_\_\_  
25 Notary Public

1 oOo  
2 ERRATA SHEET  
3 CASE: In re: WINDSTREAM HOLDINGS, INC., et al;  
4 WINDSTREAM HOLDINGS, INC., et al., v.  
5 CHARTER COMMUNICATIONS, INC., et al.  
6 WITNESS: FREDERICK GUNZEL  
7 DEPOSITION DATE: SEPTEMBER 19, 2019  
8 PAGE LINE  
9  
10 | | CHANGE: \_\_\_\_\_  
11 REASON: \_\_\_\_\_  
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**Debtor**



**Defendants' Designations and Counter Designations**

<p style="text-align: right;">Page 1</p> <p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>CHAPTER 11 CASE NO. 19-22312(RDD) ----- /</p> <p>In re:</p> <p>WINDSTREAM HOLDINGS, INC., et al.,</p> <p style="padding-left: 40px;">Debtors,</p> <hr style="width: 20%; margin-left: 0;"/> <p>WINDSTREAM HOLDINGS, INC., et al., Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>CHARTER COMMUNICATIONS, INC., and CHARTER COMMUNICATIONS OPERATING, LLC,</p> <p style="padding-left: 40px;">Defendants. ----- /</p> <p>The videotaped 30(b)(6) deposition of MATTHEW KARDOS, in his capacity as designated corporate representative for defendants, was taken at the law offices of Wiggin and Dana, LLP, Two Stamford Plaza, Stamford, Connecticut, before Mercedes Marney-Sheldon, CT-LSR #530, a registered professional reporter in the state of Connecticut and a notary public for the State of Connecticut, on Thursday, September 19, 2019, at 4:30 p.m.</p>	<p style="text-align: right;">Page 2</p> <p style="text-align: center;">oOo</p> <p style="text-align: center;">A P P E A R A N C E S:</p> <p>1</p> <p>2</p> <p>3</p> <p>4 REPRESENTING THE DEBTORS/PLAINTIFFS:</p> <p>5 KATTEN MUCHIN ROSENMAN, LLP</p> <p>6 2900 K Street NW</p> <p>7 North Tower - Suite 200</p> <p>8 Washington, D.C. 20007-5118</p> <p>9</p> <p>10 BY: MICHAEL R. JUSTUS, ESQ.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 REPRESENTING THE DEFENDANTS:</p> <p>15 THOMPSON COBURN, LLP</p> <p>16 One US Bank Plaza</p> <p>17 St. Louis, Missouri 63101</p> <p>18</p> <p>19 BY: JOHN KINGSTON, ESQ.</p> <p>20</p> <p>21 BY: NINO PRZULJ, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p style="text-align: center;">oOo</p> <p style="text-align: center;">A P P E A R A N C E S:</p> <p>1</p> <p>2</p> <p>3</p> <p>4 REPRESENTING THE OFFICIAL COMMITTEE and</p> <p>5 UNSECURED CREDITORS:</p> <p>6 MORRISON &amp; FOERSTER, LLP</p> <p>7 250 West 55th Street</p> <p>8 New York, New York 10019-9601</p> <p>9</p> <p>10 BY: JOCELYN E. GREER, ESQ.</p> <p>11</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 SERENA PARKER</p> <p>15 Charter Communications, Inc.</p> <p>16 ADAM VENURINI, Videographer</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">oOo</p> <p style="text-align: center;">----- I N D E X -----</p> <p>1</p> <p>2</p> <p>3 TESTIMONY OF: MATTHEW KARDOS</p> <p>4 EXAMINATIONS PAGE</p> <p>5 Direct examination by Mr. Justus 8</p> <p>6 Cross-examination by Mr. Kingston 21</p> <p>7 Redirect examination by Mr. Justus 24</p> <p>8</p> <p>9 ----- INFORMATION REQUEST -----</p> <p style="text-align: center;">PAGE</p> <p>10 REQUESTS:</p> <p>11 Request by Mr. Kingston to mark 23</p> <p>12 Exhibit 43 as "Attorneys' Eyes Only"</p> <p>13</p> <p>14 INSTRUCTION TO WITNESS: (None)</p> <p>15</p> <p>16 INFORMATION TO BE FURNISHED: (None)</p> <p>17</p> <p>18 STIPULATIONS: (None)</p> <p>19</p> <p>20 MOTIONS: (None)</p> <p>21</p> <p>22 MARKED FOR RULING: (None)</p> <p>23</p> <p>24 ----- E X H I B I T S -----</p> <p>25</p> <p>19 MARKED FOR IDENTIFICATION PAGE</p> <p>20 Defendants' Exhibit 1 14</p> <p>21 PREVIOUSLY MARKED EXHIBIT:</p> <p>22 Second amended notice</p> <p>23</p> <p>24 Defendants' Exhibit 2 18</p> <p>25</p> <p>Public copy of the complaint filed by Windstream in the adversary proceeding involving Charter's advertising</p>

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1 oOo  
2 ----- INDEX CONTINUED -----  
3 ----- E X H I B I T S -----  
4 MARKED FOR IDENTIFICATION PAGE  
5 Plaintiffs' Exhibit 43 23  
6 Some information from responses  
7 to direct-mail mailings  
8 ("Attorneys' Eyes Only")  
9  
10 (Exhibits were retained by the court reporter)  
11  
12  
13  
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25

Page 7

1 M. Kardos - 09/19/19  
2 THE VIDEOGRAPHER: This is Tape 1.  
3 We are on the record at 4:30 p.m. on  
4 Thursday, September 19, 2019.  
5 This is the 30(b)(6) testimony of  
6 Matthew Kardos, in the matter of  
7 Windstream Holding v. Charter.  
8 This deposition is being held at the  
9 offices of Wiggin and Dana, LLP, located  
10 at Two Stamford Plaza, Stamford,  
11 Connecticut 06901.  
12 The court reporter is Mercedes Marney  
13 with U.S. Legal.  
14 I am the legal videographer,  
15 Adam Venturini, also with U.S. Legal.  
16 Will counsel please introduce  
17 themselves and state whom they represent.  
18 MR. JUSTUS: Michael Justus of  
19 Katten, on behalf of Windstream and its  
20 affiliated debtors and debtors in  
21 possession.  
22 MS. GREER: Jocelyn Greer, Morrison &  
23 Foerster, on behalf of the official  
24 committee of unsecured creditors.  
25 MR. KINGSTON: John Kingston on

Page 6

1 oOo  
2  
3 S T I P U L A T I O N S  
4  
5 It is stipulated by counsel for the parties  
6 that all objections are reserved until the time of  
7 trial, except those objections as are directed to  
8 the form of the question.  
9  
10 It is stipulated and agreed between counsel  
11 for the parties that the proof of the authority of  
12 the notary before whom this deposition is taken is  
13 waived.  
14 It is further stipulated that any defects  
15 in the notice are waived.  
16  
17 It is further stipulated that the reading and  
18 signing of the deposition transcript by the witness  
19 may be signed before any notary public.  
20 \* \* \* \* \*  
21  
22  
23  
24  
25

Page 8

1 M. Kardos - 09/19/19  
2 behalf of defendants. With me is  
3 Nino Przulj and Serena Parker.  
4 THE VIDEOGRAPHER: Okay. Will the  
5 court reporter please swear in the  
6 witness.  
7  
8 M A T T H E W K A R D O S,  
9 called as a witness, having been first  
10 duly sworn in by the court reporter,  
11 a notary public of the State of Connecticut,  
12 is examined and testifies as follows:  
13  
14 - - -  
15 D I R E C T E X A M I N A T I O N  
16 - - -  
17 BY MR. JUSTUS:  
18 Q. All right.  
19 Can you please state your full name  
20 for the record?  
21 A. Matthew Kardos.  
22 Q. Can you spell Kardos, please?  
23 A. K-A-R-D-O-S.  
24 Q. Are you currently an employee of  
25 Charter?

Page 9

1 M. Kardos - 09/19/19  
2 A. I am.  
3 Q. And what is your job title?  
4 A. Vice president of competitive  
5 intelligence and performance analytics.  
6 Q. And how long have you been in that  
7 role?  
8 A. Just going on 3 1/2 years with  
9 Charter.  
10 Q. With Charter overall?  
11 A. Correct.  
12 Q. And how about in that specific role?  
13 A. So prior to Charter I was doing the  
14 same role for, let's just say, another  
15 four years.  
16 Q. So sorry, I think I asked that wrong.  
17 Your current job title at Charter,  
18 how long have you held that exact title at  
19 Charter?  
20 A. The same period.  
21 Q. 3 1/2?  
22 A. 3 1/2 years.  
23 Q. Okay. Thank you.  
24 And are you based in Charter's  
25 Stamford office?

Page 10

1 M. Kardos - 09/19/19  
2 A. I am.  
3 Q. Okay.  
4 All right, so you may have heard your  
5 counsel and I talking off the record about a  
6 prior witness earlier today, Ms. Atkinson.  
7 I was asking her about the  
8 eight-hundred-and-some-thousand-people list that  
9 Charter's direct-mail piece was mailed out to.  
10 A. Sure.  
11 Q. And she said that there's some sort  
12 of models or modeling that they -- that Charter  
13 uses to locate where they believe Windstream  
14 customers may be located.  
15 And I was told that you may know  
16 something about that.  
17 A. Sure.  
18 Q. So do you know what I'm talking  
19 about?  
20 A. I do, I do.  
21 So we use publicly-available data,  
22 such as FCC 477 disclosures from companies,  
23 saying where they operate, to just get an  
24 understanding of where competitors are.  
25 So we would not know where the

Page 11

1 M. Kardos - 09/19/19  
2 customer -- whether or not somebody's a customer,  
3 but we would know if a company serves a household  
4 that is in Charter's footprint.  
5 Q. And, "household," you mean a specific  
6 household?  
7 A. Specific address, correct.  
8 Q. So you can tell specific addresses  
9 that are Windstream customers?  
10 A. Not customers.  
11 Based on the data provided by  
12 companies, such as Windstream, we could tell if  
13 they have said, through their 477 filings, that  
14 they serve the addresses in that census block,  
15 effectively.  
16 They do business there. It doesn't  
17 mean they have the customer. They have the  
18 ability to serve.  
19 Q. They do business in the area where  
20 that household is located?  
21 A. Correct.  
22 Q. But they don't necessarily do  
23 business with that household?  
24 A. That's correct.  
25 Q. Okay. Thank you.

Page 12

1 M. Kardos - 09/19/19  
2 I was just confused by that.  
3 Thank you.  
4 All right, so when coming up with the  
5 list of the 800,000 people, is that something you  
6 personally helped with?  
7 A. No.  
8 Q. Okay. Is that someone on your team?  
9 A. It's -- it's -- we have a database  
10 that's available to multiple people in the  
11 organization.  
12 Q. Is that including marketing people?  
13 A. Correct.  
14 Q. So the marketing folks would be able  
15 to go on the database and figure out what  
16 geographic areas Windstream does business in?  
17 A. Correct.  
18 Q. Okay.  
19 Is your role limited specifically to  
20 competitive intelligence for Windstream?  
21 A. No. It's for all of Charter's  
22 residential, and small and media business,  
23 segment competitors.  
24 Q. Is there one Charter employee who is  
25 specifically assigned to competitive intelligence

Page 13	Page 14
<p>1 M. Kardos - 09/19/19</p> <p>2 on Windstream?</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. Is that something you'd probably</p> <p>5 know?</p> <p>6 A. I would know --</p> <p>7 Q. Okay.</p> <p>8 A. -- yes.</p> <p>9 Q. So I guess that's a "no," then?</p> <p>10 A. That's a "no."</p> <p>11 Could be hiding people away.</p> <p>12 MR. KINGSTON: We are not hiding</p> <p>13 people away.</p> <p>14 BY MR. JUSTUS:</p> <p>15 Q. And so just to button that up,</p> <p>16 there's no way, that you're aware of, for Charter</p> <p>17 to identify specific Windstream customers?</p> <p>18 A. Correct.</p> <p>19 Q. Okay.</p> <p>20 Are you aware of geographic locations</p> <p>21 where Windstream is the only provider, so it</p> <p>22 necessarily must be Windstream that services that</p> <p>23 area?</p> <p>24 A. Yes.</p> <p>25 Q. Are you able to name any such areas?</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 A. No.</p> <p>3 It would be pockets of multiple</p> <p>4 geographies. It could be areas as small as a</p> <p>5 census block; i.e.; 30 homes, or, as big as part</p> <p>6 of a city.</p> <p>7 So I couldn't tell you offhand.</p> <p>8 Q. But you can find that out in the</p> <p>9 database you mentioned earlier?</p> <p>10 A. Correct.</p> <p>11 MR. JUSTUS: All right, if we could</p> <p>12 show the witness Exhibit 1, please?</p> <p>13 (Defendants' Exhibit Number 1 was</p> <p>14 previously marked this date.)</p> <p>15 BY MR. JUSTUS:</p> <p>16 Q. And I'll represent to you, this is</p> <p>17 the deposition notice for today. There's</p> <p>18 26 different topics, and Charter is putting on</p> <p>19 four different witnesses, of which you are one,</p> <p>20 to talk about various topics.</p> <p>21 Your counsel's told me you're here</p> <p>22 today to talk about Topic Number 7 on page 4; so</p> <p>23 it has to do with Windstream customers requesting</p> <p>24 to switch services to Charter.</p> <p>25 Is that something you're prepared to</p>
Page 15	Page 16
<p>1 M. Kardos - 09/19/19</p> <p>2 talk about today?</p> <p>3 A. Yes.</p> <p>4 Q. So on Topic Number 7, it sets the</p> <p>5 relevant time frame, from March 15, 2019, or</p> <p>6 earlier date, that an advisement was</p> <p>7 disseminated.</p> <p>8 I now know what that is, March 16th.</p> <p>9 So from March 16th to present, how</p> <p>10 many customers have switched from Windstream to</p> <p>11 Charter?</p> <p>12 A. So we do not have the ability to</p> <p>13 determine specific customers or accounts of</p> <p>14 customers who have come to Charter from other</p> <p>15 competitors.</p> <p>16 Q. No ability whatsoever?</p> <p>17 A. Beyond phone number porting data,</p> <p>18 which would tell us of customers who ported their</p> <p>19 number from Windstream to Charter.</p> <p>20 Q. So how many customers have ported</p> <p>21 their data from Windstream to Charter during the</p> <p>22 relevant time frame?</p> <p>23 A. I have not seen that data from</p> <p>24 Charter's database.</p> <p>25 MR. JUSTUS: John, are any of our</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 witnesses prepared to answer that?</p> <p>3 MR. KINGSTON: There -- no. It would</p> <p>4 be Mr. Kardos.</p> <p>5 We can get you a "ported" customer</p> <p>6 list comparable to one you guys gave us.</p> <p>7 I have to think that it would be --</p> <p>8 MR. JUSTUS: Maybe?</p> <p>9 MR. KINGSTON: -- if it's not, then</p> <p>10 it's not.</p> <p>11 But I --</p> <p>12 MR. JUSTUS: So you will produce us a</p> <p>13 list, you're saying?</p> <p>14 MR. KINGSTON: We will produce a list</p> <p>15 of ported customers.</p> <p>16 We're not suggesting -- well, I guess</p> <p>17 we're not suggesting that that list</p> <p>18 reflects anything beyond a list of</p> <p>19 customers who ported a phone number from</p> <p>20 Windstream to Charter.</p> <p>21 But we'll provide that; we'll provide</p> <p>22 the ported list.</p> <p>23 MR. JUSTUS: Okay. Thank you.</p> <p>24 BY MR. JUSTUS:</p> <p>25 Q. And, Mr. Kardos, the ported number</p>

Page 17	Page 18
<p>1 M. Kardos - 09/19/19</p> <p>2 list, that would only include customers who</p> <p>3 ported their phone number from their prior</p> <p>4 carrier; in this case, Windstream to Charter.</p> <p>5 Right?</p> <p>6 A. Correct, whether or not they remained</p> <p>7 in the Windstream footprint.</p> <p>8 Q. I'm sorry, what do you mean by that?</p> <p>9 A. So it's possible some of those ports</p> <p>10 could have moved from where Windstream delivers</p> <p>11 service to areas in Charter's footprint that</p> <p>12 Windstream does not deliver service.</p> <p>13 So we wouldn't consider all of those</p> <p>14 for switching, is my point.</p> <p>15 Q. Okay.</p> <p>16 Yeah, I was just -- I'm asking about</p> <p>17 like a technical matter.</p> <p>18 So if a customer just has Internet,</p> <p>19 and they want to switch their Internet service</p> <p>20 from Windstream to Spectrum, they would not show</p> <p>21 up on the ported list?</p> <p>22 A. They would not.</p> <p>23 Q. And same for TV?</p> <p>24 A. Correct.</p> <p>25 Q. And there may be customers who have</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 phone with Windstream, and they switch to</p> <p>3 Charter, and they just choose not to port their</p> <p>4 number, and they wouldn't show up on that list?</p> <p>5 A. Correct.</p> <p>6 Q. Okay.</p> <p>7 So other than the phone-porting data,</p> <p>8 what other ways would Charter have to determine</p> <p>9 who switched from Windstream to Charter?</p> <p>10 A. There are none.</p> <p>11 Q. And the phone-porting data lists the</p> <p>12 prior carrier; is that right?</p> <p>13 A. Correct.</p> <p>14 MR. JUSTUS: So -- can we show the</p> <p>15 witness Exhibit 2, please, John?</p> <p>16 MR. KINGSTON: Be happy to.</p> <p>17 (Defendants' Exhibit Number 2 was</p> <p>18 marked for identification as of this</p> <p>19 date.)</p> <p>20 BY MR. JUSTUS:</p> <p>21 Q. And I'll represent to you that</p> <p>22 Exhibit 2 is the complaint that Windstream filed</p> <p>23 against Charter in this case. It's a big, thick</p> <p>24 document, but I'm just going to direct you to one</p> <p>25 page, if that's okay with you?</p>
Page 19	Page 20
<p>1 M. Kardos - 09/19/19</p> <p>2 A. That's fine.</p> <p>3 Q. So if you will flip to page 13 of</p> <p>4 Exhibit 2?</p> <p>5 A. Is that, this?</p> <p>6 Q. That's correct.</p> <p>7 I'll represent to you, because this</p> <p>8 isn't your topic, but other witnesses have</p> <p>9 testified, page 13 and 14 is the front and back</p> <p>10 of a direct-mail piece that Charter mailed out in</p> <p>11 March of this year. This is one of Charter's</p> <p>12 Spectrum advertising pieces that was mailed out</p> <p>13 to the over 800,000 people that we were talking</p> <p>14 about.</p> <p>15 And so if you see, on page 13, above</p> <p>16 the horizontal line that goes across the ad, it</p> <p>17 says, "Windstream has a two-year contract. With</p> <p>18 Spectrum, there are no contracts, plus, we will</p> <p>19 buy you out of your current contract, up to</p> <p>20 \$500."</p> <p>21 Do you see that?</p> <p>22 A. I do.</p> <p>23 Q. So if a Windstream customer were to</p> <p>24 take Charter up on their offer to buy them out of</p> <p>25 their current contract, would the -- would that</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 buyout be tracked in some sort of software or</p> <p>3 database, the fact that that buyout occurred?</p> <p>4 A. I don't know.</p> <p>5 MR. JUSTUS: Do I have the wrong</p> <p>6 witness for that?</p> <p>7 MR. KINGSTON: No. We -- uh --</p> <p>8 you -- to have a question that we haven't</p> <p>9 prepared anybody to answer, we'll get you</p> <p>10 an answer.</p> <p>11 I don't know the answer to that</p> <p>12 either.</p> <p>13 MR. JUSTUS: Okay.</p> <p>14 BY MR. JUSTUS:</p> <p>15 Q. Going back to the porting data --</p> <p>16 A. Uh-huh?</p> <p>17 Q. -- would that specify the reason why</p> <p>18 the customer switched to Charter or Spectrum?</p> <p>19 A. No, it would not.</p> <p>20 MR. JUSTUS: I pass the witness.</p> <p>21 MR. KINGSTON: Why don't we --</p> <p>22 let's -- give me five -- I don't have any</p> <p>23 sort of an extensive redirect.</p> <p>24 Give me five minutes to see if</p> <p>25 I can't track down that contract thing.</p>



Page 21	Page 22
<p>1 M. Kardos - 09/19/19</p> <p>2 MR. JUSTUS: That would be great.</p> <p>3 MR. KINGSTON: Can we go off?</p> <p>4 THE VIDEOGRAPHER: We are off the</p> <p>5 record at 4:45 p.m.</p> <p>6 (Off the record.)</p> <p>7 (Back on the record.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record at 4:56 p.m.</p> <p>10 MR. KINGSTON: I apologize, Counsel.</p> <p>11 You had passed the witness?</p> <p>12 MR. JUSTUS: I have passed the</p> <p>13 witness, correct.</p> <p>14 MR. KINGSTON: Okay.</p> <p>15 - - -</p> <p>16 CROSS-EXAMINATION</p> <p>17 - - -</p> <p>18 BY MR. KINGSTON:</p> <p>19 Q. Mr. Kardos, directing your attention</p> <p>20 to page 13 of Exhibit 2 --</p> <p>21 MR. PRZULJ: I'm sorry, John.</p> <p>22 Before you go on, did you want to</p> <p>23 make your record about the stipulation we</p> <p>24 just entered into?</p> <p>25 MR. KINGSTON: I think he was</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 probably going to do that after I got done</p> <p>3 asking my questions, if he would follow</p> <p>4 up, and then say he was --</p> <p>5 (indiscernible).</p> <p>6 MR. PRZULJ: I apologize. I didn't</p> <p>7 mean to interrupt.</p> <p>8 MR. JUSTUS: Either is fine.</p> <p>9 MR. KINGSTON: Is there like a stage</p> <p>10 thing you put for withering look directed</p> <p>11 at Nino?</p> <p>12 MR. JUSTUS: Thank you, though.</p> <p>13 BY MR. KINGSTON:</p> <p>14 Q. Mr. Kardos, do you mind if we start</p> <p>15 over?</p> <p>16 A. Please do.</p> <p>17 Q. Okay.</p> <p>18 Looking at page 13 of Exhibit 2, do</p> <p>19 you see a reproduction of a Charter direct</p> <p>20 mailer?</p> <p>21 A. Yes.</p> <p>22 Q. And do you see a "1-855" number in</p> <p>23 the bottom left-hand corner?</p> <p>24 A. I do.</p> <p>25 Q. And can Charter, in some instances,</p>
Page 23	Page 24
<p>1 M. Kardos - 09/19/19</p> <p>2 track the responses to the phone numbers listed</p> <p>3 on direct mailings?</p> <p>4 A. Yes.</p> <p>5 Q. And did Charter do that in this</p> <p>6 instance?</p> <p>7 A. Yes.</p> <p>8 MR. KINGSTON: I'm marking, as</p> <p>9 Exhibit 43.</p> <p>10 (Off-the-record discussion.)</p> <p>11 (Plaintiffs' Exhibit Number 43 was</p> <p>12 marked for identification, as of this</p> <p>13 date.)</p> <p>14 (Back on the record.)</p> <p>15 MR. JUSTUS: Is this 43?</p> <p>16 MR. KINGSTON: Uh-huh.</p> <p>17 And, Counsel, we have -- a version of</p> <p>18 Exhibit 43 has been previously produced.</p> <p>19 I think when it was previously</p> <p>20 produced, we neglected to identify it as</p> <p>21 "Attorneys' Eyes Only."</p> <p>22 REQ So we will be reproducing it, and</p> <p>23 identifying it as "Attorneys' Eyes Only,"</p> <p>24 and we will be -- we would like Exhibit 43</p> <p>25 to be marked as "Attorneys' Eyes Only" as</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 well.</p> <p>3 MR. JUSTUS: Okay.</p> <p>4 BY MR. KINGSTON:</p> <p>5 Q. And, Mr. Kardos, does Exhibit 43</p> <p>6 reflect some of the information that Charter can</p> <p>7 pull from mailings -- or, from responses to</p> <p>8 direct-mail mailings?</p> <p>9 A. It does.</p> <p>10 Q. And it looks like the March 2019</p> <p>11 incremental mailing is listed at the top?</p> <p>12 A. It is.</p> <p>13 MR. KINGSTON: I pass the witness.</p> <p>14 MR. JUSTUS: Okay.</p> <p>15 - - -</p> <p>16 REDIRECT EXAMINATION</p> <p>17 - - -</p> <p>18 BY MR. JUSTUS:</p> <p>19 Q. Sticking with Exhibit 43, just so</p> <p>20 I understand what's on here:</p> <p>21 So, mail quantity, or, "Mail Qty,"</p> <p>22 that would be the number of the direct-mail</p> <p>23 pieces that were mailed out?</p> <p>24 A. Correct.</p> <p>25 Q. Okay.</p>

Page 25	Page 26
<p>1 M. Kardos - 09/19/19</p> <p>2 And then "Calls" means, that's the</p> <p>3 total number of calls received to the</p> <p>4 "1-855" number in the mailer?</p> <p>5 A. Correct.</p> <p>6 Q. What is "GRR Percent"?</p> <p>7 A. Gross response rate.</p> <p>8 Q. So that's calls divided by mail</p> <p>9 quantity?</p> <p>10 A. Correct.</p> <p>11 Q. And "Offer Calls," what does that</p> <p>12 mean?</p> <p>13 MR. KINGSTON: I will object as to</p> <p>14 foundation.</p> <p>15 This isn't necessarily Mr. Kardos'</p> <p>16 document, but he may know.</p> <p>17 BY MR. JUSTUS:</p> <p>18 Q. Do you know what "Offer Calls" means?</p> <p>19 A. I do not.</p> <p>20 Q. How about "Offer Percentage"?</p> <p>21 A. I do not.</p> <p>22 Q. Okay.</p> <p>23 How about "Sales"?</p> <p>24 A. Our work orders associated with the</p> <p>25 calls that responded to this piece of direct</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 mail.</p> <p>3 Q. So that's people who actually</p> <p>4 purchased services from Spectrum --</p> <p>5 A. Correct.</p> <p>6 Q. -- after calling --</p> <p>7 A. Yes.</p> <p>8 Q. -- or while calling, either/or?</p> <p>9 And "Sales Percentage," is that sales</p> <p>10 divided by calls?</p> <p>11 A. I don't know, but we could probably</p> <p>12 back into it with a calculator.</p> <p>13 Q. Yeah.</p> <p>14 (Clarification requested by the</p> <p>15 court reporter.)</p> <p>16 THE WITNESS: I don't know.</p> <p>17 (The record was read back by the</p> <p>18 court reporter.)</p> <p>19 THE WITNESS: Yeah.</p> <p>20 But we could probably calculate it,</p> <p>21 back into it with a calculator.</p> <p>22 BY MR. JUSTUS:</p> <p>23 Q. Do you have any idea what "PSUs"</p> <p>24 means?</p> <p>25 A. Yeah, those are -- that's a -- an</p>
Page 27	Page 28
<p>1 M. Kardos - 09/19/19</p> <p>2 acronym for our products, product service units;</p> <p>3 so video, Internet, and voice.</p> <p>4 Q. That's units of product sold --</p> <p>5 A. Correct.</p> <p>6 Q. -- from these calls?</p> <p>7 A. Units of product sold from the calls.</p> <p>8 Q. I will take a stab at "PSU per sale."</p> <p>9 That's, for each one of the</p> <p>10 663 sales, the average person bought 2.27 units</p> <p>11 of product?</p> <p>12 A. Correct.</p> <p>13 Q. Okay.</p> <p>14 Do you know what "Mobile Sales"</p> <p>15 means?</p> <p>16 A. Sales of Spectrum Mobile.</p> <p>17 Q. And "Video Sales" would be TV?</p> <p>18 A. Correct.</p> <p>19 Q. I can figure out the last two.</p> <p>20 M and -- mobile and voice are</p> <p>21 separate categories within Charter and Spectrum?</p> <p>22 A. Correct.</p> <p>23 "Voice" is landline.</p> <p>24 Q. Understood.</p> <p>25 And then, "Sales Per Mail," I can use</p>	<p>1 M. Kardos - 09/19/19</p> <p>2 my calculator later, but I'm guessing that's</p> <p>3 sales divided by mail quantity?</p> <p>4 A. Per thousand pieces.</p> <p>5 Q. Per thousand pieces. Okay.</p> <p>6 So I probably wouldn't have figured</p> <p>7 that out.</p> <p>8 And why is that metric used, "per</p> <p>9 thousand pieces"?</p> <p>10 A. It's a -- just a comparative</p> <p>11 diagnostic, to compare to other mail groups, such</p> <p>12 as the others on the page. It's an efficiency</p> <p>13 metric.</p> <p>14 Q. So just to have a standardized</p> <p>15 number --</p> <p>16 A. Exactly.</p> <p>17 Q. -- for different mailing programs?</p> <p>18 Understood.</p> <p>19 And what does "NDM" mean in the</p> <p>20 left -- in the first column?</p> <p>21 A. I don't know.</p> <p>22 Q. Okay.</p> <p>23 MR. JUSTUS: Okay. I pass the</p> <p>24 witness.</p> <p>25 MR. KINGSTON: We'll read and sign --</p>

Page 29	Page 30
<p>1 M. Kardos - 09/19/19</p> <p>2 oh, no.</p> <p>3 Before you pass the witness, let's do</p> <p>4 our stipulation as to holding the</p> <p>5 deposition open.</p> <p>6 MR. JUSTUS: Oh, that's a great idea.</p> <p>7 I should have listened to Nino when</p> <p>8 I had the chance.</p> <p>9 So, we're holding the 30(b)(6) open</p> <p>10 as to the topic of the questions I asked</p> <p>11 Mr. Kardos about contract buyouts, and</p> <p>12 tracking contract buyouts, and the number</p> <p>13 of people who switched under the contract</p> <p>14 buyout offer, et cetera.</p> <p>15 MR. KINGSTON: Yes.</p> <p>16 MR. JUSTUS: Thank you.</p> <p>17 MR. KINGSTON: Now we will read and</p> <p>18 sign.</p> <p>19 THE VIDEOGRAPHER: We are off the</p> <p>20 record at 5:03 p.m.</p> <p>21 (At 5:03 p.m., the record was</p> <p>22 closed.)</p> <p>23 (The witness reserved the right to</p> <p>24 read and sign the deposition transcript.)</p> <p>25 * * * * *</p>	<p>1 M. Kardos - 09/19/19</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 31	Page 32
<p>1 oOo</p> <p>2 C E R T I F I C A T E</p> <p>3</p> <p>4 STATE OF CONNECTICUT )</p> <p>5 ) ss.</p> <p>6 COUNTY OF FAIRFIELD )</p> <p>7 I, MERCEDES MARNEY-SHELDON, a court reporter</p> <p>8 within the state of Connecticut, and a notary public</p> <p>9 for the State of Connecticut, do hereby certify:</p> <p>10 That MATTHEW KARDOS, the witness whose</p> <p>11 deposition is hereinbefore set forth, was duly sworn</p> <p>12 by me, and that such deposition is a true record of</p> <p>13 the testimony given by the witness.</p> <p>14 I further certify that I am not employed by nor</p> <p>15 related to any of the parties to this action by</p> <p>16 blood or marriage, and that I am in no way</p> <p>17 interested in the outcome of this matter.</p> <p>18 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>19 this 3rd day of October, 2019.</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Mercedes Marney-Sheldon - Shorthand Reporter</p> <p>24 Notary Public - State of Connecticut</p> <p>25 Account Number: 167303</p> <p>Date Appointed: 08/07/2014</p> <p>Expiration Date: 08/31/2023</p>	<p>1 oOo</p> <p>2 J U R A T</p> <p>3</p> <p>4 STATE OF CONNECTICUT )</p> <p>5 ) ss.</p> <p>6 COUNTY OF _____ )</p> <p>7</p> <p>8 I, MATTHEW KARDOS, the witness herein,</p> <p>9 having read the foregoing testimony of the pages of</p> <p>10 this deposition, do hereby certify it to be a true</p> <p>11 and correct transcript, subject to corrections, if</p> <p>12 any, shown on the attached page(s).</p> <p>13</p> <p>14</p> <p>15 _____</p> <p>16 MATTHEW KARDOS</p> <p>17</p> <p>18</p> <p>19 Subscribed and sworn to before me this</p> <p>20 _____ day of _____, 2019</p> <p>21</p> <p>22</p> <p>23 _____</p> <p>24 Notary Public</p> <p>25</p>

1 oOo

2 ERRATA SHEET

3 CASE: In re: WINDSTREAM HOLDINGS, INC., et al;

WINDSTREAM HOLDINGS, INC., et al., v.

4 CHARTER COMMUNICATIONS, INC., et al.

5 WITNESS: MATTHEW KARDOS

6 DEPOSITION DATE: SEPTEMBER 19, 2019

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**Debtor**



**Defendants' Designations and Counter Designations**

Page 1	Page 2
<p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>IN RE Chapter 11 (Jointly Administered) Case No. 19-22312 (RDD) WINDSTREAM HOLDINGS, INC., et al., Debtors.</p> <hr/> <p>WINDSTREAM HOLDINGS, INC., et al.,</p> <p>Plaintiffs,</p> <p>vs. Adv. Proc. No. 19-08246 (RDD) (Caption continued on Page 2)</p> <p>DEPOSITION OF: PAUL G. STRICKLAND, JR. DATE: September 20, 2019 TIME: 9:02 a.m. LOCATION: A. William Roberts Jr. &amp; Associates 6135 Park South Drive Charlotte, NC</p> <p>TAKEN BY: Counsel for the Defendants REPORTED BY: SOLANGE RUIZ-URIBE, Court Reporter A. WILLIAM ROBERTS, JR., &amp; ASSOCIATES Fast, Accurate &amp; Friendly</p> <p>Charleston, SC Hilton Head, SC Myrtle Beach, SC (843) 722-8414 (843) 785-3263 (843) 839-3376</p> <p>Columbia, SC Greenville, SC Charlotte, NC (803) 731-5224 (864) 234-7030 (704) 573-3919 Asheville, NC (828) 785-5699</p>	<p>1 (caption continued) 2 CHARTER COMMUNICATIONS, 3 INC. and CHARTER COMMUNICATIONS 4 OPERATING, LLC, 5 Defendants. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 APPEARANCES OF COUNSEL: 2 ATTORNEYS FOR THE PLAINTIFF 3 WINDSTREAM DEBTORS, DEBTORS IN POSSESSION AND 4 PAUL STRICKLAND: 5 KATTEN MUCHIN ROSENMAN, LLP 6 BY: KRISTIN LOCKHART 7 2900 K. Street NW 8 North Tower - Suite 200 9 Washington, DC 20007 10 (202) 625-3558 11 kristin.lockhart@katten.com 12 AND 13 WINSTREAM SERVICES, LLP IN-HOUSE COUNSEL 14 BY: T. KENT SMITH 15 4001 N. Rodney Parham Road 16 Little Rock, AR 72212 17 (501) 748-3634 18 kent.smith@windstream.com</p> <p>19 ATTORNEYS FOR THE DEFENDANT 20 CHARTER COMMUNICATIONS, INC. AND CHARTER 21 COMMUNICATIONS OPERATING, LLC: 22 THOMPSON COBURN, LLP 23 BY: MIKE NEPPLE 24 505 North 7th Street 1 US Bank Plaza 25 St. Louis, Missouri, 63101 (314) 552-6149 mnepple@thompsoncoburn.com</p> <p>ATTORNEYS FOR THE DEFENDANT OFFICIAL COMMITTEE OF UNSECURED CREDITORS: MORRISON &amp; FORESTER, LLP BY: STEVEN T. RAPPOPORT 250 West 55th Street New York, NY 10019 (212) 336-4171 srappoport@mof.com</p> <p>(INDEX AT REAR OF TRANSCRIPT)</p>	<p>1 PAUL G. STRICKLAND, JR., 2 after first being duly sworn, testified as follows: 3 EXAMINATION 4 BY MR. NEPPLE: 5 Q. Please state your full name for the 6 record? 7 A. Paul Graham Strickland, Junior. 8 Q. And what is your home address, sir? 9 A. 6335 Fair Valley Drive, Charlotte, North 10 Carolina 28226. 11 Q. And what you are business address? 12 A. 1720 Galleria Boulevard, Charlotte, North 13 Carolina 28270. 14 Q. What's your current title sir? 15 A. Vice president of customer care. 16 Q. For Windstream? 17 A. For Windstream. 18 Q. Okay. Have you been deposed before? 19 A. I have. 20 Q. How many times? 21 A. Once. 22 Q. Okay. Since you have been deposed before 23 I will kind of short circuit, but I will go over the 24 ground rules. I'm going to be asking questions, the 25 court reporter here will listen to the questions,</p>

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<p>1 take it down and take down your answers.</p> <p>2 If you will wait until I finish my</p> <p>3 question so that she can get it down before you</p> <p>4 begin your answer, I will appreciate that.</p> <p>5 A. Okay.</p> <p>6 Q. A yes or a no would be appreciated as</p> <p>7 opposed to uh-huh or huh-uh, which are sort of tough</p> <p>8 for a court reporter to take down, okay?</p> <p>9 A. Okay.</p> <p>10 Q. If you have a question about my question,</p> <p>11 let me know. If you don't understand it, let me</p> <p>12 know.</p> <p>13 A. Okay.</p> <p>14 Q. I'm not here to try to trick you. I just</p> <p>15 want to get my questions out, I want you to</p> <p>16 understand them and I want your answer to the</p> <p>17 question that you understand, okay? Is that okay?</p> <p>18 Is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Do you understand that you are</p> <p>21 under oath subject to the penalty of perjury,</p> <p>22 correct?</p> <p>23 A. I do.</p> <p>24 Q. Okay. If you want to take a break at any</p> <p>25 time, let me know. We can take a break as often as</p>	<p>1 you want. The only thing I ask is if there is a</p> <p>2 question pending answer the question and then we can</p> <p>3 take a break, okay?</p> <p>4 A. Okay.</p> <p>5 Q. All right. Since I just asked you to tell</p> <p>6 me if you don't understand the question, if you go</p> <p>7 ahead and answer the question and don't ask for</p> <p>8 clarification I'm going to assume that you</p> <p>9 understood the question; is that fair?</p> <p>10 A. That is fair.</p> <p>11 Q. What was your prior deposition in, what</p> <p>12 type of case?</p> <p>13 A. It was a wrongful termination case.</p> <p>14 Q. Okay. For were you representing</p> <p>15 Windstream -- strike that.</p> <p>16 Were you employed by Windstream at</p> <p>17 the time or a different entity?</p> <p>18 A. Yes, I was employed by Windstream at the</p> <p>19 time.</p> <p>20 Q. Okay. How long ago was that?</p> <p>21 A. I don't know exactly.</p> <p>22 Q. Can you tell me what did you to prepare</p> <p>23 for this deposition?</p> <p>24 A. Yes.</p> <p>25 Q. What did you do to prepare for this</p>
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<p>1 deposition?</p> <p>2 A. I had several sessions with attorneys.</p> <p>3 Q. Okay. Windstream's attorneys?</p> <p>4 A. Yes.</p> <p>5 Q. And are you represented by counsel here</p> <p>6 today?</p> <p>7 A. Yes.</p> <p>8 Q. The Windstream attorneys sitting on your</p> <p>9 right and left, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And I don't want to get into the</p> <p>12 substance of your conversation with the attorneys,</p> <p>13 okay, so leave that out of my next few questions.</p> <p>14 Did you review any documents to prepare for your</p> <p>15 deposition?</p> <p>16 A. Yes.</p> <p>17 Q. What documents did you review?</p> <p>18 A. Can you rephrase the question?</p> <p>19 Q. Sure. I asked you if you reviewed any</p> <p>20 documents in preparation for your deposition and you</p> <p>21 told me yes. I'm asking what kind of documents did</p> <p>22 you review? Did you review pleadings that are filed</p> <p>23 in the case? Did you review discovery responses,</p> <p>24 which are documents that are exchanged between the</p> <p>25 parties or did you review other documents?</p>	<p>1 A. I reviewed several documents. I'm not</p> <p>2 sure if any of them fall into the categories that</p> <p>3 you just mentioned, but I did review several</p> <p>4 documents.</p> <p>5 Q. Okay. Can you tell me what you reviewed</p> <p>6 to the best of your knowledge?</p> <p>7 A. I reviewed a couple, a screen shot or two</p> <p>8 of our billing system. I reviewed a printout of a</p> <p>9 web page that some of our employees used to process</p> <p>10 calls.</p> <p>11 Q. Anything else?</p> <p>12 A. Not that I can recall right now.</p> <p>13 Q. Can you give me the estimate of the number</p> <p>14 of hours that you took to prepare for this</p> <p>15 deposition?</p> <p>16 A. Yes.</p> <p>17 Q. What's the number?</p> <p>18 A. Three hours.</p> <p>19 Q. Did you talk to any other Windstream</p> <p>20 employees in preparation for this deposition?</p> <p>21 A. No.</p> <p>22 Q. Okay. Did you review any deposition</p> <p>23 transcripts?</p> <p>24 A. Yes.</p> <p>25 Q. Whose deposition did you review?</p>

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1 A. Lewis Langston.  
2 Q. Any others?  
3 MS. LOCKHART: Just to clarify for the  
4 record, that's the 30(b)(6) deposition.  
5 MR. NEPPLE: Thank you.  
6 THE WITNESS: No.  
7 BY MR. NEPPLE:  
8 Q. Have you been asked to appear live at the  
9 hearing or trial that would be held in White Plains,  
10 New York for this case?  
11 A. No.  
12 Q. Can you tell me a little bit about your  
13 day-to-day duties for Windstream?  
14 A. I run the customer care call center where  
15 we process inbound interactions from Windstream  
16 customers.  
17 Q. Is there more than one inbound call  
18 center?  
19 A. Yes.  
20 Q. How many are there?  
21 A. Five main centers.  
22 Q. Do you know which locations?  
23 A. I do.  
24 Q. Can you tell me?  
25 A. Yes. We have two in Georgia; one in

1 Newton, Iowa; one in Charlotte, North Carolina; and  
2 one in Jamaica.  
3 Q. Jamaica the country or Jamaica, New York?  
4 A. Jamaica the country.  
5 Q. Thank you. Do you travel to these call  
6 centers or are you pretty much based this Charlotte?  
7 A. I'm based in Charlotte and I do travel to  
8 the centers as well.  
9 Q. Okay. Are there any other people that  
10 handle inbound Windstream calls that are not located  
11 at one of the five call centers that you just  
12 identified?  
13 A. Yes.  
14 Q. Tell me about that.  
15 MS. LOCKHART: Objection, vague.  
16 THE WITNESS: Can you restate the  
17 question.  
18 BY MR. NEPPLE:  
19 Q. Sure.  
20 A. It would be easier for me to answer it if  
21 was more specific.  
22 Q. I understand. You said there are five  
23 call centers but you said people also handle inbound  
24 calls for Windstream in other formats, what formats  
25 would those be?

1 A. We receive customer inquiries in a number  
2 of formats. We also have other centers that handle  
3 other interactions from other sides of the business  
4 that are not within my area of responsibility.  
5 Q. Okay. Let's talk about outside your area  
6 of responsibility, what kind of customer  
7 interactions are handled by call centers or people  
8 out of call centers?  
9 MS. LOCKHART: Objection. I think this  
10 testimony or the deposition is supposed to be  
11 related specifically to the call centers so this is  
12 irrelevant.  
13 BY MR. NEPPLE:  
14 Q. Okay. You can go ahead and answer.  
15 A. Can you restate the question?  
16 MR. NEPPLE: Read it back.  
17 (Whereupon the Court Reporter read the  
18 previous question.)  
19 THE WITNESS: I don't understand that  
20 question. I can't answer it.  
21 BY MR. NEPPLE:  
22 Q. Okay. What customer interactions are you  
23 aware that do not come through the call centers or  
24 the people that you supervise?  
25 A. There is a side of the business that

1 handles calls from enterprise customers. We have  
2 call centers that support those that do not report  
3 to me.  
4 Q. Okay. Anything else?  
5 A. We have repair centers that process calls  
6 that do not report to me.  
7 Q. Okay. Anything else?  
8 A. Those are the main ones. I'm not aware of  
9 any. There are probably others, but they are small  
10 in nature and numerous and I would not be able to  
11 articulate those out.  
12 Q. Would you be able to give me an example of  
13 how an interaction would fall in that group?  
14 A. Into which group?  
15 Q. The group that you said you have no  
16 responsibility, that other group, not the enterprise  
17 and not the repair?  
18 MS. LOCKHART: Objection, vague. Okay.  
19 Sorry, you just clarified.  
20 THE WITNESS: We have a wholesale business  
21 that interacts with large carriers and they receive  
22 inbound calls; that is not an area of my  
23 responsibility.  
24 BY MR. NEPPLE:  
25 Q. Okay.



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<p>1 A. They have call centers, contact centers.</p> <p>2 I don't know where they are located or what they do.</p> <p>3 Q. Okay. All right. So setting aside the</p> <p>4 wholesale that we will call the other group and the</p> <p>5 repair calls and the enterprise calls. For the</p> <p>6 calls that you supervise whether it's at the five</p> <p>7 locations that you identified or the other ones,</p> <p>8 explain how that works to me. Are all calls routed</p> <p>9 to one number or are there multiple numbers, inbound</p> <p>10 numbers?</p> <p>11 A. There are multiple inbound numbers.</p> <p>12 Q. Okay. How would a call end up at one of</p> <p>13 your call centers versus some other inbound call?</p> <p>14 A. If they call the number on their bill and</p> <p>15 have a billing question, it would land in my center.</p> <p>16 Q. Okay. One of the five centers?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. When you say my center, you are in</p> <p>19 Charlotte. All right. Explain to me how it ends up</p> <p>20 someplace not at one of the five call centers?</p> <p>21 MS. LOCKHART: Objection to form. Calls</p> <p>22 for a narrative.</p> <p>23 THE WITNESS: So if a customer has a</p> <p>24 service outage and they need it fixed, they would</p> <p>25 call one of the repair centers. That does not</p>	<p>1 report to me.</p> <p>2 BY MR. NEPPLE:</p> <p>3 Q. Okay. And the other categories of calls</p> <p>4 that would fall in that group?</p> <p>5 A. Into which group?</p> <p>6 Q. All right. Let's see if we can make this</p> <p>7 clear. You have five inbound call centers and then</p> <p>8 you have others that you are responsible for. I</p> <p>9 think that was your testimony before; is that</p> <p>10 accurate?</p> <p>11 MS. LOCKHART: I think that misstates his</p> <p>12 testimony. He said that there are others that he is</p> <p>13 not responsible for.</p> <p>14 MR. NEPPLE: I understand. He said there</p> <p>15 are others that he is.</p> <p>16 MS. LOCKHART: Just for the record, it's a</p> <p>17 paper that says: Five call centers. Others you are</p> <p>18 responsible for.</p> <p>19 Can you ask a question?</p> <p>20 MR. NEPPLE: I have asked a question. I'm</p> <p>21 waiting for an answer.</p> <p>22 THE WITNESS: I have five primary call</p> <p>23 centers that I'm responsible for. I have other work</p> <p>24 groups that I'm responsible for. The other call</p> <p>25 centers that I am not responsible for are primarily</p>
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<p>1 the ones that process inbound calls.</p> <p>2 BY MR. NEPPLE:</p> <p>3 Q. Okay. If I want to call into Windstream</p> <p>4 and disconnect service, will my call end up in a</p> <p>5 center or someone's group that you are responsible</p> <p>6 for?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So if it doesn't go to one of the</p> <p>9 five call centers, where else could that call go to?</p> <p>10 A. If it's in the area of the business that</p> <p>11 I'm responsible for it will go to one of those five</p> <p>12 locations.</p> <p>13 Q. Okay. I don't know what area of the</p> <p>14 business that you are responsible for. I don't know</p> <p>15 what that means. Can you explain that to me?</p> <p>16 A. Primarily what it means is we are split</p> <p>17 into two divisions. I'm in one division. We have</p> <p>18 another division that handles a different type of</p> <p>19 customer. I don't have any responsibility for any</p> <p>20 of those interactions.</p> <p>21 Q. Okay. What division are you in?</p> <p>22 A. What we refer to as the kinetic business</p> <p>23 unit.</p> <p>24 Q. What's the other business that you don't</p> <p>25 have responsibility for?</p>	<p>1 A. Windstream Enterprise.</p> <p>2 Q. And can you explain to me what Windstream</p> <p>3 Enterprise is?</p> <p>4 A. Primarily handling our larger business</p> <p>5 customers that we provide service to.</p> <p>6 Q. Okay. For purposes of the lawsuit, the</p> <p>7 present lawsuit, did any of the calls go through the</p> <p>8 enterprise portion of your responsibility?</p> <p>9 MS. LOCKHART: Objection. Vague. Can you</p> <p>10 clarify to him what calls you are referring to?</p> <p>11 MR. NEPPLE: Just object to form.</p> <p>12 BY MR. NEPPLE:</p> <p>13 Q. You can answer. Can you answer the</p> <p>14 question?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 MR. NEPPLE: Steve, you might want to move</p> <p>18 to a later flight.</p> <p>19 BY MR. NEPPLE:</p> <p>20 Q. If a business calls in, does that go to</p> <p>21 one of the five call centers?</p> <p>22 A. If it's a business that falls on the</p> <p>23 kinetic B-U side of the company, yes.</p> <p>24 Q. And what other side would it fall on?</p> <p>25 A. If it's a business that is handled by the</p>

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<p>1 Windstream Enterprise business unit it would not hit 2 one of the five call centers. 3 Q. What's the dividing line between those two 4 business units? 5 A. Primarily it's revenue based, but there 6 are other variables as well. 7 Q. Okay. You are familiar with this lawsuit, 8 correct? 9 A. Yes. 10 Q. You understand what the general 11 allegations are in this lawsuit, correct? 12 A. Yes. 13 Q. And you understand one of the allegations 14 is that certain customers were disconnected, certain 15 Windstream customer were disconnected by Charter, 16 correct? 17 A. Yes. 18 Q. Any of those customers fall in the kinetic 19 side or on the Windstream business unit side? 20 A. The ones that I'm familiar with fall in 21 the kinetic side. 22 Q. Okay. So to your understanding, the 23 people that called in relevant to the lawsuit that 24 we are here for were either under the kinetic 25 business unit side or one of the call centers [sic],</p>	<p>1 correct? 2 MS. LOCKHART: Objection, vague. 3 THE WITNESS: Can you restate the 4 question? 5 MR. NEPPLE: Please read it back. 6 (Whereupon the Court Reporter read the 7 previous question.) 8 THE WITNESS: I don't understand the 9 question. Particularly the last part. 10 BY MR. NEPPLE: 11 Q. Okay. You understand in this case that 12 persons, individuals complained about disconnections 13 by Charter, correct? 14 A. Yes. 15 Q. You understand that certain businesses 16 complained about disconnections by Charter, correct? 17 A. No. 18 Q. You are not aware of any business 19 complaining that Charter disconnected service? 20 MS. LOCKHART: Objection, vague. 21 THE WITNESS: Let me restate the question. 22 So the question is: Am I aware of any 23 disconnections that Charter performed on Windstream 24 customers? 25</p>
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<p>1 BY MR. NEPPLE: 2 Q. Windstream customers that are not people 3 but are business? 4 A. I am not familiar with that aspect -- 5 Q. Okay. 6 A. -- of the lawsuit. 7 Q. So your understanding as you sit here 8 today is only individuals that had their service 9 disconnected by Charter? 10 MS. LOCKHART: Objection. Misstates the 11 his testimony. 12 THE WITNESS: Can you restate the 13 question? 14 MR. NEPPLE: Repeat the question. 15 (Whereupon the Court Reporter read the 16 previous question.) 17 THE WITNESS: I can't answer that 18 question. 19 BY MR. NEPPLE: 20 Q. You can't answer it because you don't have 21 the information or you don't understand the 22 question? 23 A. I don't understand the question. 24 Q. Okay. You understand there is a general 25 allegations that Charter disconnected Windstream</p>	<p>1 customers, correct? 2 A. Yes. 3 Q. Okay. And those Windstream customers 4 could be individuals, correct? 5 A. Yes. 6 Q. And you are aware of that, correct? 7 A. Yes. 8 Q. Okay. Could those Windstream entities -- 9 strike that. 10 Could those Windstream customers be 11 businesses? In other words, Joe's Tire Shop, Bob's 12 Sandwich Shop. Have their services been 13 disconnected by Charter? 14 A. Those businesses could have or I'm aware 15 that we had businesses that due to the false 16 advertising that Charter send out called in with a 17 desire to disconnect their services as a result of 18 the information that was provided by Charter . 19 MR. NEPPLE: Move to strike of none 20 responsive. 21 BY MR. NEPPLE: 22 Q. The question is: Are you aware of any 23 Windstream customers that are businesses that called 24 in to complain about being disconnected? 25 A. I'm not aware of that.</p>

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<p>1 Q. What are your day-to-day duties as far as</p> <p>2 managing whether it's the call centers or the other</p> <p>3 inbound calls?</p> <p>4 A. Primarily my day-to-day responsibilities</p> <p>5 are equipping the front line agents with the tools</p> <p>6 and resources that they need to perform their jobs.</p> <p>7 Q. And you used a couple of term there.</p> <p>8 Tools and resources, what are those?</p> <p>9 A. Training, leadership, support, general</p> <p>10 skill development.</p> <p>11 Q. And then you used a term, front line</p> <p>12 agent; what's a front line agent in your usage</p> <p>13 there?</p> <p>14 A. Front line agent is a general term for a</p> <p>15 call center agent that's processing calls from</p> <p>16 Windstream customers.</p> <p>17 Q. Okay. Do you yourself take any inbound</p> <p>18 calls?</p> <p>19 A. Can you define inbound call?</p> <p>20 Q. Sure. Any call that comes into one of the</p> <p>21 five call centers or an area of your responsibility,</p> <p>22 do you take any of the inbound calls?</p> <p>23 A. No.</p> <p>24 Q. Okay. Have you ever, as you moved up,</p> <p>25 have you ever taken inbound calls in that same</p>	<p>1 circumstance?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. When was the last time that you</p> <p>4 might have done that?</p> <p>5 A. Twenty years ago.</p> <p>6 Q. Okay. Do you listen to my inbound calls</p> <p>7 that your front line agents take now?</p> <p>8 A. Yes.</p> <p>9 Q. How often do you do something like that?</p> <p>10 A. Weekly.</p> <p>11 Q. How many calls do you think you listen to</p> <p>12 in a week?</p> <p>13 A. Ten.</p> <p>14 Q. And how are those calls elevated to your</p> <p>15 attention?</p> <p>16 A. I generally pick them on my own, but I get</p> <p>17 sent some as well.</p> <p>18 Q. You get sent some by?</p> <p>19 A. Numerous people.</p> <p>20 Q. Can you give me some examples?</p> <p>21 A. Members of my leadership team.</p> <p>22 Q. Would these be calls where a customer was</p> <p>23 particularly unhappy or is this a call of, hey, this</p> <p>24 is a new area where we are seeing calls, we need to</p> <p>25 understand how to manage this. Can you explain how</p>
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<p>1 that works for me?</p> <p>2 A. I get sent all types of calls, good ones,</p> <p>3 bad ones.</p> <p>4 Q. As part of the tools and resources that</p> <p>5 you say you provide to your front line agents, do</p> <p>6 you provide them with scripts or talking point to</p> <p>7 handle various issues that arise during a customers</p> <p>8 call?</p> <p>9 A. Yes.</p> <p>10 Q. Do you develop those scripts or talking</p> <p>11 point?</p> <p>12 A. No.</p> <p>13 Q. Okay. Who does that?</p> <p>14 A. Members of my team.</p> <p>15 Q. Okay. Do you have final approach or have</p> <p>16 a say on what those scripts and talking points look</p> <p>17 like?</p> <p>18 A. Sometimes.</p> <p>19 Q. Okay.</p> <p>20 A. But not most of the time.</p> <p>21 Q. Okay. What people would develop a script</p> <p>22 or talking point for your inbound calls that you are</p> <p>23 responsible for?</p> <p>24 A. It depends on the issue that we are</p> <p>25 addressing with the talking points.</p>	<p>1 Q. Okay. Can you give me a couple of</p> <p>2 examples?</p> <p>3 A. If it's a routine issue my channel support</p> <p>4 team would develop the talking points. If it's</p> <p>5 something more unusual it would be other resources</p> <p>6 that would be engaged maybe the training team, other</p> <p>7 members of the corporate support organization that</p> <p>8 would be involved.</p> <p>9 THE WITNESS: I'd like to take a break.</p> <p>10 MR. NEPPLE: Sure.</p> <p>11 (A recess was taken.)</p> <p>12 BY MR. NEPPLE:</p> <p>13 Q. All right. Back on the record here. Let</p> <p>14 me make sure I understand your area of</p> <p>15 responsibility and maybe there is been some</p> <p>16 disconnect.</p> <p>17 You have to five call centers. What</p> <p>18 other calls, inbound calls, from Windstream</p> <p>19 customers are you responsible for?</p> <p>20 A. Primarily the ones that are processed in</p> <p>21 those five locations.</p> <p>22 Q. Okay. You did say I think, as I</p> <p>23 understood your testimony and correct me if I'm</p> <p>24 wrong, but that there are people outside of those</p> <p>25 calls centers that take inbound calls, correct?</p>

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<p>1 A. There are. We have some on the enterprise</p> <p>2 side.</p> <p>3 Q. Okay.</p> <p>4 A. I am not responsible for that.</p> <p>5 Q. Okay. But for your responsibilities, the</p> <p>6 five call centers?</p> <p>7 A. Primarily. There is a few smaller work</p> <p>8 groups, the dispatch team, things like that. There</p> <p>9 are some calls that come in there from time to time</p> <p>10 from a customer but those are the primary locations.</p> <p>11 Q. Okay. Do you have any employees tied to</p> <p>12 or tied into any of those call centers that work at</p> <p>13 home or work at a location outside of those five</p> <p>14 call centers?</p> <p>15 A. The employees that are part of those five</p> <p>16 locations work at those five locations. They don't</p> <p>17 work at home.</p> <p>18 Q. If I call a number that's tied to those</p> <p>19 call centers, do any of those calls get kicked to</p> <p>20 anyone who is not in one of those five call centers?</p> <p>21 A. I can't think of a reason why.</p> <p>22 Q. Okay. How many employees typically do you</p> <p>23 have staffed at those five call centers on an</p> <p>24 average day?</p> <p>25 A. 400.</p>	<p>1 Q. Across the five call centers?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. What's the largest call center?</p> <p>4 A. Cornelia, Georgia.</p> <p>5 Q. And how many would be in Cornelia,</p> <p>6 Georgia?</p> <p>7 A. 125.</p> <p>8 Q. Okay. Do you provide 24/7 call center</p> <p>9 support or only business hours or some mix?</p> <p>10 A. I don't provide 24/7. Business hours is</p> <p>11 how I would characterize it.</p> <p>12 Q. Do you know what the business hours are by</p> <p>13 any chance?</p> <p>14 A. 7:00 a.m. to 7:00 p.m.</p> <p>15 Q. Okay.</p> <p>16 A. Eastern time.</p> <p>17 Q. Okay. And are those 400 on an average</p> <p>18 day, are they there for the 12 hours or do you split</p> <p>19 up shifts?</p> <p>20 A. We split up shifts.</p> <p>21 Q. Okay. But on average you have the</p> <p>22 capacity of 400 people or is it less?</p> <p>23 A. It's less by virtue of those being spread</p> <p>24 out by the operating hours.</p> <p>25 Q. Do you have like a full-time equivalent,</p>
Page 27	Page 28
<p>1 an FTE of how many people you have on staff on those</p> <p>2 five call centers during an average day?</p> <p>3 A. Not with me.</p> <p>4 Q. Do you have an estimate of what that would</p> <p>5 be?</p> <p>6 A. I don't.</p> <p>7 Q. Okay. Would it be a fair statement to say</p> <p>8 that you have 3,000 or so call center employees</p> <p>9 total?</p> <p>10 A. I have no idea.</p> <p>11 Q. You have no idea of how many call center</p> <p>12 employees you supervises?</p> <p>13 A. I do know that. I don't know how many</p> <p>14 Windstream has.</p> <p>15 Q. Okay. For the ones that you supervises,</p> <p>16 how many employees are in those five call centers?</p> <p>17 MS. LOCKHART: Objection. Asked and</p> <p>18 answered.</p> <p>19 THE WITNESS: 400.</p> <p>20 BY MR. NEPPLE:</p> <p>21 Q. Okay. Out of the people that staff the</p> <p>22 call centers that you are responsible for, are they</p> <p>23 Windstream employees or are they independent</p> <p>24 contractors?</p> <p>25 A. We have both.</p>	<p>1 Q. Okay. Do you know what the division of</p> <p>2 that is?</p> <p>3 A. I do.</p> <p>4 Q. Okay. Can you tell me?</p> <p>5 A. We have one outsource location with about</p> <p>6 75 employees on any given day.</p> <p>7 Q. Okay. That location is?</p> <p>8 A. Montego Bay, Jamaica.</p> <p>9 Q. Okay. And then 325, if my math is right,</p> <p>10 are Windstream employees?</p> <p>11 A. That's accurate.</p> <p>12 Q. Okay. The employees, are they salaried or</p> <p>13 are they hourly or how are they compensated?</p> <p>14 A. The front line agents are hourly.</p> <p>15 Q. Okay. That would imply that there are</p> <p>16 people that are not front line agents that are</p> <p>17 salaried, correct?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. How many are salaried out of the</p> <p>20 325?</p> <p>21 A. I don't have that number.</p> <p>22 Q. Do you have a ballpark?</p> <p>23 A. Thirty to forty.</p> <p>24 Q. Okay. When a Windstream customer calls in</p> <p>25 to one the call centers that you have responsibility</p>

Page 29	Page 30
<p>1 for, is that interaction recorded?</p> <p>2 A. Yes.</p> <p>3 Q. Is that recorded every time?</p> <p>4 A. Yes.</p> <p>5 Q. Do any of your employees or independent</p> <p>6 contractors have the ability not to record the</p> <p>7 interaction?</p> <p>8 A. Not that I'm aware of.</p> <p>9 Q. Okay. And how long do you maintain the</p> <p>10 recording of interaction with your Windstream</p> <p>11 customers?</p> <p>12 A. Generally speaking, it's 60 days.</p> <p>13 Q. Is there any circumstances where it would</p> <p>14 be longer than 60 days?</p> <p>15 A. I can't think of one.</p> <p>16 Q. Okay. As part of the process of when a</p> <p>17 call comes in, I'm assuming each of the call center</p> <p>18 employees has a computer and has access to the</p> <p>19 caller's file?</p> <p>20 MS. LOCKHART: Objection. Can you ask the</p> <p>21 question.</p> <p>22 THE WITNESS: Can you restate the</p> <p>23 question.</p> <p>24 BY MR. NEPPLE:</p> <p>25 Q. Sure.</p>	<p>1 A. Maybe be more specific.</p> <p>2 Q. Sure. When a Windstream customer calls in</p> <p>3 and the call goes to one of the call centers that</p> <p>4 you are responsible for and one of your front line</p> <p>5 employees takes that call, at some point do they</p> <p>6 have a computer screen that has information on the</p> <p>7 caller?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you said earlier in your</p> <p>10 testimony that you look at some screen shots, is</p> <p>11 that what you looked at, the screen shot of what</p> <p>12 that intake screen looks like or is that something</p> <p>13 different?</p> <p>14 A. Yes.</p> <p>15 Q. Is it?</p> <p>16 A. The screen shots that I reviewed were</p> <p>17 screen shots that employees would use to process a</p> <p>18 call.</p> <p>19 Q. All right. Those screen shots, are those</p> <p>20 identical across the five call centers, this is the</p> <p>21 script or the computer form that we use for every</p> <p>22 call?</p> <p>23 A. Can you restate the question?</p> <p>24 Q. Sure. If the call center employee at the</p> <p>25 Newton, Iowa location and pulls up a form of a</p>
Page 31	Page 32
<p>1 customer that calls in, if that call had been routed</p> <p>2 to the Georgia call center, would the same form come</p> <p>3 up?</p> <p>4 A. Generally speaking, our processes are the</p> <p>5 same for processing the call across the locations.</p> <p>6 Q. Okay. Is there any difference that you</p> <p>7 can think of as you sit here that they vary by</p> <p>8 location?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Tell me how they vary by location</p> <p>11 to your understanding?</p> <p>12 A. We have some experienced employees that</p> <p>13 may use systems they are more familiar with that</p> <p>14 some of the new employees would not use.</p> <p>15 Q. More trusted employees, would that be a</p> <p>16 fair way to say it?</p> <p>17 A. No.</p> <p>18 Q. Okay. More experienced because -- strike</p> <p>19 is that.</p> <p>20 Then explain to me how those</p> <p>21 employees would use a different system?</p> <p>22 A. The system contains the same information.</p> <p>23 It's a different method of accessing it.</p> <p>24 Q. Okay.</p> <p>25 A. The more experienced employees may use a</p>	<p>1 different access method, but would be using the same</p> <p>2 information to process the call. It's just</p> <p>3 accessing it via a different interface.</p> <p>4 Q. Why would they access it with a different</p> <p>5 interface?</p> <p>6 A. Comfortability.</p> <p>7 Q. Is it quicker?</p> <p>8 A. In some cases it could be.</p> <p>9 Q. Okay. Well, you said comfortability, what</p> <p>10 do you mean by that?</p> <p>11 A. When they were trained that was the system</p> <p>12 they were trained on because the new system did not</p> <p>13 exist.</p> <p>14 Q. Okay. And when you say a new system, was</p> <p>15 that new system in place in 2019?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. When did that new system go in</p> <p>18 place, ballpark?</p> <p>19 A. Three or four years ago.</p> <p>20 Q. Okay. If your call system volume gets too</p> <p>21 high, do you have the ability to bring people in to</p> <p>22 handle that or just the times just become extended?</p> <p>23 MS. LOCKHART: Objection, compound.</p> <p>24 THE WITNESS: Can you restate the</p> <p>25 question?</p>

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<p>1 BY MR. NEPPLE:</p> <p>2 Q. Sure. If for some reason, maybe there is</p> <p>3 storms or maybe there is a line cut and you get a</p> <p>4 high volume of calls that your 325 people can't</p> <p>5 handle or that their delay time becomes too long, do</p> <p>6 you have the ability to go get other employees to</p> <p>7 come in whether it's call center employees or any</p> <p>8 other back up to handle the increased call volume?</p> <p>9 A. I don't.</p> <p>10 Q. Okay. So the 325 that you have or however</p> <p>11 many you have at a specific time, those are the</p> <p>12 people that are handling the calls that are coming</p> <p>13 in to Windstream high or low volume, those are the</p> <p>14 people?</p> <p>15 A. In my area of responsibility, yes.</p> <p>16 Q. In your area of responsibility. Do you</p> <p>17 keep metric of the calls and -- strike that.</p> <p>18 Do you keep metrics of the calls that</p> <p>19 come into the call centers that you have</p> <p>20 responsibility for?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. What type of metrics do you keep or</p> <p>23 maintain?</p> <p>24 A. A lot of different ones. Primarily the</p> <p>25 number of calls, how long it took to process them</p>	<p>1 and how quickly we answered the call.</p> <p>2 Q. Okay. And so quickly would be how long</p> <p>3 the wait time was?</p> <p>4 A. Yes, that's one way we measure it.</p> <p>5 Q. What other ways do you measure it?</p> <p>6 A. The percentage of time, the percentage of</p> <p>7 calls that were answered within a certain time</p> <p>8 parameter.</p> <p>9 Q. Okay. You are going to need to explain</p> <p>10 that to me. Is it from the time the call connected</p> <p>11 to the call center or the number of rings? I don't</p> <p>12 understand what you mean by that.</p> <p>13 A. We measure it based on how long the</p> <p>14 customer had to hold before they reached a live</p> <p>15 agent.</p> <p>16 Q. Okay.</p> <p>17 A. We measure that in two primary ways; how</p> <p>18 long they held, we covert that to an average; and</p> <p>19 then we also measure it as a percentage of the time</p> <p>20 a customer was answered within a certain time</p> <p>21 parameter.</p> <p>22 Q. Okay. So you have a metric that you want</p> <p>23 an X percentage of your customer calls to be</p> <p>24 answered within Y minutes; is that what you are</p> <p>25 saying?</p>
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<p>1 A. Yes.</p> <p>2 Q. Okay. And what's the X and the Y in my</p> <p>3 last question?</p> <p>4 A. The X is 70 percent, the Y is 60 seconds.</p> <p>5 Q. Okay. So your goal is to have a customer</p> <p>6 call in 70 percent of those customers will start</p> <p>7 talking to a Windstream rep live within 60 seconds?</p> <p>8 MS. LOCKHART: Objection, Windstream rep</p> <p>9 is a little bit vague.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. NEPPLE:</p> <p>12 Q. Okay. Do you keep other metrics in</p> <p>13 addition to what you just discussed?</p> <p>14 A. Yes.</p> <p>15 Q. What other metrics do you keep?</p> <p>16 A. We keep average handle time. We have a</p> <p>17 scheduled adherence metric. We have a quality</p> <p>18 metric. We measure abandonment rate. Those are the</p> <p>19 primary ones that I can think of off the top of my</p> <p>20 head.</p> <p>21 Q. Okay. And I apologize, I missed the</p> <p>22 second one. Unless the court reporter can read your</p> <p>23 answer back. I missed the second one.</p> <p>24 A. Can you read the ones you have?</p> <p>25 Q. Sure. Average handling time. Quality</p>	<p>1 metric. Abandonment metric and the second one I am</p> <p>2 missing.</p> <p>3 (Whereupon the Court Reporter read a portion</p> <p>4 of the previous answer.)</p> <p>5 BY MR. NEPPLE:</p> <p>6 Q. Okay. Let's go through this. So is that</p> <p>7 a fair statement, those are the four primary metrics</p> <p>8 that you measure, average handling time, schedule of</p> <p>9 adherence metric, quality metric and abandonment.</p> <p>10 A. Yes, those are the primary ones. Schedule</p> <p>11 of adherence is scheduled adherence.</p> <p>12 Q. Okay. Let's go in reverse order. What</p> <p>13 are you measuring when you look at abandonment</p> <p>14 metric?</p> <p>15 A. The percentage of callers that hung up</p> <p>16 before they reached a call center agent.</p> <p>17 Q. Do you have a target for keeping that</p> <p>18 percentage less than?</p> <p>19 A. Yes.</p> <p>20 Q. What's that target?</p> <p>21 A. 5 percent.</p> <p>22 Q. And is that 5 percent independent of time,</p> <p>23 it's just 5 percent of the people that call in, you</p> <p>24 want 95 percent to reach a Windstream front line</p> <p>25 agent?</p>

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1 A. Yes.

2 Q. Okay. And then your quality metric,

3 what's your quality metric?

4 A. We listen to calls and grade agents'

5 performance and turn that into percentage.

6 Q. Okay. You rate them on a scale?

7 A. Yes.

8 Q. One to ten, A through F, how do you assign

9 the number to agent?

10 A. It's percentage based.

11 Q. Okay. And the best score would be

12 100 percent?

13 A. Yes.

14 Q. And the worse would be zero?

15 A. Yes.

16 Q. I think my career managing a call center

17 is useful here. All right. What's the third one

18 the scheduled -- I'm not going to get it.

19 THE COURT REPORTER: Scheduled adherence.

20 BY MR. NEPPLE:

21 Q. Scheduled adherence?

22 A. That measures the agent's actual schedule

23 worked compared to the schedule that we provided

24 them for that day.

25 Q. Okay. So punch in and punch out time

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1 whether you've been above or below your call for the

2 months of 2019?

3 A. Can you clarify which metric?

4 Q. Sure. It's a fair question. Your goal of

5 425 seconds of average handling time per call, you

6 said last month it was 420 seconds, do you recall

7 any times during this year of 2019 where that number

8 was higher than 425 seconds?

9 A. Yes, for certain locations, not an

10 aggregate.

11 Q. So an aggregate across the five call

12 centers that are responsible for, you have met the

13 425 seconds standard in aggregate?

14 A. To the best of my recollection, yes.

15 Q. Okay. Has that number been pretty

16 consistent for you as a goal for the call centers

17 you manage since you've been in that position?

18 A. Yes.

19 Q. So if I make the statement, and tell me if

20 this is fair, on average across the five call

21 centers that you manage, the typical response time

22 for you, for a front line employee to talk to a

23 Windstream customer and handle that call is

24 approximately 425 seconds?

25 MS. LOCKHART: Objection, vague.

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1 compared to what you asked them to do; is that a

2 fair summary?

3 A. Yes.

4 Q. Okay. And then average hold time, what is

5 your goal for the average hold time or sorry,

6 average handle time?

7 A. 425 seconds.

8 Q. And that's the goal from the time that a

9 Windstream customer calls and starts talking to a

10 front line representative that you are responsible

11 for and the call is completed, 425 seconds?

12 A. Yes.

13 Q. Okay. I was told there would be no math,

14 but seven minutes five seconds?

15 A. Yes, that sounds right.

16 Q. Okay. And what's your average handling

17 time?

18 A. For what period of time?

19 Q. 2019.

20 A. I don't know.

21 Q. Do you know for any period of time?

22 A. I can get close for the last month.

23 Q. Okay. Give me last month.

24 A. 420 seconds.

25 Q. As we sit here today, can you recall

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1 THE WITNESS: 425 seconds is not typical

2 of the response time. It is typical of the

3 processing time.

4 BY MR. NEPPLE:

5 Q. Oh. Is it a fair statement to say that

6 once a Windstream customer is connected with a

7 Windstream front line person that you manage at one

8 of the five call centers that on average that call

9 is going to take approximately 425 seconds from when

10 they first start talking to when they hang up?

11 A. Yes.

12 Q. Okay. Do you know how many calls you

13 handle on average in a typical day or a typical

14 month, and just so we are clear, when I'm asking you

15 questions, okay, just assume any one of mine is just

16 the call centers that you are responsible for.

17 Can we have that ongoing

18 understanding so we don't have to do that dance each

19 and every time, okay, so I'm talking about your

20 responsibilities, okay?

21 A. Yes.

22 Q. Okay. Can you tell me how many calls you

23 get on an average day or average month?

24 A. Yes.

25 Q. Okay. What's that number?



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1 A. 200,000 a month.  
2 Q. Okay.  
3 A. Seven to 10,000 a day.  
4 Q. Okay. Are there any particular months of  
5 the year that are higher or lower or are they pretty  
6 steady across the 12 month span?  
7 A. We have seasonality that creates peaks and  
8 valleys.  
9 Q. What's your high seasonality?  
10 A. The summer.  
11 Q. Why would that be high during the summer?  
12 A. Because people move frequently in the  
13 summer.  
14 Q. Okay. What kind of numbers on average for  
15 a month, a high summer month would that be?  
16 A. 250,000.  
17 Q. Okay. And on the low side, what would be  
18 a low month during a year?  
19 A. February.  
20 Q. Okay. What would a month like February  
21 look like?  
22 A. 170,000.  
23 Q. Is that a combination of 28 or 29 days  
24 plus people are not moving, are those the primary  
25 drivers or anything else?

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1 A. The primary driver is that not a lot of  
2 people are moving. It's the moving activity that  
3 primarily drives an increase in call volume.  
4 Q. So would it be a fair statement to say  
5 that your higher months are the spring and the fall  
6 through the summer and the spring to the fall and  
7 the winter is lower?  
8 MS. LOCKHART: Objection, form.  
9 THE WITNESS: I would not characterize it  
10 that way, no.  
11 BY MR. NEPPLE:  
12 Q. Okay. How would you characterize it?  
13 A. Summer months being higher and the winter  
14 being lower. Spring and fall being somewhere in  
15 between.  
16 Q. Okay. And now moving down to the seven to  
17 10,000 calls per day, is there specific day or days  
18 of the week that the volume is higher?  
19 A. Yes.  
20 Q. What are those days?  
21 A. Mondays and Tuesdays.  
22 Q. Okay. And what are your low days?  
23 A. Wednesdays and Thursdays.  
24 Q. And do you have an understanding of why  
25 your high days are Monday and Tuesday?

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1 A. Yes.  
2 Q. What's your understanding?  
3 A. We don't process calls on Sunday.  
4 Q. Okay. Do you process calls on Saturday?  
5 A. Yes.  
6 Q. So call in six days a week 7:00 a.m. to  
7 7:00 p.m.?  
8 A. Yes, generally speaking. We are open 8:30  
9 to 5:00 on Saturday.  
10 Q. Okay. So 7:00 a.m. to 7:00 p.m. Monday to  
11 Friday and 8:30 to 5:00 on Saturday and closed on  
12 Sunday?  
13 A. Generally speaking. We are open to  
14 8:00 p.m. in some locations.  
15 Q. Okay. But closed on Sunday throughout  
16 your five call centers?  
17 A. Yes.  
18 Q. Okay. And why is your low on Wednesday  
19 Thursday?  
20 A. I honestly don't know the driver behind  
21 that. It's the way it shakes out.  
22 Q. For the call centers that you are  
23 responsible for, are the incoming calls that you are  
24 responsible for what products is Windstream offering  
25 to your customers or potential customers?

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1 A. Primarily broadband service as well as  
2 voice and TV.  
3 Q. Do you as you sit here, do you have a  
4 breakdown as to how those three categories break  
5 down percentage wise, just a general ballpark?  
6 A. I don't understand the question.  
7 Q. So is 70 percent of your business  
8 broadband, 20 percent voice, 10 percent TV, do you  
9 have a breakdown of how you would break those  
10 categories down?  
11 A. I don't.  
12 Q. Do you have even a general understanding  
13 of what's the -- is broadband the primary service  
14 for your customers?  
15 A. Yes.  
16 Q. Okay. Would voice be second and TV third;  
17 if you know?  
18 A. I don't know.  
19 Q. Okay.  
20 A. It would -- I would be speculating. I  
21 don't know.  
22 Q. Okay. If I'm a Windstream customer and I  
23 want to add services or disconnect service whether  
24 it's broadband, voice, or TV, is my call going to  
25 one of your call centers or one of the other



1 locations that comes within your area of  
2 responsibility?  
3 A. If you are going to disconnect, yes. If  
4 you want to add service to an existing account, yes.  
5 If you are prospect and you want to become a  
6 Windstream customer, that call would not come to me.  
7 Q. Okay. Those calls, prospect calls, who do  
8 they go to?  
9 A. Our sales, inbound sales centers.  
10 Q. Okay. But it does fall within your  
11 purview for Windstream customers who want to  
12 disconnect or add, that call comes in one of the  
13 centers or locations that you manage?  
14 A. Yes.  
15 Q. Okay. Is it a fair statement that it's  
16 more expensive to go get a new client than to  
17 maintain a current client?  
18 MS. LOCKHART: Objection, vague.  
19 THE WITNESS: Can you restate it real  
20 quick?  
21 BY MR. NEPPLE:  
22 Q. Sure, sure. Is it easier for you and  
23 cheaper for you to go get a new Windstream customer  
24 or maintain a Windstream customer who is looking to  
25 disconnect?

1 A. It's cheaper to maintain a customer than  
2 to go get a new one.  
3 Q. Okay. And as part of the training and the  
4 general supervision and the leadership that you  
5 provide to your front line call people, is one of  
6 the things that you train and provide leadership on  
7 is when a Windstream customer who is looking to  
8 disconnect calls into one of your call centers you  
9 try to convince them not to disconnect?  
10 A. Yes.  
11 Q. Okay. And is there a name for that  
12 process in the industry or that Windstream uses?  
13 A. Yes.  
14 Q. What's that name?  
15 A. Retention process.  
16 Q. Okay. Explain to me generally what the  
17 Windstream's retention process is for a customer who  
18 is looking to disconnect or has raised the  
19 possibility of disconnection to one the call centers  
20 that you manage or supervise?  
21 A. The agents are trained to ask the  
22 customers questions to understand the root cause of  
23 the disconnect request. Based on that information  
24 they deploy tools to try to convince the customer to  
25 stay with us by addressing the root cause of the

1 disconnect request.  
2 Q. Okay. And those tools, what kind of tools  
3 are those that you provide to them?  
4 A. I'll give two examples. If they are  
5 unhappy with the speed they are receiving, we would  
6 give them a speed upgrade either for free or at a  
7 discounted rate. If they are unhappy with the price  
8 they are paying, we may offer them a monthly  
9 recurring discount.  
10 Q. Okay. Any other incentives that you  
11 provide to a customer that is looking to disconnect  
12 other than upgrade in speed or decrease in price or  
13 both?  
14 A. Those are the main ones that virtually  
15 everything that we provide calls in those two  
16 categories.  
17 Q. Okay. And tell me if I'm wrong, would  
18 there not be a category where people who are just  
19 unhappy with the service, it's out, it's not  
20 consistent, I'm having trouble maintaining my  
21 connection, we'll call it technical issues, there is  
22 not a pile of technical issues tool?  
23 A. Yes.  
24 Q. What tools do you offer people who are  
25 having technical issues?

1 A. We would troubleshoot the issue, dispatch  
2 the technician, in come cases to try to remedy the  
3 situation.  
4 Q. Okay. If I'm a Windstream and I call one  
5 of your call centers and I'm saying I'm not happy  
6 with the speed, is there a script or talking point  
7 that come up for speed root cause?  
8 A. Yes, that's accurate.  
9 Q. Okay. And same thing for price root  
10 cause?  
11 A. Yes that's accurate.  
12 Q. Okay. And then would there be one for  
13 technical root cause?  
14 A. Yes.  
15 Q. Okay. Is that script pretty consistent  
16 other than updating the prices and the speeds, but  
17 taking out those variables of price and speed, is  
18 the script generally consistent over the last few  
19 years that you have been in this job?  
20 A. Yes. Although I would not characterize it  
21 as a script. It's more of a call handling process  
22 guide.  
23 Q. Okay.  
24 A. It doesn't contain necessarily scripting.  
25 Q. Okay. They are not reading it word for

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1 word, but they have bullet points on what they, what  
2 you or what Windstream wants them to mention to a  
3 customer call complaining of speed or price?

4 A. Yes, that's accurate.

5 Q. Okay. I think you testified at the start  
6 of the depo that you have some input on what the  
7 front line person sees, do you have input on those  
8 bullet points or that summary for both the speed or  
9 the price or technical issues?

10 A. Yes.

11 Q. Okay. Let's talk about the general  
12 disconnection process. If I'm a Windstream customer  
13 and I want to disconnect for any reason, I'm either  
14 not happy or I'm moving or I'm getting married and  
15 combining homes, whatever that may be. Take out  
16 why, I just want to disconnect. How is that process  
17 done? I can call one of your call centers; is that  
18 correct?

19 A. Yes.

20 Q. And I can disconnection TV, voice and  
21 Internet broadband in a call center call?

22 A. Yes.

23 Q. Okay. Can I disconnect all three of those  
24 service by email?

25 A. You can send us written notification that

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1 you want to disconnect, that can be done over email,  
2 but we would make a phone call to confirm the  
3 disconnect.

4 Q. Okay. And as part of that process you  
5 then want to talk to that customer to find out if  
6 there is a root cause and hopefully offer something  
7 that they will stay with you if it's something that  
8 you can solve, if it's a problem that you can solve  
9 you want to solve that problem, right? You want to  
10 have a conversation with that person?

11 A. Yes.

12 Q. Okay. I assume the same thing if someone  
13 sends you a letter; does anyone send snail mail  
14 saying disconnect my services anymore?

15 A. It does happen. It's not common.

16 Q. Okay. Pretty rare?

17 A. That's accurate.

18 Q. It's the same thing, you would call that  
19 person just like if you got an email from them and  
20 again, go through the process of trying to maintain  
21 your customer?

22 A. Yes.

23 Q. Any other methods that they can disconnect  
24 other than calling in, emailing or sending you U.S.  
25 mail?

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1 A. In some cases we get notified of a  
2 disconnect request from another provider.

3 Q. Okay. Explain that to me, please.

4 A. So if one of our customers calls another  
5 provider and wants to establish service with them  
6 and they want to move their telephone number over,  
7 we call it porting in the industry, there is a  
8 process where we are notified of that request.

9 Q. Does that porting apply to all three  
10 forms, broadband, voice and TV?

11 A. It primarily applies to voice. There is a  
12 process associated with the broadband when it's a  
13 combined customer and we get one of those  
14 notifications, but it primarily pertains to voice.

15 Q. Okay. Are these customers who don't like  
16 confrontation and want their new provider to do it  
17 for them or is this standard in the industry that  
18 this porting process is just what happens in the  
19 industry between competitors?

20 MS. LOCKHART: Objection. Assumes facts  
21 not in evidence.

22 THE WITNESS: I can't speak for the  
23 customer and why they choose to go that route versus  
24 others, but this is something that's been in place  
25 for a long time.

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1 BY MR. NEPPLE:

2 Q. Okay. Do you track the number of  
3 customers who are trying to disconnect service  
4 through your call centers that you manage?

5 A. Yes.

6 Q. Okay. Do you track that on a daily basis  
7 or a monthly basis?

8 A. We track it daily.

9 Q. Okay. And on average, how many  
10 disconnection requests do you get on a daily basis?

11 A. Four or 500, somewhere in that range.

12 Q. And like your other numbers does that  
13 number vary by the month of the year?

14 A. It does.

15 Q. Would it track basically higher in the  
16 spring when people are moving and lower in the  
17 winter or is there a different driver?

18 A. It does not track higher in the spring  
19 because customers are moving. It tracks higher in  
20 the summer because customers are moving.

21 Q. Okay. And that four to 500 people that  
22 want to disconnect on a daily basis, do you track a  
23 metric versus the number of subscribers you have as  
24 a percentage? In other words, we have X number of  
25 request and we have this many subscribers our

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<p>1 percentage is Y?</p> <p>2 A. I don't track that number.</p> <p>3 Q. Okay. And do you track your batting</p> <p>4 average of, let's say 500 people call today and want</p> <p>5 to disconnect, do you track the percentage of the</p> <p>6 number of people that you are able to convince to</p> <p>7 stay with your service?</p> <p>8 A. Yes, we do track that.</p> <p>9 Q. What's the percentage -- strike that.</p> <p>10 What do you call that conversion</p> <p>11 rate, retention rate or what term would you apply to</p> <p>12 it?</p> <p>13 A. Saved percentage.</p> <p>14 Q. Saved percentage, okay. What is</p> <p>15 Windstream's saved percentage for 2019?</p> <p>16 A. I don't know the exam number.</p> <p>17 Q. Ballpark?</p> <p>18 A. 64 percent.</p> <p>19 Q. Is there a goal that Windstream tries to</p> <p>20 set for its saved percentage?</p> <p>21 A. Yes.</p> <p>22 Q. And what's the goal?</p> <p>23 A. It varies by month.</p> <p>24 Q. Okay. On a high end and low end, can you</p> <p>25 give me a range?</p>	<p>1 A. Sixty-seven to 63, generally speaking.</p> <p>2 Q. Is that pretty consistent throughout your</p> <p>3 tenure in your current position?</p> <p>4 A. No.</p> <p>5 Q. Has the number of saved percentage</p> <p>6 increased over the years has it increased or has the</p> <p>7 saved percentage gone down?</p> <p>8 A. It has increased.</p> <p>9 Q. Okay. How long have you been in your</p> <p>10 current position?</p> <p>11 A. Since December 2015.</p> <p>12 Q. Okay. So in the almost four years you</p> <p>13 have been in your current position has the saved</p> <p>14 percentage increased?</p> <p>15 A. Yes, that would be accurate.</p> <p>16 Q. Okay. How much has that saved percentage</p> <p>17 increased?</p> <p>18 A. I don't know exactly.</p> <p>19 Q. Okay. Would it have been in the 50s or in</p> <p>20 the low 60s?</p> <p>21 A. We definitely had months in the 50s at one</p> <p>22 point.</p> <p>23 Q. Okay. Has this process, this save</p> <p>24 percentage and retention process been in place</p> <p>25 pretty consistently since you stepped in your role</p>
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<p>1 in 2015?</p> <p>2 A. No.</p> <p>3 Q. Okay. Did you implement it?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. What changes did you make from the</p> <p>6 process that was in place before you implemented it?</p> <p>7 A. We established a team that was exclusively</p> <p>8 focused on that function.</p> <p>9 Q. On saved percentage and preventing</p> <p>10 disconnect?</p> <p>11 A. Yes.</p> <p>12 Q. Is it then fair if I call in and say, I</p> <p>13 want added services that will stay with like certain</p> <p>14 group of your call center employees, but if I want</p> <p>15 to disconnect that goes to a subset of that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. How big is the subset of the</p> <p>18 disconnect employees?</p> <p>19 A. Fifty agents.</p> <p>20 Q. Okay. How many disconnect agents are in</p> <p>21 place on an average day?</p> <p>22 A. I don't know.</p> <p>23 Q. Okay. What is about the skill set of the</p> <p>24 50 agents that they have been tasked with the</p> <p>25 disconnect and the retention plan?</p>	<p>1 A. They received additional training by</p> <p>2 virtue of the role that they are in.</p> <p>3 Q. Are these people that you consider better</p> <p>4 personalities, brighter personalities, better</p> <p>5 salespeople, how do they get on the disconnect team?</p> <p>6 MS. LOCKHART: Object to form.</p> <p>7 THE WITNESS: It's primarily by virtue of</p> <p>8 the location they sit in because we have that</p> <p>9 function only in one location, but we do have a</p> <p>10 selection process to try to find the best fits for</p> <p>11 that particular role in that location.</p> <p>12 BY MR. NEPPLE:</p> <p>13 Q. Okay. What is the location of the</p> <p>14 disconnect team?</p> <p>15 A. Newton, Iowa.</p> <p>16 Q. Okay. How often are you traveling to the</p> <p>17 Newton, Iowa call center?</p> <p>18 A. A couple of times a year.</p> <p>19 Q. To the Des Moines International Airport?</p> <p>20 It's a joke. I'm from Des Moines.</p> <p>21 A. Yes.</p> <p>22 Q. Thanks. Is it fair to say that when</p> <p>23 customers call in and they want to disconnect you</p> <p>24 want to try to talk them out of it?</p> <p>25 A. Yes.</p>

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<p>1 Q. Okay. And are all those disconnection</p> <p>2 calls recorded?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Do you ask or are your -- strike</p> <p>5 that.</p> <p>6 Are your disconnect agents asked who</p> <p>7 their current service is with? Strike that, that's</p> <p>8 a horrible question.</p> <p>9 Your agents in the disconnect center,</p> <p>10 do they ask your Windstream customers who they are</p> <p>11 disconnecting for, who they want to disconnect for?</p> <p>12 A. Yes, if it's relevant to the call that</p> <p>13 they are taking.</p> <p>14 Q. Okay. Are they asked as a matter of</p> <p>15 course?</p> <p>16 A. I would not characterize it as a matter of</p> <p>17 course, no.</p> <p>18 Q. Do you train those disconnect agents to</p> <p>19 ask?</p> <p>20 A. We train them primarily to dig into the</p> <p>21 root cause of the disconnect, which is much more</p> <p>22 important to us than who they are currently with.</p> <p>23 Q. Okay. As part of the display screen that</p> <p>24 comes up with when a Windstream customer calls in</p> <p>25 and wants to disconnect, are you able to tell based</p>	<p>1 upon their geographical location who their likely</p> <p>2 providers are other -- strike that.</p> <p>3 As part of the call center intakes</p> <p>4 where the disconnects are processed and that screen</p> <p>5 comes up, can an operator, one of your front line</p> <p>6 employees look at the location and have an</p> <p>7 understanding of who the competitors are in that</p> <p>8 location?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So if my parents in Clive, Iowa</p> <p>11 call up and say I'm looking to leave Windstream and</p> <p>12 you pull up their address and you see they are in</p> <p>13 Clive Iowa you know who the competitors for</p> <p>14 Windstream are for their address?</p> <p>15 A. Yes, that's accurate.</p> <p>16 Q. Okay. And do you know every single time</p> <p>17 who the competitors are?</p> <p>18 A. Yes, that's accurate.</p> <p>19 Q. Okay.</p> <p>20 A. I'm sure there are exceptions but</p> <p>21 primarily, yes.</p> <p>22 Q. Okay. So is it a fair summary to say that</p> <p>23 if someone calls and they want to disconnect your</p> <p>24 service and the screen pops up, the person knows who</p> <p>25 your competitors are and their first goal is to find</p>
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<p>1 out the root cause of the disconnect request?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And try to address the root cause</p> <p>4 of the disconnect request?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. How empowered are your front line</p> <p>7 employees to make an offer whether it's speed or</p> <p>8 price or whatever to solve that root problem, do you</p> <p>9 have a metric that can only offer X, Y or Z or are</p> <p>10 they given pretty while latitude whatever they need</p> <p>11 to do to keep that customer happy and not</p> <p>12 disconnect?</p> <p>13 A. I would characterize it as Y latitude with</p> <p>14 parameters or guardrails on those.</p> <p>15 Q. Okay. So you can up speed to this number,</p> <p>16 you can decrease price to this number, you can offer</p> <p>17 other incentives within a range?</p> <p>18 A. Yes, that's accurate.</p> <p>19 Q. Other than price and speed, what other</p> <p>20 incentives can they offer within the guardrails?</p> <p>21 MS. LOCKHART: Objection, asked and</p> <p>22 answered.</p> <p>23 THE WITNESS: In some cases we would offer</p> <p>24 an expedited, you know, service dispatch or</p> <p>25 correction or troubleshooting or something along</p>	<p>1 those lines, but I would characterize the process</p> <p>2 and the responses that the agents give to disconnect</p> <p>3 request as primarily falling in those two</p> <p>4 categories, speed and price.</p> <p>5 BY MR. NEPPLE:</p> <p>6 Q. Okay. Is any of the compensation paid to</p> <p>7 the Windstream employees or independent contractors</p> <p>8 in any of your call centers that you manage based</p> <p>9 upon their retention rate?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. How does that work?</p> <p>12 A. They receive higher compensation in the</p> <p>13 retention team if the retention or save percentage</p> <p>14 is higher.</p> <p>15 Q. Okay. Is it based on average save</p> <p>16 percentage or are they compensated per individual</p> <p>17 save?</p> <p>18 A. It's based on the average, the percentage.</p> <p>19 Q. Okay. Are they compensated based upon</p> <p>20 what the Windstream save amounted to, in other</p> <p>21 words, we only had to offer X for speed, we only had</p> <p>22 to offer Y for price, is that taken into account or</p> <p>23 is it simply the fact that it was a save taken into</p> <p>24 account?</p> <p>25 A. The latter, it is just based on</p>

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1 percentage.

2 Q. Okay.

3 A. There is no penalty for the type of tactic

4 deployed.

5 Q. Okay. So make sure I understand, is it a

6 fair statement to say if Windstream call service

7 center employee A offers a \$20 discount and their

8 save percentage is 65 and the call center employee B

9 offers \$10 discount but their save percentage is

10 still 65 percent they are going to be compensated

11 the same?

12 A. Yes, that's my recollection.

13 Q. Okay. Is it a fair statement to say that

14 Windstream wants the opportunity to talk to any

15 current Windstream customer face to or on the phone

16 before that customer disconnects?

17 MS. LOCKHART: Objection, form.

18 THE WITNESS: Yes.

19 BY MR. NEPPLE:

20 Q. Let me clean it up. Is it fair to say

21 that Windstream wants an opportunity to talk to that

22 customer on the phone, that Windstream customer

23 before they disconnect?

24 A. Yes.

25 MR. NEPPLE: You want to take a short

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1 would process a customer credit changed after we

2 filed. Back up.

3 The way we process a credit request

4 from a customer changed after we filed for

5 bankruptcy.

6 Q. Okay.

7 A. So as a result of that we provided

8 information to the front line agents to enable them

9 to process those calls in the new environment.

10 Q. Okay. Did you provide any information

11 specific to the bankruptcy, you know, why

12 Windstream, why they filed or what they thought or

13 what they predicted the outcome will be, anything

14 like that to the call center employees?

15 A. I did not provide that information.

16 Q. Are you aware of any new information being

17 provided to call center employees on those topics?

18 A. I don't recall anything being provided.

19 Q. When did you first hear that Windstream

20 had either filed bankruptcy or was going to file

21 bankruptcy?

22 A. I don't recall the exact date.

23 Q. Okay. Does February or March of this year

24 sound right?

25 A. It was in February.

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1 break? We have been going for about an hour.

2 MS. LOCKHART: Yeah, sure.

3 (A recess was taken.)

4 BY MR. NEPPLE:

5 Q. All right. Now, you said you had some

6 input based on whether it's a script or talking

7 points for your call center employees, correct?

8 A. Yes.

9 Q. As part of the Windstream bankruptcy, did

10 you draft any talking points or scripts or whatever

11 for questions that came up about the Windstream

12 bankruptcy filing?

13 A. No.

14 Q. Were any talking points or scripts or any

15 sort of information provided to call center

16 employees on how to handle the Windstream bankruptcy

17 if that issue came up?

18 A. We did provide some call processing

19 documentation that had scripting in it because how

20 we handle certain calls changed when we filed for

21 Chapter 11. I am aware of that.

22 Q. Okay. Let me try to unpack that because I

23 don't know if I understood it. You provided call

24 processing information, what did you provide?

25 A. I'll give you one example. So the way we

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1 Q. Did you know before they filed or after

2 they filed?

3 A. I don't recall specifically if I was told

4 we were going to file. I just don't recall.

5 Q. Okay. Had you heard any rumors that

6 Windstream was going to file for bankruptcy before

7 they filed?

8 A. Yes.

9 Q. Did you as part of your review whether

10 listening to ten calls a day that you talk about or

11 otherwise have input on how your call centers should

12 respond to questions about the Windstream bankruptcy

13 at any point in time?

14 A. Not immediately after the filing.

15 Q. Okay. At what point did that change?

16 A. When Charter sent out the false

17 advertisement.

18 MR. NEPPLE: Move to strike that.

19 Argumentative but go ahead.

20 BY MR. NEPPLE:

21 Q. Did you provide any messaging whether it's

22 a script or talking points or guidance whatsoever on

23 how your call center employees should deal with or

24 respond to questions specific to the letter that

25 Windstream sent out regarding the filing of their

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<p>1 bankruptcy?</p> <p>2 MS. LOCKHART: Objection.</p> <p>3 THE WITNESS: I did not provide anything</p> <p>4 and to my recollection. My team didn't provide</p> <p>5 anything either.</p> <p>6 BY MR. NEPPLE:</p> <p>7 Q. Are you aware of anyone else providing</p> <p>8 that to your call center employees?</p> <p>9 A. I may have been aware of one point, but I</p> <p>10 don't recall anything specific.</p> <p>11 Q. Okay. Did you personally receive a copy</p> <p>12 of the Windstream letter and notice from the</p> <p>13 bankruptcy court regarding Windstream's bankruptcy</p> <p>14 filing?</p> <p>15 A. Yes, I believe I did.</p> <p>16 Q. Okay. Do you have a stock ownership in</p> <p>17 Windstream?</p> <p>18 MS. LOCKHART: Objection, relevance.</p> <p>19 BY MR. NEPPLE:</p> <p>20 Q. You can go ahead and answer.</p> <p>21 A. I do not.</p> <p>22 Q. No stock ownership either in 401K or</p> <p>23 otherwise?</p> <p>24 A. I don't know for -- I don't think I have</p> <p>25 any in my 401K.</p>	<p>1 Q. Is any of your compensation tied to</p> <p>2 Windstream's financial performance other than the</p> <p>3 continuing existence of Windstream?</p> <p>4 A. Yes.</p> <p>5 Q. How does that work?</p> <p>6 A. I receive a salary. I also receive a</p> <p>7 short term incentive or I'm eligible for a short</p> <p>8 term incentive bonus as provided in cash and then I</p> <p>9 have a long term incentive structure that is also</p> <p>10 provided in cash.</p> <p>11 Q. Okay. And what's the short term? Yearly?</p> <p>12 A. No, not know. Now it's quarterly.</p> <p>13 Q. I'm sorry?</p> <p>14 A. Not now. Now it's quarterly.</p> <p>15 Q. What's the long term?</p> <p>16 A. It is granted annually. In some cases at</p> <p>17 best quarterly.</p> <p>18 Q. Have you reviewed at any point in time any</p> <p>19 call transcripts from your call center employees</p> <p>20 where the issue of Windstream's bankruptcy arose?</p> <p>21 A. Yes.</p> <p>22 Q. What did you do then?</p> <p>23 MS. LOCKHART: Objection. Can we just</p> <p>24 stipulate to a running objection related to the</p> <p>25 bankruptcy specifically.</p>
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<p>1 MR. NEPPLE: I don't know what --</p> <p>2 MS. LOCKHART: On relevance grounds.</p> <p>3 MR. NEPPLE: Sure. You can have a</p> <p>4 relevance objection.</p> <p>5 THE WITNESS: Have I answered?</p> <p>6 MR. NEPPLE: No, you have not answered the</p> <p>7 question.</p> <p>8 Can you read back the question?</p> <p>9 (Whereupon the Court Reporter read the</p> <p>10 previous question.)</p> <p>11 THE WITNESS: Yes, I reviewed some --</p> <p>12 certainly reviewed some transcripts where the</p> <p>13 bankruptcy came up. I'm sure I took action, but I</p> <p>14 don't recall any specific action.</p> <p>15 BY MR. NEPPLE:</p> <p>16 Q. Did you review that as an ordinary course</p> <p>17 of your responsibilities or as part of your</p> <p>18 preparation for this deposition?</p> <p>19 A. I reviewed some in the ordinary course of</p> <p>20 my responsibilities.</p> <p>21 Q. Did you see statements that call center</p> <p>22 employees were making to Windstream customers</p> <p>23 regarding Windstream's bankruptcy?</p> <p>24 A. Yes.</p> <p>25 Q. And do you recall seeing statements</p>	<p>1 similar to, Windstream is not going out of business,</p> <p>2 Windstream is going to continue unevaded, do you</p> <p>3 review call statements like that?</p> <p>4 MS. LOCKHART: Objection, foundation.</p> <p>5 THE WITNESS: Yes, I did.</p> <p>6 BY MR. NEPPLE:</p> <p>7 Q. Okay. Do you know where that information</p> <p>8 how that information came into the possession of the</p> <p>9 Windstream front line call center employees?</p> <p>10 A. I do.</p> <p>11 Q. Okay. How? What's your recollection?</p> <p>12 A. We had some scripting, again, associated</p> <p>13 with the new call handling environment that we were</p> <p>14 in by virtue of the filing that contained some of</p> <p>15 that information. At least to the best of my</p> <p>16 recollection it did.</p> <p>17 Q. Okay. Is there any source of information</p> <p>18 related to the Windstream bankruptcy for your call</p> <p>19 center employees other than the scripting</p> <p>20 information that you just discussed?</p> <p>21 A. I'm not aware of anything.</p> <p>22 Q. Okay. As you sit here today, what's your</p> <p>23 recollection of what the scripting was for the</p> <p>24 customers who raised the issue of Windstream's</p> <p>25 bankruptcy?</p>



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<p>1 A. Generally speaking, that we were still on</p> <p>2 firm financial footing and had sufficiently</p> <p>3 liquidity to see through the bankruptcy.</p> <p>4 Q. And how did -- how was that -- strike</p> <p>5 that.</p> <p>6 What was the source of those</p> <p>7 statements or those predictions?</p> <p>8 A. I don't know.</p> <p>9 Q. Did you review them before they went to</p> <p>10 the call center employees?</p> <p>11 A. I don't recall doing that.</p> <p>12 Q. Was it provide by in-house legal?</p> <p>13 A. I don't know.</p> <p>14 Q. You have no idea of the source of the</p> <p>15 information that was provided to the call center</p> <p>16 employees on how to address Windstream's bankruptcy?</p> <p>17 A. I was not involved in those discussions so</p> <p>18 I just can't say with any degree of certainly where</p> <p>19 they came from.</p> <p>20 Q. Okay. Well, whether it's any degree of</p> <p>21 certainty or not, do you have any suspicion, any</p> <p>22 idea, any belief of where those talking points or</p> <p>23 scripting came to get into the possession of the</p> <p>24 front line call center employees?</p> <p>25 A. Generally speaking, this was a corporate</p>	<p>1 initiative that was handled by corporate support</p> <p>2 employees that I was not involved in.</p> <p>3 Q. Okay.</p> <p>4 A. Beyond that I really don't have any</p> <p>5 working knowledge of it.</p> <p>6 Q. Okay. When you say it's handled by</p> <p>7 corporate and corporate support employees, who is</p> <p>8 that?</p> <p>9 A. Our public relations department, general</p> <p>10 counsel, legal.</p> <p>11 Q. So it's your understanding or your belief</p> <p>12 that the source of the information or prediction</p> <p>13 that Windstream's call center employees were to</p> <p>14 transmit to Windstream's customers regarding</p> <p>15 Windstream's Chapter 11 bankruptcy filing came from</p> <p>16 general counsel, in-house legal and the public</p> <p>17 relations group?</p> <p>18 A. Yes.</p> <p>19 Q. Did you ever review the letter that you</p> <p>20 received from Windstream with it's Chapter 11 notice</p> <p>21 from the bankruptcy court?</p> <p>22 MS. LOCKHART: Objection, assumes facts</p> <p>23 not in evidence. Foundation.</p> <p>24 THE WITNESS: It was mailed to me and I</p> <p>25 read it.</p>
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<p>1 BY MR. NEPPLE:</p> <p>2 Q. Okay.</p> <p>3 A. Not in detail.</p> <p>4 Q. Okay. Did you at any time ever look at</p> <p>5 scripting developed by PR, in-house legal or GC</p> <p>6 regarding the opinions or predictions on the future</p> <p>7 of Windstream and say, that's not accurate?</p> <p>8 A. No.</p> <p>9 Q. So if a call got elevated to your level</p> <p>10 whether it's one of the ten that you review a day or</p> <p>11 in any other sort of form and you saw or heard one</p> <p>12 of your customer service employees tell a Windstream</p> <p>13 customer that Windstream has filed for bankruptcy</p> <p>14 but it's not going anywhere and it's going to be</p> <p>15 able to continue on moving forward you would have no</p> <p>16 objection to that statement?</p> <p>17 MS. LOCKHART: Objection, misstates his</p> <p>18 testimony.</p> <p>19 BY MR. NEPPLE:</p> <p>20 Q. Go ahead.</p> <p>21 A. I would have no objection to that call</p> <p>22 being handled that way.</p> <p>23 Q. In any of the transcripts that you</p> <p>24 reviewed of Windstream customers regarding</p> <p>25 Windstream's filing of Chapter 11 bankruptcy, did</p>	<p>1 you see where the customers expressed either concern</p> <p>2 or uncertainty regarding Windstream's future?</p> <p>3 A. Yes.</p> <p>4 Q. And in response to their concerns about</p> <p>5 Windstream's future based upon the receipt of the</p> <p>6 information from Windstream that it had filed for</p> <p>7 bankruptcy, you didn't have a problem with</p> <p>8 Windstream front line call center employees saying,</p> <p>9 don't worry Windstream is going to be here in the</p> <p>10 future, no problems?</p> <p>11 MS. LOCKHART: Objection, misstates his</p> <p>12 testimony.</p> <p>13 THE WITNESS: I wouldn't have any problem</p> <p>14 with that call being handled that way.</p> <p>15 BY MR. NEPPLE:</p> <p>16 Q. Okay. Do you think it's reasonable or</p> <p>17 anticipated that a Windstream customer who gets the</p> <p>18 Windstream notice from -- letter -- strike that.</p> <p>19 Do you think it's reasonable or</p> <p>20 anticipated that a Windstream customer who gets the</p> <p>21 Windstream letter and notice from the bankruptcy</p> <p>22 court would be concerned about the future of</p> <p>23 Windstream when they see bankruptcy?</p> <p>24 MS. LOCKHART: Objection. Counsel, can we</p> <p>25 go off the record?</p>

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1 MR. NEPPLE: Sure.  
2 (Off the record discussion.)  
3 MR. NEPPLE: You can't have it both ways.  
4 He's either a fact witness and I can ask him what  
5 facts he knows or he's a corporate designee. My  
6 understanding is he's not a corporate designee so  
7 he's a fact witness.  
8 MS. LOCKHART: Your understanding is  
9 correct, he is not a corporate designee.  
10 MR. NEPPLE: Okay.  
11 MS. LOCKHART: But we offered him  
12 specifically for topics related to the call center.  
13 I am saying now on the record that this line of  
14 questioning is irrelevant as the judge has held on  
15 multiple occasions that what Windstream has done  
16 related to its own bankruptcy is irrelevant to what  
17 Charter did with respect to Windstream's bankruptcy.  
18 MR. NEPPLE: Okay. I understand your  
19 objection.  
20 MS. LOCKHART: So it's -- the stipulation  
21 to continue this objection is ongoing with respect  
22 to this line of questioning.  
23 MR. NEPPLE: I understand. You have a  
24 relevancy objection to the continuing of questions.  
25 Read back the question, please.

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1 THE WITNESS: The agents are trained to  
2 make notes on the account that are relevant to the  
3 call they process and in some cases the information  
4 in the question you asked would be logged there.  
5 BY MR. NEPPLE:  
6 Q. Okay. Did you provide any guidance to  
7 those agents that say, if the customer mentions our  
8 bankruptcy you must log it or is it in their  
9 discretion?  
10 A. I did not provide that sort of information  
11 or set that expectation personally. I'm unsure if  
12 members of my team did.  
13 Q. Okay. Whether you are unsure whether  
14 members of your team or whatever source, are you  
15 aware of any instruction to the front line call  
16 center employees that if they mention the Windstream  
17 Chapter 11 bankruptcy that they are to log it?  
18 A. We did establish a process to identify  
19 those calls and log those calls.  
20 Q. Okay. What was that process?  
21 A. It was a process we established in some of  
22 the centers that I manage to provide that sort of  
23 location to a centralized resource.  
24 Q. Okay. You have to unpack that for me.  
25 What do you mean, provide that information to a

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1 (Whereupon the Court Reporter read the  
2 previous question.)  
3 THE WITNESS: That would be a reasonable  
4 response.  
5 BY MR. NEPPLE:  
6 Q. When those people, those Windstream  
7 customers mentioned that concern, did you log that  
8 in your call logs at any place or is it just  
9 recorded, right?  
10 A. It's recorded.  
11 Q. Yeah.  
12 A. And in some cases logged.  
13 Q. Okay. Tell me what is logged versus  
14 recorded? I'm assuming -- strike that.  
15 My understanding is every call is  
16 recorded, correct?  
17 A. Yes.  
18 Q. Okay. What is logged and who has the  
19 discretion on what to log?  
20 A. The agent should --  
21 MS. LOCKHART: Objection.  
22 MR. NEPPLE: Go ahead. She is going to  
23 make an objection. Go ahead.  
24 MR. LOCKHART: Objection, compound. You  
25 can answer.

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1 centralized resource?  
2 A. Provide the information meaning in the  
3 question you asked customers that were calling in  
4 unsettled about the bankruptcy -- we established a  
5 process for customers that were calling in and were  
6 unsettled about the advertisements they received in  
7 the mail from Charter to log those calls in an  
8 effort to understand what our customers were going  
9 through so that we can provide the information to  
10 the front line for them to be able to process those  
11 calls.  
12 Q. Okay. That wasn't my question.  
13 My question was: Did you provide  
14 that same guidance to the same people regarding  
15 customers who were unsettled by the receipt of the  
16 notice of bankruptcy and the cover letter from  
17 Windstream?  
18 A. No.  
19 Q. Okay. So you only sought to capture the  
20 impact of Charter's advertisement and did not seek  
21 to capture the impact of Windstream's own letter and  
22 the notice of bankruptcy from the court?  
23 A. Yes, and we did that because the notice of  
24 bankruptcy was not a meaningful call driver event  
25 for us.



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1 Q. Okay. And I understand that, but let me  
2 just make sure I'm clear. You put no processes in  
3 place to capture any callers who made calls to your  
4 call centers regarding Windstream's cover letter and  
5 the notice of bankruptcy, yes or no?  
6 MS. LOCKHART: Can we go off the record  
7 real quick?  
8 THE COURT REPORTER: Counsel?  
9 MS. LOCKHART: I'm sorry, withdraw the  
10 objection. That's my mistake.  
11 THE WITNESS: Can you restate the  
12 question? I just want to make sure I answered it  
13 the right way, yes or no?  
14 THE COURT REPORTER: Read it back?  
15 MR. NEPPLE: Yes.  
16 THE WITNESS: Yes, please.  
17 (Whereupon the Court Reporter read the  
18 previous question.)  
19 THE WITNESS: Yes, that is an accurate  
20 statement.  
21 BY MR. NEPPLE:  
22 Q. I am correct you put no processes. I'm  
23 trying not to confuse you and I am asking horrible  
24 questions.  
25 There are no processes put in place

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1 Q. Okay. And your recollection is?  
2 A. Vague, it's vague. That there was a  
3 number that was established and there was some types  
4 of calls that we were attempting to push in that  
5 direction.  
6 Q. Okay. Push in that direction meaning  
7 being pushed to KCC?  
8 A. That's correct.  
9 Q. Okay. So based on your experience and  
10 understanding, would it be a fair statement to say  
11 that questions or concerns or uncertainties  
12 regarding Windstream and the Windstream notice of  
13 bankruptcy and cover letter were as a general matter  
14 pushed to KCC while issues related to the Charter  
15 advertisements were logged and captured by your  
16 team; is that a fair statement?  
17 A. No, it's not.  
18 Q. Okay.  
19 A. I don't have a specific enough  
20 recollection in terms of what KCC was even charged  
21 with doing or handling or any of that.  
22 Q. Okay. You did testify just a couple of  
23 minutes ago that it was your understanding that KCC  
24 was assisting with the bankruptcy, correct?  
25 A. Yes.

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1 to capture the caller uncertainty regarding the  
2 Windstream cover letter and notice of bankruptcy,  
3 correct?  
4 A. Correct, none that I'm aware of.  
5 Q. Okay. In your review of call logs or  
6 recorded calls with Windstream customers, did you  
7 see any call logs -- strike that.  
8 In your review of call logs with  
9 Windstream customers, did you see any of those  
10 customers who were concerned about the notice of  
11 bankruptcy and cover letter they received from  
12 Windstream?  
13 A. I don't recall that specifically, no.  
14 Q. Okay. Are you familiar with an entity  
15 called KCC?  
16 A. Yes.  
17 Q. What's your understanding of KCC?  
18 A. They provide some ongoing support during  
19 the bankruptcy process for us. That's extent of it.  
20 Q. Okay. Was there any process that you put  
21 in place or a process that you are aware of that of  
22 the issue of Windstream's bankruptcy came up you  
23 were to refer them to KCC and a KCC phone number?  
24 A. Yes. I have some recollection of that,  
25 but I don't recall the specifics of what those were.

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1 Q. And certain calls were kicked to KCC from  
2 your call centers, correct?  
3 A. I have a vague recollection of that.  
4 Q. Okay.  
5 A. I don't --  
6 Q. And you're testifying that you don't have  
7 an understanding of why certain calls were kicked to  
8 KCC?  
9 A. That is my testimony, yes.  
10 Q. Okay. I just wanted your understanding.  
11 You understand there were calls kicked to KCC, but  
12 you are testifying that you don't know the  
13 circumstances of why they would have been kicked the  
14 KCC; is that fair?  
15 A. A more accurate representation would be  
16 that I don't recall what those were.  
17 Q. Okay. Did you recall at one time and  
18 don't recall now?  
19 A. That's accurate.  
20 Q. Okay. And since you said you did recall  
21 at one time, what was the source of your knowledge  
22 at that time, was it some directive from corporate,  
23 was it some policy, how did that -- how did you at  
24 one time have the knowledge that you can't tell me  
25 about now?

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<p>1 A. It was something I read. I don't recall</p> <p>2 the source.</p> <p>3 Q. Okay.</p> <p>4 MR. NEPPLE: Can you read that answer</p> <p>5 back, please.</p> <p>6 (Whereupon the Court Reporter read the</p> <p>7 previous answer.)</p> <p>8 BY MR. NEPPLE:</p> <p>9 Q. Something internal to Windstream?</p> <p>10 A. I don't recall.</p> <p>11 Q. Okay. Did you ever read the Windstream</p> <p>12 annual report or quarterly reports filed with the</p> <p>13 government?</p> <p>14 A. I've read portions of those in the past.</p> <p>15 Q. Do you recall as you sit here any</p> <p>16 statements that Windstream made to the government</p> <p>17 regarding the Chapter 11 bankruptcy?</p> <p>18 A. Can you repeat that, please.</p> <p>19 Q. Sure. As you sit here today, do you</p> <p>20 recall any portions of the filings that you read</p> <p>21 that you recall relating to the Chapter 11</p> <p>22 bankruptcy issue?</p> <p>23 A. No.</p> <p>24 Q. Okay. All right. Moving on to the</p> <p>25 Spectrum ads or Spectrum mailer, if I say just</p>	<p>1 Spectrum adds, you know what I'm talking about here?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. When did you first become aware of</p> <p>4 the Spectrum adds?</p> <p>5 A. March 20th.</p> <p>6 Q. Okay. What was the source of that</p> <p>7 knowledge?</p> <p>8 A. One of my team members informed me of a</p> <p>9 call that we took related to those advertisements.</p> <p>10 Q. Okay. And were you -- what did you do in</p> <p>11 response to that knowledge?</p> <p>12 A. I don't recall the specific action I took,</p> <p>13 not right afterwards.</p> <p>14 Q. Okay. Did you go about trying to secure a</p> <p>15 copy of the add, did you go review the transcript of</p> <p>16 that specific call, did you talk to the front line</p> <p>17 person; do you recall any of that?</p> <p>18 A. Yes to all of those.</p> <p>19 Q. Okay. At some point were you asked in</p> <p>20 your position to develop and capture information</p> <p>21 from Windstream customers relating to the Spectrum</p> <p>22 add?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. I'm talking specifically about the</p> <p>25 Spectrum adds that are at issue in this lawsuit, not</p>
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<p>1 just a general day to day Spectrum add but the ones</p> <p>2 that are at issue in the complaint?</p> <p>3 A. Yes, I do know what you are talking about.</p> <p>4 Q. Okay. I just want to make sure we are</p> <p>5 clear that we are not talking about generic day to</p> <p>6 day Spectrum adds. Who asked you to capture the</p> <p>7 information related to the Spectrum adds at issue in</p> <p>8 this case?</p> <p>9 A. Nobody asked me specifically, as I recall,</p> <p>10 but in a general sense it was our legal department</p> <p>11 that asked us to keep a log.</p> <p>12 Q. Okay. Did you have a role in developing</p> <p>13 that log?</p> <p>14 A. Not a personal one. It was a member of my</p> <p>15 team that developed the process.</p> <p>16 Q. Okay. Did you review the log before it</p> <p>17 went to your front line employees?</p> <p>18 A. I did not.</p> <p>19 Q. Are you aware of any changes to that log</p> <p>20 from the time you first learned about the Spectrum</p> <p>21 adds at issue in this case until now?</p> <p>22 A. The process we implemented to capture the</p> <p>23 activity by and large it did not change.</p> <p>24 Q. Okay. And what was the process that</p> <p>25 you -- strike that.</p>	<p>1 What was the process that you are</p> <p>2 aware of?</p> <p>3 A. In some of our centers we instructed the</p> <p>4 agent to email a member of my team when they</p> <p>5 encountered one of these calls. We had specific</p> <p>6 information that we asked them to capture in the</p> <p>7 email and then that went to a resource on my team</p> <p>8 who converted that information into a log on an</p> <p>9 Excel spreadsheet.</p> <p>10 Q. Okay. Your answer had three subpoints</p> <p>11 here. Let me see if I can understand it. You said</p> <p>12 some of the centers got that instruction; why didn't</p> <p>13 all of the centers get that instruction?</p> <p>14 A. Because that sort of activity is a</p> <p>15 distraction to agents and the efforts that we</p> <p>16 undertook were not an effort to quantify the</p> <p>17 activity, it was an effort to understand what our</p> <p>18 customers were going through so that we can arm the</p> <p>19 agents with the information they needed to better</p> <p>20 process the calls.</p> <p>21 Q. Okay. I guess I don't understand that</p> <p>22 answer. Let me see what I can get. I'm going to</p> <p>23 try again.</p> <p>24 Why did you not tell every call</p> <p>25 center? I'm not understanding your answer.</p>

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1 A. In the call center environment, really any  
2 production environment, the amount of time that it  
3 takes to process a transaction is important and when  
4 you interject some additional process or  
5 documentation requirement into that, you inevitably  
6 drive up the average handle time thereby driving  
7 down your efficiency.  
8 Since this was not a quantification  
9 effort and we were only attempting to understand  
10 what our customers were going through we made the  
11 decision to not deploy this process everywhere  
12 because to get an understanding of the type of  
13 information we were trying to secure here and what  
14 we were trying to do that would have been  
15 unnecessary.  
16 Q. I see. So it is a fair statement to say  
17 that you tasked certain call centers with trying to  
18 get an understanding of what's going on in the  
19 background?  
20 A. That would be an accurate statement.  
21 Q. Okay. Is it a fair statement to say you  
22 still continue to record every call and every call  
23 for the 60 days or however long your hold time is  
24 could be searched for certain specific terms whether  
25 its Charter, Charter add, bankruptcy, whatever;

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1 correct?  
2 A. Nothing changed with the call recording,  
3 we did not change anything there. We do not have  
4 the ability to search calls.  
5 Q. You don't have the ability to search  
6 calls?  
7 A. That is correct.  
8 Q. Do you know how certain transcripts were  
9 produced in this case of calls to the call center?  
10 MS. LOCKHART: Objection. Attorney-work  
11 product.  
12 THE WITNESS: Do I need to answer?  
13 MS. LOCKHART: You can answer.  
14 THE WITNESS: Can you restate the  
15 question?  
16 MR. NEPPLE: Read it back.  
17 (Whereupon the Court Reporter read the  
18 previous question.)  
19 THE WITNESS: I did not provide those. I  
20 don't know exactly how those were produced.  
21 BY MR. NEPPLE:  
22 Q. Okay. Do you have any recollection  
23 whether you have complete knowledge or partial  
24 knowledge or have a hint or a suspicion or whatever  
25 level that you want to clarify it with on how

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1 Windstream was able to produce transcripts of calls  
2 to the call centers involving Charter adds?  
3 A. Yes. My suspicion is we just simply took  
4 the calls that were logged and went and listened to  
5 those and provided a transcript or somebody did.  
6 Q. Okay. So if it's been represented that  
7 calls, recorded calls were searched, that is not  
8 accurate; you would agree with that?  
9 A. Yes, I would agree with that. We don't  
10 have the ability to search.  
11 Q. Okay. So what logging is done with  
12 respect to Charter adds, is there a drop down box,  
13 is there just a caller notes of your front line  
14 employee, is there a click box, how is that retained  
15 or stored?  
16 A. The process that we put in place in some  
17 of our centers were for agents that received calls  
18 pertaining to these advertisements, they were to  
19 email a member of my team who took the information  
20 contained in the email and converted it into a log  
21 on an Excel spreadsheet. That was the possess.  
22 Q. Okay. So if a front line call center  
23 employee, the issue of the Charter add is raised,  
24 that employee was to email a member of your team and  
25 then a spreadsheet was created from that

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1 interaction, correct?  
2 A. That is correct.  
3 Q. Okay. Were your employees, call center  
4 employees directed to discuss the Charter add, were  
5 they provided talking points or a script or any  
6 other mandatory or optional ways of handling that  
7 issue?  
8 A. Yes, my team was provided with that sort  
9 of information.  
10 Q. Okay. What information were they  
11 provided?  
12 A. Talking points to help them process the  
13 calls.  
14 Q. Okay. Anything else?  
15 A. Some scripting. We had talking point and  
16 scripting, as I recall.  
17 Q. Okay. And as I understand the terms, tell  
18 me if I'm wrong, the talking points are just like  
19 bullet points, A, B and C; we want to communicate  
20 these three topics. The scripting is we want you to  
21 essentially read or paraphrase what's in the script;  
22 is that a fair summary?  
23 A. That's fair.  
24 Q. And you recall both, talking points and  
25 scripting to address the Charter adds?

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1 A. Yes. I would characterize that we had  
2 talking points and I think a few of the bullets were  
3 actual like italicized scripts that, you know, the  
4 agent could lean on if they got tongue tied on a  
5 call.  
6 Q. Some sort of conglomeration of the two,  
7 the bullet points and script?  
8 A. Yes.  
9 Q. Okay. Did that go to just the subgroup  
10 that you routed calls to or from or did that go out  
11 to all the call centers you mentioned?  
12 A. It went out to all my call center  
13 employees.  
14 Q. Okay. Were your call center employees  
15 empowered to deviate from let's call it bullet  
16 points or script or a conglomeration, were they  
17 empowered to deviate from what was provided to them?  
18 A. Yes.  
19 Q. How could they deviate from what was  
20 provided to them?  
21 A. In a number of different ways. To  
22 summarize, they would ask clarifying questions, open  
23 ended questions, things of that nature to get to the  
24 heart or the reason for the call and then respond  
25 appropriately based on the information they had been

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1 provided and the training they received.  
2 Q. As you sit here today, can you recall  
3 looking at any transcript of calls from your front  
4 line employees where your front line employees made  
5 the representation that the Charter adds were  
6 illegal?  
7 A. I don't recall that, no.  
8 Q. As you sit here today, based upon your  
9 review of any of the transcripts of front line  
10 employees, do you recall whether front line  
11 employees told Windstream customers that Charter was  
12 illegally using quote, our colors, unquote?  
13 A. I don't recall reviewing any transcript  
14 with that sort of response.  
15 Q. Shifting gears a little bit, is it a fair  
16 statement to say that when a Windstream customer  
17 calls in and they are thing about disconnection that  
18 you are going to make them at least an offer whether  
19 it's increased speed or lower cost?  
20 A. Yes.  
21 Q. Okay. So if they pick up the phone and  
22 they are concerned about disconnection, they are  
23 going to get a better deal whether it's greater  
24 speed or something else, they are going to get a  
25 better deal than what they have right now; is that a

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1 fair statement?  
2 A. I wouldn't say that's a fair statement,  
3 not as blanket statement, but in most cases we are  
4 able to do something to make the situation better.  
5 Q. The vast majority; is that fair?  
6 A. Yes.  
7 Q. More than half?  
8 A. Yes.  
9 Q. Okay. More than 90 percent?  
10 A. I would be speculating.  
11 Q. Okay. I understand. What would be a  
12 circumstance where you can't offer increased speed  
13 or decreased cost?  
14 A. On the speed side, if they are already at  
15 the maximum available speed, we obviously can't  
16 increase their speed; and on the price side, if they  
17 are at basement pricing structure.  
18 Q. Okay. So you have a rear guy -- strike  
19 that.  
20 If you have a rear customer who is at  
21 max speed and what you consider to be low cost, you  
22 are not going to be able to help that customer?  
23 A. We cannot help customers that are at their  
24 max speed or at their lowest, our lowest available  
25 price. I would not necessarily characterize it at

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1 rather.  
2 Q. Okay. Do you keep a metric on how long  
3 you keep a Windstream customer on average?  
4 A. I don't keep that.  
5 Q. Okay. Are you aware of a metric kept on  
6 how long you keep a Windstream customer on average?  
7 MS. LOCKHART: Objection, relevance.  
8 THE WITNESS: I think our marketing  
9 department keeps that. It's not something I see  
10 that regular.  
11 BY MR. NEPPLE:  
12 Q. Are you aware of what the number is?  
13 A. I'm not.  
14 Q. Okay. Would you agree it's a fair  
15 statement to say that Windstream may emerge from the  
16 bankruptcy?  
17 A. Yeah, that's fair.  
18 Q. Do you believe it's a fair statement to  
19 say that Windstream may not emerge from the  
20 bankruptcy?  
21 A. I don't know. The information I have been  
22 provided tells me that we are going to emerge and  
23 that's my understanding of how the process works.  
24 BY MR. NEPPLE:  
25 Q. Is it fair statement to say that

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<p>1 Windstream may emerge from the bankruptcy, but may</p> <p>2 not emerge in all the areas in all the markets in</p> <p>3 all the services that it provided before the</p> <p>4 bankruptcy?</p> <p>5 A. I have no idea.</p> <p>6 (Defendant's Exhibit No. 1, CALL TRANSCRIPT,</p> <p>7 was marked for identification.)</p> <p>8 BY MR. NEPPLE:</p> <p>9 Q. I'll show the what the court reporter has</p> <p>10 marked as Exhibit One that's what has been provided</p> <p>11 to us in discovery. Take your time and read it and</p> <p>12 I'm going to ask you a few questions and I can point</p> <p>13 you to the page or you can take your time and read</p> <p>14 the whole thing.</p> <p>15 A. I prefer you point me to the page.</p> <p>16 Q. We are going to start on 728 starting at</p> <p>17 the bottom half, why don't you take a moment to read</p> <p>18 it from there to the end of the page.</p> <p>19 A. Okay.</p> <p>20 Q. Okay. You see on 728 the middle of the</p> <p>21 page the customer who was called this says, quote,</p> <p>22 well, I just got a letter in the mail from -- strike</p> <p>23 that.</p> <p>24 Well, I just got a letter in the mail</p> <p>25 about Windstream filing for Chapter 11 bankruptcy;</p>	<p>1 do you see that?</p> <p>2 A. I do see that.</p> <p>3 Q. Okay. Do you see later down starting on</p> <p>4 line 18 the associates' response which continues on</p> <p>5 to page 729?</p> <p>6 A. I do see that.</p> <p>7 Q. Okay. And the response and I'm not going</p> <p>8 to read it into the record, we can all see what it</p> <p>9 is, but the response basically on lines 18 to 25 is</p> <p>10 consistent with the either bullet point messaging or</p> <p>11 script or combination that you provided to your</p> <p>12 front line employees?</p> <p>13 MS. LOCKHART: Objection, misstates his</p> <p>14 testimony.</p> <p>15 BY MR. NEPPLE:</p> <p>16 Q. You can go ahead.</p> <p>17 A. Yeah, I would say that the associate's</p> <p>18 response starting on line 18 through line eight of</p> <p>19 the next page is generally in line with the talking</p> <p>20 points that I recall being provided after the</p> <p>21 Spectrum adds went out.</p> <p>22 Q. Okay. And you see on line 23 you see the</p> <p>23 prediction, we are not going under?</p> <p>24 A. I do see that.</p> <p>25 Q. You see the prediction on lines 24 and 25,</p>
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<p>1 nobody is going to experience any difference in</p> <p>2 their services; do you see that?</p> <p>3 A. I do see that.</p> <p>4 Q. Okay. And that's consistent with the</p> <p>5 messaging that you provided to front line employees,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. Turn to page 735, and again, you</p> <p>9 are free it to read all you want but I'm going to</p> <p>10 ask you questions starting around line 20 through</p> <p>11 about line six of the next page.</p> <p>12 A. Do you have a question pending for me?</p> <p>13 Q. Are you done reviewing?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Sorry. Do you see on page 735</p> <p>16 starting on line 20 where the customer says, quote,</p> <p>17 and I also got a notice from a competitor saying,</p> <p>18 internal quotes, hey, you ought to switch because,</p> <p>19 you know, they are probably going out the business,</p> <p>20 end of quotation. Did I read that accurately?</p> <p>21 A. Yes.</p> <p>22 Q. And this would be different than the</p> <p>23 Chapter 11 notice, this would be the Spectrum add</p> <p>24 that we discussed earlier in your testimony,</p> <p>25 correct?</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. Because your associate says, is it</p> <p>3 Spectrum? The customer says, yes. Correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Turn the page 736, do you see where</p> <p>6 your front line associate says, quote, and I'm going</p> <p>7 to pick it up in the middle of the sentence, line</p> <p>8 three, quote, we are trying to have that stopped</p> <p>9 because that's illegal. They are using our colors,</p> <p>10 our an envelop that looks like it's coming from</p> <p>11 Windstream and it's not.</p> <p>12 Did I read that accurately?</p> <p>13 A. Yes.</p> <p>14 Q. Did you see the statement that the</p> <p>15 associate says that it's illegal?</p> <p>16 A. I do see that.</p> <p>17 Q. Okay. Is that consistent with the</p> <p>18 messaging that was provided to the front line</p> <p>19 associates?</p> <p>20 A. Not to my recollection.</p> <p>21 Q. Would you want your front line associates</p> <p>22 to make a blanket statement on whether conduct is</p> <p>23 legal or illegal?</p> <p>24 A. No.</p> <p>25 Q. You would not have wanted them to do that,</p>

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<p>1 correct?</p> <p>2 A. That is correct.</p> <p>3 Q. Okay. I am correct then. Did the</p> <p>4 statement of our colors, are you aware of what the</p> <p>5 front line associate is claiming to be, quote, our</p> <p>6 colors, end quote?</p> <p>7 A. To me that refers to the color we use four</p> <p>8 our kinetic brand.</p> <p>9 Q. What are those colors?</p> <p>10 A. I would characterize it as a color pallet</p> <p>11 and I remember different colors in it, but it's</p> <p>12 easily recognizable.</p> <p>13 MS. LOCKHART: Can we take a break?</p> <p>14 MR. NEPPLE: Sure.</p> <p>15 (A recess was taken.)</p> <p>16 BY MR. NEPPLE:</p> <p>17 Q. Picking up where we left off, I was</p> <p>18 directing your attention to the statement regarding,</p> <p>19 quote, they are using our colors, unquote, on page</p> <p>20 Windstream 736. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Was the statement, they are using or</p> <p>23 colors, part of the information provided to your</p> <p>24 front line employees?</p> <p>25 A. Not that I recall.</p>	<p>1 Q. Okay. And your interpretation of our</p> <p>2 colors would be the pink to purple pallet that we</p> <p>3 discussed earlier?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And you are aware that there are</p> <p>6 other companies that use pink to purple pallets,</p> <p>7 correct?</p> <p>8 MS. LOCKHART: Objection. Calls for legal</p> <p>9 conclusion.</p> <p>10 THE WITNESS: I'm not aware of other</p> <p>11 companies that use our color pallet to market their</p> <p>12 services.</p> <p>13 (Defendant's Exhibit No. 2, SPREADSHEETS, was</p> <p>14 marked for identification.)</p> <p>15 BY MR. NEPPLE:</p> <p>16 Q. Sir, I'll show you what the court reporter</p> <p>17 marked as Exhibit Two. I'll let you look at that</p> <p>18 and I'll ask you a couple of questions about it.</p> <p>19 A. Okay.</p> <p>20 Q. Is that the spreadsheet that you discussed</p> <p>21 earlier in your testimony that was create from some</p> <p>22 of the call centers?</p> <p>23 A. It is not.</p> <p>24 Q. Okay. Do you recognize what Exhibit Two</p> <p>25 is then?</p>
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<p>1 A. I do recognize it.</p> <p>2 Q. Okay. Can you identify what it is?</p> <p>3 A. This is a document I saw yesterday that</p> <p>4 looks like it was derived from the call log that we</p> <p>5 kept.</p> <p>6 Q. Okay. And across the top there are</p> <p>7 obviously column entries, number, date of call,</p> <p>8 account number, et cetera. A couple of questions,</p> <p>9 one is, type of contact; do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And one of those is tweet, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So you also respond to tweets in</p> <p>14 addition it to calls, emails, U.S. mail?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 A. I mean, I do not personally respond to</p> <p>18 tweets.</p> <p>19 Q. I understand. Windstream responds to a</p> <p>20 tweet or at least it did on that occasion?</p> <p>21 A. I'm not personally familiar with this one,</p> <p>22 no.</p> <p>23 Q. Okay, that's fine. I just want to make</p> <p>24 sure I am understanding what this is.</p> <p>25 Call pulled question mark. Is that</p>	<p>1 going back, does that mean going back and pulling</p> <p>2 the recording of that call?</p> <p>3 A. I'm not certain.</p> <p>4 Q. Okay. And customer care screen shot,</p> <p>5 what's that to your knowledge?</p> <p>6 A. I'm not certain what that is either</p> <p>7 exactly.</p> <p>8 Q. Okay. When you say what you see as</p> <p>9 Exhibit Two was derived from your spreadsheet, what</p> <p>10 is in your spreadsheet that's not shown in Exhibit</p> <p>11 Two?</p> <p>12 A. I don't have enough specific recollection</p> <p>13 of that to be able to compare the two off memory.</p> <p>14 Q. Okay. Would there be additional data</p> <p>15 columns?</p> <p>16 A. I don't know.</p> <p>17 Q. Would there be additional accounts?</p> <p>18 A. I don't know.</p> <p>19 Q. Okay. Can you explain what the purpose of</p> <p>20 Exhibit Two was?</p> <p>21 A. It's not -- again, I'm not familiar with</p> <p>22 this. I saw this yesterday for the first time.</p> <p>23 Q. Okay.</p> <p>24 A. So I'm not sure of the purpose of this</p> <p>25 particular document, no.</p>

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1 Q. Okay.  
2 (Defendant's Exhibit No. 3, CALL TRANSCRIPT,  
3 was marked for identification.)  
4 BY MR. NEPPLE:  
5 Q. Sir, I'm showing you what the court  
6 reporter has marked as Exhibit Three, which is Bates  
7 number Windstream 927 through 930. You are welcome,  
8 again, to read the entire document, but I'm going to  
9 ask you questions on page 929.  
10 A. Okay.  
11 Q. Okay. Turning to page 929 lines six  
12 through ten, this is a customer calling in and says,  
13 in addition to that we just received a flier from  
14 Spectrum that tells us and I just confirmed that,  
15 that they can give her unlimited long distance and  
16 her monthly bill will only be \$10 a month.  
17 Did I quote that accurately?  
18 A. You did.  
19 Q. Okay. That is just competition based on  
20 price; is there any indication in this transcript  
21 and you are welcome to look at the whole thing that  
22 this is regarding the Charter add at issue?  
23 A. Okay, I've read it.  
24 Q. Okay. Do you see anywhere in there  
25 indicating that it's the Charter add at issue as

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1 opposed to just Charter offering a better financial  
2 deal?  
3 MS. LOCKHART: Objection, form.  
4 THE WITNESS: No. I see the primary drive  
5 of this call to be a price concern on the part of  
6 customer. Nothing else.  
7 BY MR. NEPPLE:  
8 Q. Okay.  
9 (Defendant's Exhibit No. 4, CALL TRANSCRIPT,  
10 was marked for identification.)  
11 BY MR. NEPPLE:  
12 Q. Sir, I'll show you what the court reporter  
13 has marked at Exhibit Four. It's Bates stamped  
14 Windstream 1049 through 1054. Again, you are  
15 welcome to read the entire thing, but I'm going to  
16 ask you questions on pages 1051 and 1052.  
17 A. Okay.  
18 MS. LOCKHART: Sorry, you said what pages,  
19 1051 and 1052?  
20 MR. NEPPLE: Yes, 1051 and 1052.  
21 THE WITNESS: Okay.  
22 BY MR. NEPPLE:  
23 Q. Do you see an page 1051 where your  
24 associate is trying to drill down to the root cause  
25 in line 20?

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1 A. Yes, I see that.  
2 Q. Okay. And the customer responds that  
3 Chapter 11 was one of the reasons that that customer  
4 wants to switch, correct?  
5 A. Yes, I do see that.  
6 Q. And you see on 1051 continuing and 1052  
7 the customer drills down or -- strike that.  
8 The associate drills down on lines 15  
9 through 19, again, and goes back to the customer and  
10 says, had we not sent you that letter, sir, would  
11 you have stayed with us or would you have still  
12 switched to Spectrum? And the customer responds, I  
13 probably would have switched anyway.  
14 Did I read that accurately?  
15 A. Yes, you did.  
16 Q. Okay. Would it be your interpretation of  
17 this call log that this customer switched because of  
18 the letter that they received from Windstream?  
19 A. That's not the way I interpret it.  
20 Q. Okay. Give me your interpretation,  
21 please.  
22 A. My interpretation, particularly of line 15  
23 through 19, is that the reason they disconnected was  
24 not primarily driven by the letter they received.  
25 Q. Okay.

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1 A. Because the customer states, I probably  
2 would have switched anyways.  
3 Q. And then the customer on line 23 says,  
4 that was one reason, correct?  
5 MS. LOCKHART: On the prior page?  
6 MR. NEPPLE: Page 1051.  
7 THE WITNESS: Yes, they stated that on  
8 page 1051 line 23.  
9 BY MR. NEPPLE:  
10 Q. Okay. And do you have any reason to  
11 believe that what the -- what is reported that the  
12 customer stated on page 1051 or 1052 was  
13 inaccurately transcribed?  
14 A. I have not way of knowing that.  
15 Q. Okay.  
16 (Defendant's Exhibit No. 5, CALL TRANSCRIPT,  
17 was marked for identification.)  
18 BY MR. NEPPLE:  
19 Q. Sir, I'll show you what the court reporter  
20 has marked as Exhibit Five. It's Windstream 1502  
21 through 1508. Again, the same request, I'm going to  
22 ask you questions regarding the document most of  
23 them are regarding pages 1505, but feel free to read  
24 the entire document.  
25 A. Okay.



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1 Q. Okay. Do you see on page 1505 that the  
2 customer is inquiring about Windstream being in  
3 bankruptcy?  
4 A. What line is that on?  
5 Q. It's a continuation of the customer on  
6 pages 1504 lines 22 through page 1505 line four.  
7 A. Okay. I've read it. I can respond now.  
8 Q. All right. So on 1504 the customer is  
9 raising questions regarding Windstream's bankruptcy,  
10 correct?  
11 A. That is correct.  
12 Q. Okay. And then on 1505 they say they have  
13 a letter from Spectrum, correct?  
14 A. That is correct.  
15 Q. Okay. And then your associate responds,  
16 yeah, Spectrum is sending those out illegally and we  
17 have discussed that messaging previously, correct?  
18 A. This is the first time I've seen this.  
19 Q. Okay.  
20 A. I'm not familiar with who Anna is so the  
21 characterization that it is my agent, I can't attest  
22 to that.  
23 Q. Okay. Look, I understand. This has been  
24 provided to us in discovery. I'll represent that  
25 it's my understanding that it is a transcript of one

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1 of your agents talking to one of your customers. So  
2 based upon my representation --  
3 A. Yes, it appears to be a Windstream agent  
4 certainly talking to a Windstream customer.  
5 Q. And I'm talking the first sentence here,  
6 the first sentence I talked to you on page 1505  
7 lines five and six, and we talked about this earlier  
8 in your testimony where the associates says, yes,  
9 Spectrum is sending those out illegally. You did  
10 not want that messaging, correct?  
11 A. That is correct.  
12 Q. Okay. And then on lines 11 through 13 the  
13 customer says, quote, it doesn't say that you are  
14 shutting down. It just says, which means  
15 uncertainty and I think that's a fair statement.  
16 And your associates says, no, not really because.  
17 And the customer comes back, bankruptcy does mean  
18 uncertainty. Your associate says, okay, if you feel  
19 that way, that's fine.  
20 So the customer at least in the  
21 customer's mind bankruptcy meant uncertainty and  
22 that's what was reported to your agent, front line  
23 agent?  
24 A. Is there a question there?  
25 Q. Was that what was reported to your front

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1 line agent that the customer believed bankruptcy  
2 means uncertainty?  
3 A. This call transcript of the call reflects  
4 that, yes.  
5 Q. Okay. And do you agree with that  
6 statement?  
7 MS. LOCKHART: Objection, calls for  
8 speculation.  
9 THE WITNESS: I do not.  
10 BY MR. NEPPLE:  
11 Q. And why do you disagree with that  
12 statement?  
13 A. Based on what I know of the process that  
14 would be an inaccurate characterization of the type  
15 of filing that we are going through.  
16 Q. Okay. You've worked with the kinetic line  
17 for awhile, correct?  
18 MS. LOCKHART: Objection, vague.  
19 THE WITNESS: Can you be more specific?  
20 BY MR. NEPPLE:  
21 Q. Sure. What's the kinetic line?  
22 A. The kinetic side of the business is our  
23 consumer and small immediate business segment.  
24 Q. Okay. And you've had some familiarity  
25 with that?

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1 A. Yes, I see -- that's the side of the  
2 business that I work on today.  
3 Q. Okay. And you've seen kinetic adds,  
4 correct?  
5 A. Yes.  
6 Q. And you've seen kinetic adds using the  
7 purple to pink or pink to purple color pallet,  
8 correct?  
9 A. Yes.  
10 Q. How long has Windstream been using that  
11 for its kinetic line?  
12 MS. LOCKHART: Objection, this is  
13 irrelevant. I need to show you -- we can go on the  
14 record for this, but I need to show you this email  
15 from your partner, your colleague. I need to find  
16 it. Just give me a couple of minutes. What's his  
17 name again? Kingston.  
18 MR. NEPPLE: I'll make it easy, Counsel,  
19 I'll just withdraw the question.  
20 BY MR. NEPPLE:  
21 Q. Do you know who Emmett Walker is?  
22 A. I don't recall that name.  
23 MR. LOCKHART: Is --  
24 MR. NEPPLE: I have like five close out  
25 questions here just to make sure he's not going to



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<p>1 come in to trial -- I'm entitled to ask the fact</p> <p>2 witness these questions.</p> <p>3 MR. SMITH: We never said he was coming to</p> <p>4 trial, did we?</p> <p>5 BY MR. NEPPLE:</p> <p>6 Q. All right. Do you know who Emmett Walker</p> <p>7 is?</p> <p>8 MS. LOCKHART: Objection. Again, I need</p> <p>9 to show you this email.</p> <p>10 MR. NEPPLE: Okay. Is there some email</p> <p>11 that says I can't ask who Emmett Walker is?</p> <p>12 MS. LOCKHART: Yeah, actually, there is.</p> <p>13 MR. NEPPLE: Okay.</p> <p>14 MS. LOCKHART: Your partner agreed to only</p> <p>15 speak to the call center recordings and the call</p> <p>16 center related to Windstream Chapter 11 filing.</p> <p>17 MR. NEPPLE: Okay. Show me the email. If</p> <p>18 that's what the deal is, I am more than willing.</p> <p>19 MS. LOCKHART: So we agreed --</p> <p>20 MR. NEPPLE: Can you show me? I can read</p> <p>21 the email.</p> <p>22 MS. LOCKHART: That's the initial email to</p> <p>23 not move to quash the deposition if we can limit it</p> <p>24 to the certain topics and your partner agreed to do</p> <p>25 so and we --</p>	<p>1 MR. NEPPLE: Okay, that's fine.</p> <p>2 BY MR. NEPPLE:</p> <p>3 Q. I don't have much left.</p> <p>4 MR. NEPPLE: Actually, give me five</p> <p>5 minutes to go over my notes. I don't have more than</p> <p>6 five minutes left.</p> <p>7 MS. LOCKHART: Okay.</p> <p>8 (A recess was taken.)</p> <p>9 BY MR. NEPPLE:</p> <p>10 Q. I'm going to jump around a fill in a few</p> <p>11 bases so if you don't know where I'm going just ask</p> <p>12 me the questions of where I'm at, but the people</p> <p>13 that called in that you were in the process of doing</p> <p>14 I'll say a collection of information related to the</p> <p>15 Spectrum mailer, okay, the Spectrum add, did you log</p> <p>16 the outcomes of those calls?</p> <p>17 In other words, can I look at any</p> <p>18 sort of document that you have that someone called</p> <p>19 in and you logged it and it has the email process,</p> <p>20 sends an email to the team, a Spectrum add, is there</p> <p>21 a log of the outcome of those interactions?</p> <p>22 In other words, did we retain this</p> <p>23 customer, did we not retain this customer?</p> <p>24 A. That was not the purpose of what we were</p> <p>25 doing so to the extent that exists I don't have</p>
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<p>1 knowledge of that. That's not what we set out.</p> <p>2 Q. I understand that's not what you set out.</p> <p>3 The question is: Did you keep that metric?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Okay. But could we recreate that metric</p> <p>6 by just going and working our way backwards from the</p> <p>7 customers where emails were sent to the special</p> <p>8 person you had setup for the Spectrum add and we can</p> <p>9 go back and we can look at those customer accounts</p> <p>10 and we can just determine which of those left,</p> <p>11 right, were not retained or retained?</p> <p>12 A. That is possible.</p> <p>13 MR. NEPPLE: Counsel, don't shake your</p> <p>14 head no. In-house counsel, don't do that again or</p> <p>15 I'm going to call the judge.</p> <p>16 MR. SMITH: I did not shake my head no so</p> <p>17 I disagree with that characterization. Please don't</p> <p>18 try to direct me on what to do. I'll call the judge</p> <p>19 too. I'm sure the Judge would be glad to talk to</p> <p>20 us.</p> <p>21 BY MR. NEPPLE:</p> <p>22 Q. The same question but with respect to</p> <p>23 those you may have retained, again, where you were</p> <p>24 doing this email to the special person in the team,</p> <p>25 did you keep a log of or can it be recreated on</p>	<p>1 whether you sold additional services to that</p> <p>2 customer?</p> <p>3 MS. LOCKHART: Objection. Assumes facts</p> <p>4 not in evidence.</p> <p>5 THE WITNESS: I'm not aware that we logged</p> <p>6 that.</p> <p>7 BY MR. NEPPLE:</p> <p>8 Q. Could we recreate it?</p> <p>9 A. I imagine it's possible.</p> <p>10 Q. Okay.</p> <p>11 MR. NEPPLE: I don't have any further</p> <p>12 questions. I appreciate your time.</p> <p>13 MR. RAPPORT: I have no questions.</p> <p>14 MS. LOCKHART: I don't have any questions</p> <p>15 either.</p> <p>16 I have one question. Let me review my</p> <p>17 notes real quick. I want to clarify something.</p> <p>18 EXAMINATION</p> <p>19 BY MS. LOCKHART:</p> <p>20 Q. So you said that the calls with your</p> <p>21 customers are recorded, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Does the call center maintain transcripts</p> <p>24 of those call recordings?</p> <p>25 A. No.</p>

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<p>1 MS. LOCKHART: No further questions.</p> <p>2 MR. NEPPLE: No follow-up.</p> <p>3 (The deposition concluded at 12:12 p.m.)</p> <p>4 (The witness, after having been advised of</p> <p>5 his right to read and sign this transcript, does not</p> <p>6 waive that right.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>A. WILLIAM ROBERTS, JR., &amp; ASSOCIATES (800) 743-DEPO</p>	<p>1 SIGNATURE OF DEPONENT</p> <p>2 DEPONENT: PAUL G. STRICKLAND, JR.</p> <p>3 DEPOSITION DATE: September 20, 2019</p> <p>4 REPORTER: SOLANGE RUIZ-URIBE</p> <p>5 CASE CAPTION: WINDSTREAM HOLDINGS, INC., ET AL. vs.</p> <p>6 CHARTER COMMUNICATIONS, INC. AND CHARTER COMMUNICATIONS</p> <p>7 OPERATING, LLC</p> <p>8</p> <p>9 (Please return both Signature of Deponent pages)</p> <p>10</p> <p>11 I, the undersigned, PAUL G. STRICKLAND, JR., do</p> <p>12 hereby certify that I have read the foregoing deposition</p> <p>13 and find it to be a true and accurate transcription of</p> <p>14 my testimony, with the following corrections, if any:</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>A. WILLIAM ROBERTS, JR., &amp; ASSOCIATES (800) 743-DEPO</p>
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<p>1 SIGNATURE OF DEPONENT (CONTINUED)</p> <p>2 DEPOSITION DATE: September 20, 2019</p> <p>3 REPORTER: SOLANGE RUIZ-URIBE</p> <p>4 CASE CAPTION: WINDSTREAM HOLDINGS, INC., ET AL. vs.</p> <p>5 CHARTER COMMUNICATIONS, INC. AND CHARTER COMMUNICATIONS</p> <p>6 OPERATING, LLC</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>A. WILLIAM ROBERTS, JR., &amp; ASSOCIATES (800) 743-DEPO</p>	<p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3 I, Solange Ruiz-Urbe, Notary Public for the State</p> <p>4 of North Carolina at Large, do hereby certify that the</p> <p>5 foregoing transcript is a true, accurate, and complete</p> <p>6 record.</p> <p>7 I further certify that I am neither related to nor</p> <p>8 counsel for any party to the cause pending or interested</p> <p>9 in the events thereof.</p> <p>10 Witness my hand, I have hereunto affixed my</p> <p>11 official seal this 20th day of September, 2019 at</p> <p>12 Charlotte, Mecklenburg County, North Carolina.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>A. WILLIAM ROBERTS, JR., &amp; ASSOCIATES (800) 743-DEPO</p>

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**Defendants**

<p style="text-align: right;">Page 1</p> <p>IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>IN RE WINDSTREAM HOLDINGS, INC., et al., Debtors,</p> <hr/> <p style="text-align: center;">Chapter 11 Case No. 19-22312 (RDD)</p> <hr/> <p>WINDSTREAM HOLDINGS, INC., et al., Plaintiffs,</p> <p>vs. Adv. Proc. No. 19-08246 (RDD) CHARTER COMMUNICATIONS, INC. and CHARTER COMMUNICATIONS OPERATING, LLC Defendants.</p> <p>VIDEO DEPOSITION OF JEFFREY AUMAN Taken on behalf of the Defendants September 24, 2019</p>	<p style="text-align: right;">Page 2</p> <p>1 INDEX</p> <p>2</p> <p>3 QUESTIONS BY:</p> <p>4 Mr. Kingston 7</p> <p>5</p> <p>6 INDEX OF EXHIBITS</p> <p>7</p> <p>8 Exhibit 1 LinkedIn profile 22</p> <p>9 Exhibit 2 Amended Deposition Notice 23</p> <p>10 Exhibit 3 Corporate Monthly Operating</p> <p>11 Report 69</p> <p>12 Exhibit 4 WIN002742 73</p> <p>13 Exhibit 5 Press release 75</p> <p>14 Exhibit 6 WIN2749-69 88</p> <p>15 Exhibit 7 WIN2064-2071 115</p> <p>16 Exhibit 8 WIN2734-2736 119</p> <p>17 Exhibit 9 Windstream's Objections to</p> <p>18 Deposition 127</p> <p>19 Exhibit 10 Complaint 140</p> <p>20 Exhibit 11 WIN2536-2587 153</p> <p>21 Exhibit 12 "Is Kinetic TV Available In</p> <p>22 My Area" 160</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 IN THE UNITED STATES BANKRUPTCY COURT</p> <p>2 FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>3</p> <p>4 IN RE</p> <p>5 WINDSTREAM HOLDINGS, INC., et al.,</p> <p>6 Debtors,</p> <hr/> <p style="text-align: center;">Chapter 11 Case No. 19-22312 (RDD)</p> <hr/> <p>7 WINDSTREAM HOLDINGS, INC., et al.,</p> <p>8 Plaintiffs,</p> <p>9 vs. Adv. Proc. No. 19-08246</p> <p>10 (RDD)</p> <p>11 CHARTER COMMUNICATIONS, INC.</p> <p>12 and CHARTER COMMUNICATIONS</p> <p>13 OPERATING, LLC</p> <p>14 Defendants.</p> <p>15 THE VIDEO DEPOSITION OF WITNESS, JEFFREY</p> <p>16 AUMAN, produced, sworn and examined on September</p> <p>17 24, 2019, between the hours of 8:00 in the forenoon</p> <p>18 and 5:00 in the afternoon of that day at the</p> <p>19 offices of Thompson Coburn, One US Bank Plaza, St.</p> <p>20 Louis, MO 63101, before Suzanne Benoist, a</p> <p>21 Certified Court Reporter and Notary Public within</p> <p>22 and for the States of Missouri, Kansas and</p> <p>23 Illinois, in a certain cause now pending In The</p> <p>24 United States Bankruptcy Court For The Southern</p> <p>25 District of New York.</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES</p> <p>2</p> <p>3</p> <p>4 FOR THE DEBTORS/PLAINTIFFS:</p> <p>5 KATTEN MUCHIN ROSENMAN LLP</p> <p>6 MR. TERENCE P. ROSS</p> <p>7 2900 K Street NW</p> <p>8 North Tower - suite 200</p> <p>9 Washington, DC 20007-5118</p> <p>10 (202) 625-3676</p> <p>11 Also Present: Mr. T. Kent Smith</p> <p>12</p> <p>13 FOR THE DEFENDANTS:</p> <p>14 THOMPSON COBURN</p> <p>15 MR. JOHN KINGSTON</p> <p>16 MR. NINO PRZULJ</p> <p>17 One US Bank Plaza</p> <p>18 St. Louis, MO 63101</p> <p>19 (314) 552-6000</p> <p>20</p> <p>21 FOR OFFICIAL COMMITTEE OF UNSECURED</p> <p>22 CREDITORS:</p> <p>23 MORRISON &amp; FOERSTER, LLP</p> <p>24 MS. JOCELYN EDITH GREER</p> <p>25 250 West 55th Street</p> <p>26 New York, New York 10019</p> <p>(212) 468-8000</p> <p>Reported by:</p> <p>Ms. Suzanne Benoist, RPR, CCR-MO, CCR-KS, CSR-IL</p> <p>Ms. Kimberlee Lauer, CLVS</p> <p>Veritext Legal Solutions</p> <p>515 Olive Street, Suite 300</p> <p>St. Louis, MO 63101</p> <p>(314) 230-7260</p>

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<p>1 -oOo-</p> <p>2 VIDEOGRAPHER: Good morning. We're</p> <p>3 going on the record at 9:03 a.m. on Wednesday,</p> <p>4 September 25th, 2019. Please note that the</p> <p>5 microphones are sensitive and may pick up</p> <p>6 whispering, private conversations and cellular</p> <p>7 interference. Please turn off all cell phones or</p> <p>8 place them away from the microphones, as they can</p> <p>9 interfere with the deposition audio. Audio and</p> <p>10 video recording will continue to take place unless</p> <p>11 all parties agree to go off the record.</p> <p>12 This is media unit one of the</p> <p>13 video-recorded deposition of the corporate</p> <p>14 representative of Windstream Holdings Incorporated,</p> <p>15 Jeffery Auman, taken by counsel for the defendant</p> <p>16 in the matter of Windstream Holdings Incorporated,</p> <p>17 et al. versus Charter Communications Incorporated,</p> <p>18 et al., filed in the United States Bankruptcy Court</p> <p>19 for the Southern District of New York, Case Number</p> <p>20 19-08246.</p> <p>21 This deposition is being held at</p> <p>22 Thompson Coburn located at 500 North 7th Street in</p> <p>23 St. Louis, Missouri.</p> <p>24 My name is Kimberlee Lauer from the</p> <p>25 firm Veritext Legal Solutions and I'm the</p>	<p>1 videographer, and our court reporter is Sue</p> <p>2 Benoist, also from Veritext.</p> <p>3 I am not authorized to administer an</p> <p>4 oath, I am not related to any party in this action</p> <p>5 nor am I financially interested in the outcome.</p> <p>6 Counsel and all present in the room</p> <p>7 will state their appearance beginning please with</p> <p>8 the noticing attorney.</p> <p>9 MR. KINGSTON: John Kingston on</p> <p>10 behalf of defendants, and with me is Nino Przulj.</p> <p>11 MR. ROSS: Terrence Ross with the law</p> <p>12 firm Katten Muchin Rosenman representing the</p> <p>13 deponent and conflict counsel for the debtor and</p> <p>14 debtors in possession.</p> <p>15 MR. SMITH: Kent Smith with</p> <p>16 Windstream.</p> <p>17 MS. GREER: Jocelyn Greer of Morrison</p> <p>18 &amp; Foerster on behalf of the official committee of</p> <p>19 unsecured creditors.</p> <p>20 VIDEOGRAPHER: Thank you.</p> <p>21 And then if our reporter would please</p> <p>22 swear in the witness.</p> <p>23 JEFFREY AUMAN,</p> <p>24 of lawful age, being produced, sworn and examined</p> <p>25 on the part of the Defendant testified as follows:</p>
Page 7	Page 8
<p>1 EXAMINATION</p> <p>2 QUESTIONS BY MR. KINGSTON:</p> <p>3 Q. Mr. Auman, can you state and spell</p> <p>4 your name please?</p> <p>5 A. Yes. Jeffery Harold Auman.</p> <p>6 J-E-F-F-R-E-Y, Harold, H-A-R-O-L-D, Auman,</p> <p>7 A-U-M-A-N. Alpha Uniform Mike Alpha November.</p> <p>8 Q. Mr. Auman, have you ever been deposed</p> <p>9 before?</p> <p>10 A. Yes, I have.</p> <p>11 Q. How many times?</p> <p>12 A. Once.</p> <p>13 Q. When was that deposition?</p> <p>14 A. Approximately 12 years ago.</p> <p>15 Q. Was it for a lawsuit?</p> <p>16 A. I don't believe it was for a lawsuit.</p> <p>17 No.</p> <p>18 Q. Can you think of any reason why that</p> <p>19 deposition 12 years ago might have anything to do</p> <p>20 with your testimony on behalf of Windstream today?</p> <p>21 A. No.</p> <p>22 Q. Then I won't ask you about it.</p> <p>23 Since it's been a while I think it</p> <p>24 might be a good idea Mr. Auman for us to kind of go</p> <p>25 through the ground rules for a deposition and talk</p>	<p>1 through the process.</p> <p>2 Do you mind if we do that, sir?</p> <p>3 A. No.</p> <p>4 Q. I'm going to ask you a series of</p> <p>5 questions, you're going to answer those questions</p> <p>6 and Ms. Benoist is going to transcribe my questions</p> <p>7 and your answers. In order for her to get a clear</p> <p>8 record it would be helpful if we don't interrupt</p> <p>9 each other, which you've been doing a great job so</p> <p>10 far.</p> <p>11 Do you understand that, sir?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And it would probably be useful if</p> <p>14 before you answer your question for you to give</p> <p>15 your lawyer time to object, which he may do from</p> <p>16 time to time.</p> <p>17 Do you understand that?</p> <p>18 A. Yes.</p> <p>19 Q. And after your lawyer objects unless</p> <p>20 he A., advises you not to answer, and B., you</p> <p>21 decide to take that advice, you will need to answer</p> <p>22 the question.</p> <p>23 Does that make sense?</p> <p>24 A. Yes.</p> <p>25 Q. From time to time I'm going to likely</p>

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<p>1 ask a question that doesn't make any sense, that's</p> <p>2 difficult to understand. If I do that please don't</p> <p>3 answer the question. Okay?</p> <p>4 A. Yes.</p> <p>5 Q. Instead just tell me that you don't</p> <p>6 understand the question and you and I can kind of</p> <p>7 talk through it until we can come up with a</p> <p>8 question that you do understand and are able to</p> <p>9 answer.</p> <p>10 Does that make sense?</p> <p>11 A. Yes.</p> <p>12 Q. So you won't answer any question that</p> <p>13 I ask unless you understand it. True?</p> <p>14 A. True.</p> <p>15 Q. Mr. Auman, the parties have exchanged</p> <p>16 documents in this case and we have those documents</p> <p>17 available here. If I ask you a question that you</p> <p>18 think you'd better be able to answer by reviewing a</p> <p>19 document please let me know. Okay?</p> <p>20 A. Yes. Thank you.</p> <p>21 Q. We may be able to track that document</p> <p>22 down and see if that can't help us find out what</p> <p>23 the answer to my question is.</p> <p>24 Does that make sense?</p> <p>25 A. Yes.</p>	<p>1 Q. If at any point today if you think</p> <p>2 you need to correct or expand upon an answer that</p> <p>3 you've already given to make that answer more</p> <p>4 complete or more truthful you're welcome to do</p> <p>5 that.</p> <p>6 Do you understand that, sir?</p> <p>7 A. Yes.</p> <p>8 Q. So any time something pops up where</p> <p>9 you think I want to circle back to that answer I</p> <p>10 gave because that wasn't quite right, or there's</p> <p>11 some piece tat I ought to tell you, you can tell</p> <p>12 me. Does that make sense?</p> <p>13 A. Yes.</p> <p>14 Q. You can take a break at any time you</p> <p>15 want Mr. Auman, the only thing I ask is if there's</p> <p>16 a question pending or there's a series of related</p> <p>17 questions, that we finish that series before we</p> <p>18 take a break.</p> <p>19 Does that make sense?</p> <p>20 A. Yes.</p> <p>21 Q. And is that fair?</p> <p>22 A. Yes.</p> <p>23 Q. Is there any reason you can't give</p> <p>24 complete and honest testimony today, sir?</p> <p>25 A. No.</p>
Page 11	Page 12
<p>1 Q. Mr. Auman, when did you join</p> <p>2 Windstream?</p> <p>3 A. I joined Windstream in November of</p> <p>4 2017.</p> <p>5 Q. And what was your position?</p> <p>6 A. Senior vice-president of sales and</p> <p>7 distribution.</p> <p>8 Q. Tell me a little bit about your</p> <p>9 responsibilities as senior vice-president of sales</p> <p>10 and distribution when you joined Windstream in July</p> <p>11 of 2017.</p> <p>12 A. I was responsible for the consumer</p> <p>13 and small and medium business sales and</p> <p>14 distribution channels for the Kinetic business</p> <p>15 unit.</p> <p>16 Q. And so tell me about the sales</p> <p>17 channel responsibilities, what does that entail?</p> <p>18 A. So, my responsibility would be to</p> <p>19 achieve growth plans related to adding new</p> <p>20 customers and achieving our revenue targets for</p> <p>21 both consumer or residential marketplace as well as</p> <p>22 our small and medium business targets for the</p> <p>23 Kinetic brand.</p> <p>24 Q. So from 10,000 feet you were</p> <p>25 responsible on the sales side for figuring out how</p>	<p>1 to get new consumer and small business customers,</p> <p>2 is that fair?</p> <p>3 A. Yes, that's fair.</p> <p>4 Q. And tell me about the distribution</p> <p>5 side.</p> <p>6 A. It's one in the same, it's attracting</p> <p>7 either talent or partners that will sell and</p> <p>8 service our customer base.</p> <p>9 Q. About how many hours a week would you</p> <p>10 say you spent working on those responsibilities</p> <p>11 while, when you first joined Windstream in 2017?</p> <p>12 A. I'd say on average 60 hours a week.</p> <p>13 Sometimes more.</p> <p>14 Q. So --</p> <p>15 A. My full-time job.</p> <p>16 Q. Your full-time responsibility working</p> <p>17 60 hours a week and sometimes more since 2017, or</p> <p>18 when you joined Windstream in 2017 was sales and</p> <p>19 distribution for consumer and small business, is</p> <p>20 that right?</p> <p>21 A. Can you repeat the question?</p> <p>22 Q. Yeah, that's fair. That one kind of</p> <p>23 got away from me. Do you mind if I take another</p> <p>24 run at it?</p> <p>25 A. Please.</p>

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<p>1 Q. So it's a fair statement that you</p> <p>2 spent 60 or more hours a week focused on sales and</p> <p>3 distribution for consumer and small business when</p> <p>4 you joined Windstream in November of 2017?</p> <p>5 A. Yes, that's fair. Small and medium</p> <p>6 business.</p> <p>7 Q. Did you have any responsibility on</p> <p>8 the financial side?</p> <p>9 A. No direct responsibility on the</p> <p>10 financial side outside of achieving our revenue</p> <p>11 targets.</p> <p>12 Q. What do you mean by -- go ahead.</p> <p>13 A. As a leader of the organization I had</p> <p>14 responsibility to, fiscal responsibility to, you</p> <p>15 know, achieve my expense budgets so there's a</p> <p>16 target that comes along with that responsibility</p> <p>17 that I'm responsible for maintaining.</p> <p>18 Q. And would that be the extent of your</p> <p>19 financial responsibility as the senior VP of sales?</p> <p>20 A. Yes.</p> <p>21 Q. So other than -- mind if I start that</p> <p>22 over, sir?</p> <p>23 A. Please.</p> <p>24 Q. Beyond ensuring that you met expense</p> <p>25 targets in connection with consumer and small</p>	<p>1 business sales and distributions you didn't have</p> <p>2 financial responsibility while serving as a senior</p> <p>3 VP of sales, true?</p> <p>4 MR. ROSS: So John, I'm just going to</p> <p>5 object. It's a minor objection, form of the</p> <p>6 question, but you've several times now taken his</p> <p>7 testimony and tried to restate it and not always</p> <p>8 exactly. His testimony will speak for itself, so</p> <p>9 the question is asked and answered already.</p> <p>10 MR. KINGSTON: Can you read back my</p> <p>11 question Ms. Benoist?</p> <p>12 (Whereupon, the reporter read from the record)</p> <p>13 Q. (BY MR. KINGSTON) You can answer,</p> <p>14 sir.</p> <p>15 A. I had responsibility for achieving</p> <p>16 our revenue targets so I consider that financial</p> <p>17 responsibility, I believe I stated that.</p> <p>18 Q. Sure. So tell me what you mean by</p> <p>19 achieving revenue targets.</p> <p>20 A. So it's achieving our growth plans,</p> <p>21 we have plans to grow our business and my</p> <p>22 responsibility is to drive the acquisition for new</p> <p>23 customers joining the franchise in both the</p> <p>24 consumer and slash call it residential space as</p> <p>25 well as our small and medium markets, and part of</p>
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<p>1 that target is number of customers and also overall</p> <p>2 revenue, so.</p> <p>3 Q. Now, at some point you were promoted</p> <p>4 from vice-president to executive vice-president, is</p> <p>5 that true?</p> <p>6 A. Yes.</p> <p>7 Q. And when was that?</p> <p>8 A. March 2019.</p> <p>9 Q. And did your responsibilities change</p> <p>10 in March of 2017?</p> <p>11 A. Yes.</p> <p>12 Q. Tell me how.</p> <p>13 A. I became responsible for our Kinetic</p> <p>14 business unit marketing organization as well.</p> <p>15 Q. So you had an additional marketing</p> <p>16 responsibility in March of 2017.</p> <p>17 A. Yes.</p> <p>18 Q. And along with that marketing</p> <p>19 responsibility --</p> <p>20 A. I'm sorry, I think you said March of</p> <p>21 2017.</p> <p>22 Q. I did, thank you for correcting me.</p> <p>23 Mind if I start over, sir?</p> <p>24 A. Yes.</p> <p>25 Q. So you added marketing responsibility</p>	<p>1 for the Kinetic brand to your responsibilities in</p> <p>2 March of 2019?</p> <p>3 A. Yes.</p> <p>4 Q. And I presume along with that</p> <p>5 marketing responsibility for the Kinetic brand in</p> <p>6 March of 2019 you added the same expense-related</p> <p>7 responsibilities?</p> <p>8 A. Yes.</p> <p>9 Q. So making sure you did your marketing</p> <p>10 within the expense budget that you were given?</p> <p>11 A. Yes.</p> <p>12 Q. And are you still spending 60 plus</p> <p>13 hours a week focused on those responsibilities?</p> <p>14 A. I would say that's a typical week,</p> <p>15 yes.</p> <p>16 Q. Who do you report to?</p> <p>17 A. I report to Jeff Small.</p> <p>18 Q. And what's Mr. Small's position?</p> <p>19 A. President of the Kinetic business</p> <p>20 unit.</p> <p>21 Q. And how many people report to you?</p> <p>22 A. I have 11 direct reports.</p> <p>23 Q. I'm not going to list them, sir, but</p> <p>24 tell me generally what the jobs are of those direct</p> <p>25 reports.</p>



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<p>1 Do you mind if I try that one again,</p> <p>2 sir?</p> <p>3 A. Yes.</p> <p>4 Q. What do the people that report to you</p> <p>5 do for a living?</p> <p>6 A. So from a high level they would be</p> <p>7 leaders of, within sales and marketing with more</p> <p>8 narrow focused responsibilities than I have. I</p> <p>9 have folks on my team that are responsible for</p> <p>10 inside sales in our call centers, outside sales,</p> <p>11 door to door, partner sales or what we would term</p> <p>12 agent sales, both online and offline folks that are</p> <p>13 responsible for marketing, would include brand,</p> <p>14 both consumer and business product, both product</p> <p>15 development, product management, business</p> <p>16 development and marketing operations or go to</p> <p>17 market type of responsibilities, communications,</p> <p>18 sales operations, kind of systems support</p> <p>19 management, technology that we use to sell and</p> <p>20 service customers. I would say that's a fair broad</p> <p>21 assessment, or a broad discussion of what the folks</p> <p>22 on my team do and my overall responsibility.</p> <p>23 Q. Okay. Are you involved in the</p> <p>24 preparation of any financial statements or reports</p> <p>25 on behalf of Windstream?</p>	<p>1 A. No.</p> <p>2 Q. When you were promoted in March of</p> <p>3 2019 were you -- well, why were you promoted?</p> <p>4 A. Well, hopefully because I'm good but</p> <p>5 the primary driver is my counterpart at the time</p> <p>6 resigned from the company.</p> <p>7 Q. Who was that?</p> <p>8 A. His name was Jeff, or is Jeff Levy.</p> <p>9 Q. And what was Mr. Levy's position?</p> <p>10 A. Senior vice-president of marketing.</p> <p>11 Q. So there was a senior vice-president</p> <p>12 of marketing -- well, strike that. Do you mind if</p> <p>13 I start over, sir?</p> <p>14 A. Yes.</p> <p>15 Q. Was he the senior vice-president of</p> <p>16 marketing for Kinetic?</p> <p>17 A. Yes.</p> <p>18 Q. So you were the senior vice-president</p> <p>19 of marketing for small business and consumer and</p> <p>20 Mr. Levy was the vice-president of marketing for</p> <p>21 Kinetic. Is that true?</p> <p>22 A. No.</p> <p>23 Q. Okay. Tell me what I missed.</p> <p>24 A. I was senior vice-president of sales</p> <p>25 and distribution for the Kinetic business unit, and</p>
Page 19	Page 20
<p>1 Mr. Levy was senior vice-president of marketing for</p> <p>2 the Kinetic business unit.</p> <p>3 Q. Okay.</p> <p>4 A. We were colleagues.</p> <p>5 Q. So you were sort of in charge of</p> <p>6 Kinetic sales and distribution and Mr. Levy was in</p> <p>7 charge of marketing, but both for Kinetic.</p> <p>8 A. Yes.</p> <p>9 Q. And then Mr. Levy left and you were</p> <p>10 promoted and took on Mr. Levy's role of supervising</p> <p>11 the Kinetic marketing as well.</p> <p>12 A. Yes.</p> <p>13 Q. And you were spending 60 plus hours a</p> <p>14 week just on sales and distribution, is that right?</p> <p>15 A. Yes.</p> <p>16 Q. How many hours a week did assuming</p> <p>17 Mr. Levy's responsibilities add to your workload?</p> <p>18 A. No more.</p> <p>19 Q. You were able to pick up Mr. Levy's</p> <p>20 load without adding any additional time to yours?</p> <p>21 A. Yes.</p> <p>22 Q. How did you accomplish that?</p> <p>23 A. Much of my time previous to that was</p> <p>24 attracting talent into the organization and</p> <p>25 building out our sales and distribution network and</p>	<p>1 by the time that happened it was largely done and</p> <p>2 so I had more capacity and resources on my team so</p> <p>3 I wasn't as personally involved in some of the</p> <p>4 smaller details of what's required, so it freed up</p> <p>5 time for me to assume more responsibility.</p> <p>6 Q. So you spent, is it fair to say that</p> <p>7 you spent, because you needed to spend less time</p> <p>8 recruiting you were able to assume Mr. Levy's</p> <p>9 responsibilities?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know Lewis Langston?</p> <p>12 A. Yes.</p> <p>13 Q. When is the last time you talked to</p> <p>14 Mr. Langston?</p> <p>15 A. Approximately December of 2018.</p> <p>16 Q. Is Mr. Langston still with</p> <p>17 Windstream?</p> <p>18 A. Not that I'm aware of.</p> <p>19 Q. Do you know if he's still with</p> <p>20 Windstream or not?</p> <p>21 A. I don't know definitively, I don't</p> <p>22 believe he is.</p> <p>23 Q. And do I correctly infer that because</p> <p>24 you don't know definitively whether or not Mr.</p> <p>25 Langston is still with Windstream that you don't</p>

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<p>1 know why he left, if he left?</p> <p>2 A. I know that Mr. Langston had planned</p> <p>3 on retiring and then he was, he stayed on to be I</p> <p>4 believe a special advisor to our CEO, Tony Thomas,</p> <p>5 and my understanding, and I believe this to be the</p> <p>6 case, that he's exited the company. But I don't</p> <p>7 have personal knowledge of that.</p> <p>8 I want to clarify something, I'm</p> <p>9 sorry.</p> <p>10 Q. Please.</p> <p>11 A. I heard in the question if I did, as</p> <p>12 in you, and so I did not receive a memo that he was</p> <p>13 no longer with the company and so I believe this is</p> <p>14 an easy one to clarify though, if he's here or not,</p> <p>15 I don't think so.</p> <p>16 Q. And do you know why he exited the</p> <p>17 company?</p> <p>18 A. No.</p> <p>19 Q. And you testified that Mr. Langston</p> <p>20 was a special advisor to the CEO. Was he a special</p> <p>21 advisor for a particular subject matter?</p> <p>22 A. My understanding was it was related</p> <p>23 to our Chapter 11 filing. But that was, that's</p> <p>24 general knowledge of what I have.</p> <p>25 Q. Do you know if Mr. Langston has been</p>	<p>1 replaced?</p> <p>2 A. I'm not aware.</p> <p>3 Q. You're not aware of a new special</p> <p>4 advisor to the CEO related to the Chapter 11</p> <p>5 filing?</p> <p>6 A. That's correct.</p> <p>7 MR. KINGSTON: I apologize, I think I</p> <p>8 only have three copies of these.</p> <p>9 I misspoke.</p> <p>10 (MARKED DEFENDANT'S EXHIBIT NO. 1)</p> <p>11 Q. (BY MR. KINGSTON) Mr. Auman, I'm</p> <p>12 handing you a document that I've labeled Exhibit 1.</p> <p>13 Exhibit 1 is a four page document the top of which</p> <p>14 indicates that it's Jeff Auman, executive</p> <p>15 vice-president sales and marketing, Windstream</p> <p>16 Communications, and looks like a printout from a</p> <p>17 LinkedIn website.</p> <p>18 Can you take a moment to review</p> <p>19 Exhibit 1 and let me know when you're ready, sir?</p> <p>20 A. Yes. (Reviewing document).</p> <p>21 I've reviewed it.</p> <p>22 Q. You're ready, sir?</p> <p>23 What is Exhibit 1 Mr. Auman?</p> <p>24 A. Appears to be my LinkedIn profile and</p> <p>25 somebody that pulled it that I have a third</p>
Page 23	Page 24
<p>1 connection with.</p> <p>2 Q. Hence the little third by your name?</p> <p>3 A. Yes.</p> <p>4 Q. And are you responsible for the</p> <p>5 contents of your LinkedIn profile or is that</p> <p>6 something the company puts together for you?</p> <p>7 A. I'm responsible for the contents of</p> <p>8 my profile.</p> <p>9 Q. And is there anything in there that's</p> <p>10 inaccurate or misleading from your review?</p> <p>11 A. (Reviewing document).</p> <p>12 No. Maybe the picture, it looks like</p> <p>13 it's a dated picture.</p> <p>14 Q. You're among friends here, I wasn't</p> <p>15 going to ask about that.</p> <p>16 You can put that aside Mr. Auman.</p> <p>17 (MARKED DEFENDANT'S EXHIBIT NO. 2)</p> <p>18 Q. (BY MR. KINGSTON) Mr. Auman, you</p> <p>19 understand that you've been designated by</p> <p>20 Windstream to appear as a corporate representative</p> <p>21 and testify on behalf of the company with respect</p> <p>22 to certain topics?</p> <p>23 A. Yes.</p> <p>24 Q. Mr. Auman, I'm handing you a document</p> <p>25 that I've labeled as Exhibit 2. Exhibit 2 is a</p>	<p>1 multi-page document captioned Amended Notice Of</p> <p>2 Video Deposition Pursuant To FRCP, 30(b)(6).</p> <p>3 Do you recognize Exhibit 2, sir?</p> <p>4 A. (Reviewing document).</p> <p>5 Yes.</p> <p>6 Q. And do you have personal knowledge of</p> <p>7 all of the topics on which you've been designated</p> <p>8 to testify Mr. Auman?</p> <p>9 MR. ROSS: Did you just say personal</p> <p>10 knowledge?</p> <p>11 MR. KINGSTON: I did.</p> <p>12 A. Could you clarify? Personal</p> <p>13 knowledge?</p> <p>14 Q. (BY MR. KINGSTON) Sure. Maybe it's</p> <p>15 worth backing up.</p> <p>16 You understand that you're here to</p> <p>17 talk about certain stuff on behalf of Windstream,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And some of the stuff you're here to</p> <p>21 talk about you might know from your own personal</p> <p>22 knowledge, stuff you've seen with your own eyes,</p> <p>23 heard with your own ears. Do you understand that?</p> <p>24 A. Yes.</p> <p>25 Q. And then there's some other stuff</p>

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<p>1 that you might testify about where you've had to</p> <p>2 learn things from other people or by looking at</p> <p>3 pieces of paper. Does that make sense?</p> <p>4 A. Yes.</p> <p>5 Q. And I guess what I want to do on</p> <p>6 initial matter is get a handle on what stuff you're</p> <p>7 going to talk about based on your personal</p> <p>8 knowledge, seen with your own eyes, heard with your</p> <p>9 own ears, and what stuff you learned by talking to</p> <p>10 other people or by looking at pieces of paper or</p> <p>11 computer screens and the like. Is that fair?</p> <p>12 A. Yeah.</p> <p>13 MR. ROSS: I'm just going to object</p> <p>14 to this line of questions. He's not here to</p> <p>15 testify in his personal capacity, you may not be</p> <p>16 asking that, but I'm laying it out right now, he's</p> <p>17 not going to testify in his personal capacity.</p> <p>18 He's here to testify as a corporate representative</p> <p>19 exclusively based on these topics exclusively.</p> <p>20 Why don't you go ahead and ask some</p> <p>21 questions and we'll move forward.</p> <p>22 Q. (BY MR. KINGSTON) Do you have</p> <p>23 Exhibit 2 in front of you, sir?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have any personal knowledge</p>	<p>1 related to exhibit, or excuse me, maybe I should</p> <p>2 point you in the right direction first Mr. Auman,</p> <p>3 does that make sense?</p> <p>4 A. Please.</p> <p>5 Q. Direct your attention to Page 2 of</p> <p>6 the notice itself. Do you see a list of</p> <p>7 categories?</p> <p>8 A. Yes.</p> <p>9 Q. And what is the first category, sir?</p> <p>10 A. Windstream's responses to Charter's</p> <p>11 discovery requests in this adversary proceeding.</p> <p>12 Q. And Mr. Auman, do you have personal</p> <p>13 knowledge about Windstream's responses to Charter's</p> <p>14 requests in the adversary proceeding?</p> <p>15 A. I want to make sure I answer this</p> <p>16 accurately, and I'm struggling with the difference</p> <p>17 between personal knowledge and corporate knowledge.</p> <p>18 Q. Sure. At some point you reviewed and</p> <p>19 signed verifications to certain discovery requests,</p> <p>20 isn't that true?</p> <p>21 A. Yes.</p> <p>22 Q. And I guess my question is, so when</p> <p>23 you reviewed those discovery requests you saw that</p> <p>24 there were questions that were asked and there were</p> <p>25 answers that were given, right?</p>
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<p>1 A. Yes.</p> <p>2 Q. And did you have personal knowledge,</p> <p>3 had you seen with your own eyes, heard with your</p> <p>4 own ears, anything related to the answers that were</p> <p>5 given?</p> <p>6 MR. ROSS: I'd just object that it</p> <p>7 might be helpful to show it to him.</p> <p>8 MR. KINGSTON: Sure.</p> <p>9 Q. (BY MR. KINGSTON) We can go from</p> <p>10 memory for now and then I can show you and we can</p> <p>11 talk about it.</p> <p>12 A. I'd prefer to see what you're</p> <p>13 referring to, if you don't mind please.</p> <p>14 Q. That's okay. Let me ask you this</p> <p>15 question -- actually, we'll just kind of go through</p> <p>16 them and we'll circle back to number 1.</p> <p>17 A. Okay.</p> <p>18 Q. Take a look at category 2, sir. I</p> <p>19 read category 2 as follows: All communications</p> <p>20 with Physicians Weight Loss in Newark, Ohio from</p> <p>21 May 1, 2019 through present.</p> <p>22 Do you have any personal knowledge</p> <p>23 about Windstream's communications with Physicians</p> <p>24 Weight Loss in Newark, Ohio?</p> <p>25 A. No.</p>	<p>1 Q. So whatever you may tell us about</p> <p>2 those communications that would be something that</p> <p>3 you learned from somebody else.</p> <p>4 A. Yes.</p> <p>5 Q. Category 3, all communications with</p> <p>6 Judy Spencer in Newark, Ohio from May 1, 2019</p> <p>7 through present.</p> <p>8 Have I read that correctly?</p> <p>9 A. Yes.</p> <p>10 Q. And do you have any, did you have any</p> <p>11 -- mind if I start that over, sir?</p> <p>12 A. Please.</p> <p>13 Q. Do you have any personal knowledge</p> <p>14 about Windstream's communications with Judy Spencer</p> <p>15 in Newark, Ohio?</p> <p>16 A. No.</p> <p>17 Q. Category 4. Do you see that, sir?</p> <p>18 A. Yes.</p> <p>19 Q. Do you have any personal knowledge</p> <p>20 related to the interruption or disconnection of</p> <p>21 services to Windstream customers since January 1 of</p> <p>22 2019?</p> <p>23 A. No.</p> <p>24 Q. Have you personally talked to any</p> <p>25 Windstream customer that expressed concern</p>

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<p>1 regarding Windstream's bankruptcy?</p> <p>2 A. No.</p> <p>3 Q. I presume you've reviewed documents,</p> <p>4 or have you reviewed documents related to</p> <p>5 Windstream customers expressing concerns regarding</p> <p>6 Windstream's bankruptcy?</p> <p>7 A. I have not heard of any, or read any</p> <p>8 documents where Windstream customers expressed</p> <p>9 concern regarding bankruptcy.</p> <p>10 Q. You haven't reviewed or even heard of</p> <p>11 any documents where Windstream customers expressed</p> <p>12 concern regarding Windstream's bankruptcy.</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Do you have any personal</p> <p>15 knowledge related to Windstream customers that have</p> <p>16 terminated service since January 1 of 2019?</p> <p>17 MR. ROSS: So I'm just going to</p> <p>18 object to that one, it's the same objection we made</p> <p>19 with respect to the topic. It's kind of vague what</p> <p>20 you're asking about there and we're not going to be</p> <p>21 testifying about stuff going back to January 1st, I</p> <p>22 think we said March 1st.</p> <p>23 But with that objection you can</p> <p>24 answer.</p> <p>25 A. Can you -- do I have any personal</p>	<p>1 knowledge of Windstream customers that have</p> <p>2 terminated service since January 1st, 2019.</p> <p>3 Yes.</p> <p>4 Q. (BY MR. KINGSTON) Tell me the basis</p> <p>5 of that personal knowledge.</p> <p>6 A. In my role I'm privy to data around</p> <p>7 the number of customers that sign up for Windstream</p> <p>8 and disconnect from Windstream on a daily basis.</p> <p>9 Q. So you reviewed documents,</p> <p>10 spreadsheets that reflect people that sign up for</p> <p>11 Windstream and people that disconnect from</p> <p>12 Windstream, is that right?</p> <p>13 A. Yes. Not by name of customer</p> <p>14 typically, but by numbers.</p> <p>15 Q. So you receive reports that say this</p> <p>16 many customers signed up, this many customers</p> <p>17 terminated services?</p> <p>18 A. Yes.</p> <p>19 Q. Describe for me kind of generally the</p> <p>20 format of those reports.</p> <p>21 MR. ROSS: I'll just object to, as</p> <p>22 vague, the term format as to what you mean by that.</p> <p>23 It might help him if you try to give him an idea of</p> <p>24 what it is you're asking.</p> <p>25 Q. (BY MR. KINGSTON) What did the</p>
Page 31	Page 32
<p>1 reports look like, sir?</p> <p>2 A. A daily spreadsheet.</p> <p>3 Q. Like an Excel spreadsheet?</p> <p>4 A. Probably not Excel but something like</p> <p>5 Excel.</p> <p>6 Q. And are those provided by e-mail or</p> <p>7 does somebody hand them to you?</p> <p>8 A. Reports are distributed via e-mail</p> <p>9 link where the documents are housed on a server.</p> <p>10 Q. So periodically you receive a report</p> <p>11 distributed by an electronic mail message that</p> <p>12 includes a link to a server that pulls up a</p> <p>13 spreadsheet that looks a little like an Excel</p> <p>14 spreadsheet that would indicate how many customers</p> <p>15 left and how many customers joined Windstream for</p> <p>16 any given month.</p> <p>17 A. Yes.</p> <p>18 Q. Who sends that report to you?</p> <p>19 A. It varies.</p> <p>20 Q. Tell me who and then tell me how it</p> <p>21 varies.</p> <p>22 A. Typically a financial analyst on the</p> <p>23 analytics team. So it's not always the same</p> <p>24 person. But the content is the same.</p> <p>25 Q. Who's the head of the analytics team?</p>	<p>1 A. Brad Brannon.</p> <p>2 Q. I'm sorry?</p> <p>3 A. Brad Brannon.</p> <p>4 Q. Can you spell Mr. Brannon's last</p> <p>5 name, please?</p> <p>6 A. Bravo Romeo Alpha November November</p> <p>7 Oscar November. Brannon.</p> <p>8 Q. Do you have a military background,</p> <p>9 Mr. Auman?</p> <p>10 A. I went to school on Air Force ROTC</p> <p>11 scholarship.</p> <p>12 Q. The particular with the letters is</p> <p>13 why I appreciate it.</p> <p>14 So Mr. Brannon is the head of the</p> <p>15 analytics team?</p> <p>16 A. Yes.</p> <p>17 Q. And that's a separate division from</p> <p>18 yours?</p> <p>19 A. Yes. He's a colleague.</p> <p>20 Q. Say that again.</p> <p>21 A. He's a colleague.</p> <p>22 Q. Where is he located physically?</p> <p>23 A. He resides in Little Rock, Arkansas.</p> <p>24 Q. And so Mr. Brannon or somebody at his</p> <p>25 behest sends around monthly reports showing gained</p>

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1 and lost customers?

2 A. Yes.

3 Q. Beyond those monthly reports do you

4 have any knowledge related to Windstream customers

5 that have terminated service since February 25 of

6 2019?

7 MR. ROSS: Same objection as before.

8 A. Could you rephrase the question? I

9 didn't understand if you asked if I had personal

10 knowledge or knowledge of?

11 Q. (BY MR. KINGSTON) Sure. I think we

12 were talking about the basis for your knowledge

13 related to customers that have terminated service

14 since, in 2019. Is that fair?

15 A. Yes.

16 Q. And I understood you to indicate that

17 one basis for your knowledge related to customers

18 that have terminated service in 2019 would be these

19 regular reports that are distributed by Mr.

20 Brannon's group, is that right?

21 A. Yes.

22 Q. And my question is is there anything

23 else?

24 A. Not that I'm aware of.

25 Q. So beyond your review of the reports

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1 related to the Spectrum Business Value Added

2 Reseller Agreement?

3 A. No.

4 Q. Take a look if you would, sir, at

5 number 12. Mr. Auman, do you have any personal

6 knowledge related to Windstream's collection and

7 production of documents in this proceeding?

8 A. Not that I'm aware of. Nothing comes

9 to mind as far as personal knowledge is concerned.

10 Q. Take a look at 13. Do you see that,

11 sir?

12 A. Yes.

13 Q. Sir, do you have any personal

14 knowledge related to Windstream's communication

15 with third parties regarding its claims in this

16 adversary proceeding?

17 A. I don't understand what third party

18 means in this question.

19 Q. Sure. Do you know about -- so at

20 some point Windstream folks might talk amongst

21 themselves about their claims in this proceeding.

22 Do you understand that, sir?

23 A. Yes.

24 Q. And sometimes they might talk to

25 their lawyers, do you understand that?

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1 distributed by Mr. Brannon's group you don't have

2 any personal knowledge related to Windstream

3 customers that have terminated service in 2019?

4 MR. ROSS: Didn't he just answer that

5 question?

6 I'm objecting as asked and answered.

7 You're asking the same question two or three times

8 and just changing the wording a little bit.

9 Q. (BY MR. KINGSTON) Do you recall the

10 question, sir? It's okay if you don't, she can

11 read it back.

12 A. If you don't mind reading it back.

13 MR. KINGSTON: Ms. Benoist, do you

14 mind reading it back please?

15 (Whereupon, the reporter read from the record)

16 A. Not offhand I do not, no. Nothing

17 comes to mind.

18 Q. (BY MR. KINGSTON) Direct your

19 attention to item 7. Do you see that, sir?

20 A. Yes.

21 Q. Mr. Auman, do you have any

22 responsibility related to the Spectrum Business

23 Value Added Reseller Agreement?

24 A. No.

25 Q. Do you have any personal knowledge

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1 A. Yes.

2 Q. And I guess the question is do you

3 have any personal knowledge about folks at

4 Windstream talking to somebody other than other

5 people at Windstream or lawyers representing

6 Windstream related to the claims Windstream has

7 asserted in this proceeding?

8 MR. ROSS: I'll just object, it's

9 still vague. Does that include the court, does

10 that include opposing counsel in this room?

11 MR. KINGSTON: Sure.

12 Q. (BY MR. KINGSTON) Responding to Mr.

13 Ross's objection do you have any personal knowledge

14 about Windstream communicating with anybody other

15 than the court, the lawyers on the other side, its

16 own lawyers or the fellow employees at Windstream

17 related to Windstream's allegations in this

18 lawsuit?

19 A. No.

20 MR. ROSS: You need to articulate

21 your answer.

22 A. No. No, no personal knowledge.

23 Q. (BY MR. KINGSTON) Take a look at

24 number 15. Do you see that, sir?

25 A. Yes.

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<p>1 Q. Do you have personal knowledge</p> <p>2 related to Windstream's harm allegedly resulting</p> <p>3 from Charter's alleged actions in this proceeding?</p> <p>4 A. I believe that there's been</p> <p>5 irreparable harm to our brand because of the false</p> <p>6 and misleading advertising put in the marketplace.</p> <p>7 That's based on my role in marketing and personal</p> <p>8 experience.</p> <p>9 Q. So your view Mr. Auman is that you do</p> <p>10 have personal knowledge related to Windstream's</p> <p>11 harm resulting from Charter's alleged actions in</p> <p>12 this adversary proceeding, is that right?</p> <p>13 A. That's certainly my belief, that</p> <p>14 there's brand damage created. Goodwill lost and</p> <p>15 customer confusion as a result of the analysis and</p> <p>16 misleading advertising.</p> <p>17 Does that help answer the question?</p> <p>18 Q. Well, I think you've answered a</p> <p>19 question as to your beliefs, sir, and I guess what</p> <p>20 I'm just trying to understand is whether that</p> <p>21 belief is based on your personal knowledge or based</p> <p>22 on taking to other people and looking at pieces of</p> <p>23 paper. Does that make sense?</p> <p>24 MR. ROSS: Can you read that question</p> <p>25 back please?</p>	<p>1 (Whereupon, the reporter read from the record)</p> <p>2 MR. ROSS: I guess I'll object as</p> <p>3 vague, but if you understand it go ahead and answer</p> <p>4 it.</p> <p>5 A. I don't understand the question.</p> <p>6 Q. (BY MR. KINGSTON) In forming your</p> <p>7 belief that Windstream was harmed did you talk to</p> <p>8 people?</p> <p>9 A. Yes. People in my organization on my</p> <p>10 team that are responsible for marketing.</p> <p>11 Q. In forming your belief that</p> <p>12 Windstream was harmed did you look at documents?</p> <p>13 A. Yes.</p> <p>14 Q. Were there any other sources of</p> <p>15 information beyond people and documents that you</p> <p>16 relied upon in forming your belief that Windstream</p> <p>17 was harmed?</p> <p>18 A. Yes.</p> <p>19 Q. What?</p> <p>20 A. Experience.</p> <p>21 Q. Anything else?</p> <p>22 A. Disconnect reports.</p> <p>23 Q. Would the disconnect reports be among</p> <p>24 the documents that you reviewed in forming your</p> <p>25 belief that Windstream was harmed?</p>
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<p>1 A. Yes. Also transcripts of customer</p> <p>2 confusion. Audio transcripts of, or audio</p> <p>3 recordings of customer confusion.</p> <p>4 Q. You listened to audio recordings?</p> <p>5 A. Yes.</p> <p>6 Q. As I understand it there are sort of</p> <p>7 three buckets of stuff that you relied upon in</p> <p>8 forming your belief that Windstream was harmed,</p> <p>9 your experience, people that you talked to and</p> <p>10 documents that you reviewed. Are there any other</p> <p>11 buckets of stuff that I'm missing?</p> <p>12 MR. ROSS: I think you just misstated</p> <p>13 his testimony.</p> <p>14 Q. (BY MR. KINGSTON) Responding to Mr.</p> <p>15 Ross's objection you talked about disconnect</p> <p>16 reports and transcripts, audio recordings, I'm</p> <p>17 sorry. So as far as the buckets of stuff that you</p> <p>18 relied upon in forming your belief that Windstream</p> <p>19 was harmed I have audio recordings, documents,</p> <p>20 people that you talked to and your experience. Any</p> <p>21 other broad categories of stuff that you relied on</p> <p>22 in forming your belief that Windstream was harmed?</p> <p>23 A. The advertisement itself.</p> <p>24 Q. So the documents on which you relied</p> <p>25 in forming that belief would include both documents</p>	<p>1 obtained from Windstream and the advertising from</p> <p>2 Charter.</p> <p>3 A. Yes.</p> <p>4 Q. What I'd like to do now Mr. Auman is</p> <p>5 kind of walk through each of those buckets and</p> <p>6 understand what all is in them. Does that make</p> <p>7 sense to you, sir?</p> <p>8 A. I think so.</p> <p>9 Q. Tell me all the documents you relied</p> <p>10 on in forming your belief that Windstream was</p> <p>11 harmed.</p> <p>12 A. The advertisements themselves, the</p> <p>13 advertisements, both direct mail pieces, the</p> <p>14 envelopes, copies of those that I received. The</p> <p>15 data reports that I received internally on customer</p> <p>16 additions and disconnects.</p> <p>17 Q. With respect to the data reports,</p> <p>18 sir, are you referring to the reports generated by</p> <p>19 Mr. Brannon's group?</p> <p>20 A. Yes.</p> <p>21 Q. So I have the advertising, I have</p> <p>22 data reports. What other documents did you rely</p> <p>23 on, sir?</p> <p>24 A. Transcripts of customer confusion.</p> <p>25 Transcripts of customers that have called in that</p>

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1 have been transcribed into a document.  
2 Q. What else?  
3 A. As far as documents or other  
4 categories?  
5 Q. Just documents, sir.  
6 A. That's what comes to mind.  
7 Q. So Charter's advertising, transcripts  
8 and the data reports circulated by Mr. Brannon's  
9 group, those are the documents on which you relied  
10 in forming your belief that Windstream was harmed?  
11 A. Yes.  
12 Q. And who are the people that you  
13 talked to in forming your belief that Windstream  
14 was harmed?  
15 A. People that come to mind would be the  
16 direct reports on my team. Would you like names?  
17 Q. Yes, please.  
18 A. Aaron Pierce.  
19 Q. Is it a Mr. Pierce or a Ms. Pierce?  
20 A. It's a Mr. Pierce. It's A-A-R-O-N.  
21 Pierce, P-I-E-R-C-E. Lorenzo Clarke. Lorenzo runs  
22 our call center operations. L-O-R-E-N-Z-O, Clarke,  
23 C-L-A-R-K-E. Wayne Parrish. I believe his name is  
24 already in the record. Mary Marzullo, Mary,  
25 M-A-R-Y, Marzullo, M-A-R-Z-U-L-L-O. Mary runs our

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1 A. No, please read it back.  
2 (Whereupon, the reporter read from the record)  
3 A. Those are some of the folks. There  
4 are others, these are conversations that we would  
5 have on our team so conversations, you know, I  
6 would categorize it anybody who's on my team, who's  
7 on my staff, was involved in these conversations.  
8 Those were the direct conversations that come to  
9 mind. Kristin King on the business side, I would  
10 add to that.  
11 Kristin, K-R-I-S-T-I-N, King,  
12 K-I-N-G.  
13 Q. So in forming your belief that  
14 Windstream was harmed you relied upon discussions  
15 with a variety of people that you can't identify  
16 off the top of your head sitting here today and  
17 specifically Mr. Pierce, Mr. Clarke, Mr. Parrish,  
18 Ms. Marzullo, Ms. King and the folks at MHP in  
19 Little Rock, is that fair?  
20 A. Yes. That's fair.  
21 Q. And in forming your belief that  
22 Windstream was harmed you also relied on the  
23 contents of certain audio recordings, is that  
24 right?  
25 A. Yes.

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1 online channels, our e-com sales.  
2 Those would be the primary folks on  
3 my team that we would have these discussions.  
4 Q. Any other people that you talked to  
5 in forming your belief that Windstream was harmed?  
6 A. Our agency, our agency, our  
7 advertising agency.  
8 Q. Who's your advertising agency?  
9 A. MHP. MHP Advertising. They're out  
10 of Little Rock.  
11 Q. Anybody else?  
12 A. No, sir.  
13 Q. Okay. So in forming your belief that  
14 Windstream was harmed you relied upon things that  
15 were told to you by Mr. Pierce, Mr. Clarke, Mr.  
16 Parrish, Ms. Marzullo and the folks at MHP in  
17 Little Rock, true?  
18 MR. ROSS: I'm going to object, you  
19 keep restating incorrectly, he said those are the  
20 ones that come to mind. I mean his testimony  
21 speaks for itself.  
22 MR. KINGSTON: Would you mind reading  
23 it that back?  
24 Q. (BY MR. KINGSTON) Unless you can  
25 remember it Mr. Auman.

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1 Q. What audio recordings?  
2 A. Two audio recordings come to mind in  
3 particular.  
4 Q. How many audio recordings did you  
5 review, did you listen to?  
6 Do you mind if I try that one again?  
7 A. I listened to two, two audio  
8 recordings related to a particular topic of  
9 customer confusion as a result of the false and  
10 misleading advertising that come to mind.  
11 Q. How did you -- I'm sorry, sir, I  
12 stepped on your answer.  
13 Well, Mr. Auman, did you listen to  
14 two audio recordings or more than two audio  
15 recordings?  
16 A. I've listened to audio recordings as  
17 a standard practice, I plug in occasionally to side  
18 jacks and listen to customers calling in. So as a  
19 normal course of business I listen and review  
20 information that comes in. There are two  
21 particular audio recordings that I focused in on  
22 related to customers that have called in that were  
23 a result of misinformation is what I would say,  
24 from two Wal-Mart locations that customers had  
25 visited and were told by Spectrum employees, or

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<p>1 Spectrum representatives within those Wal-Marts, 2 this is their words, not mine, that said we were, 3 Windstream was going out of business, or led the 4 customer to believe that we were being bought out 5 by Spectrum. 6 Q. So -- 7 A. Go ahead. 8 Q. So you listened to two recordings 9 related to a visit to a Wal-Mart store by two 10 customers of Windstream or one customer? I'm 11 sorry, which is it, sir? 12 A. What's the question? 13 Q. It wasn't a very good one. I'll take 14 another run at it. 15 So you listened to two recordings, 16 true? Not true, you listened to a whole bunch of 17 recordings but two recordings come to mind, is that 18 true? 19 A. Two particular recordings, audio 20 recordings, come to mind specifically related to 21 your question, yes, sir. 22 Q. And those two particular audio 23 recordings related to a visit to Wal-Mart? 24 A. So two mutually exclusive recordings, 25 each of them involved customer confusion resulting</p>	<p>1 after interaction at two different Wal-Marts by two 2 completely different Windstream customers that 3 shared very similar outcomes of confusion after 4 being in their words told by Spectrum 5 representatives that we were either, that 6 Windstream was either going out of business or 7 being purchased by Spectrum. 8 Q. So two recordings that come to mind 9 during our discussion today both involve visits to 10 Wal-Mart by Windstream customers who indicated 11 that, who indicated that they were confused after 12 speaking to somebody that they identified as a 13 Spectrum employee. Is that fair? 14 A. Repeat the question. Please. 15 (Whereupon, the reporter read from the record) 16 A. I believe I indicated representative. 17 Q. (BY MR. KINGSTON) So but for me 18 confusing Spectrum representative and Spectrum 19 employee that's a fair general description of the 20 two recordings that come to your mind during our 21 discussion today. 22 A. Yes. 23 Q. Setting those two recordings aside, 24 what's a side jack? 25 A. A side Jack is vernacular to describe</p>
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<p>1 the plugging in of a headset to an online 2 representative so you could sit by that 3 representative's side and listen to the 4 conversation in a non-participatory way. 5 Q. And is that a regular part of your 6 job responsibilities as for the first the senior VP 7 and then executive vice-president at Windstream? 8 A. I wouldn't call it a regular part. 9 When I have the opportunity to do it I absolutely 10 do it. It's very informative. 11 Q. So walk me through the circumstances 12 in which you would have an opportunity to use a 13 side jack to listen in on a conversation involving 14 a Windstream customer service representative. 15 A. Part of my responsibility is managing 16 the inside sales for both consumer residential and 17 business and account management teams, all of which 18 report to Lorenzo Clarke and those are located in 19 Charlotte, North Carolina for us and when I visit I 20 will typically take time and listen into 21 conversations that go on with a representative. 22 Sometimes I'll listen to care calls, so we have 23 customer care representatives, so. Take the 24 opportunity to engage with our care 25 representatives, you know, when I have that</p>	<p>1 opportunity. It's very informative. 2 Q. So inside sales, those are folks 3 trying to sell Windstream products. 4 A. Yes. 5 Q. And are those, are they trying to 6 sell Windstream products to existing Windstream 7 customers or hopefully new customers? 8 A. Both. 9 Q. So inside sales calls would go to 10 existing Windstream customers and to potential 11 Windstream customers. 12 A. That's correct. 13 Q. And the call center -- 14 A. I'm sorry, rephrase, or repeat the 15 question if you don't mind, make sure I answered it 16 correctly. 17 (Whereupon, the reporter read from the record) 18 A. So that's not correct, I don't think 19 inside calls go to existing customers. 20 Q. (BY MR. KINGSTON) So inside sales 21 calls don't go to existing Windstream customers? 22 A. No, they go to inside sales 23 representatives. I just want to make sure I'm 24 answering the question correctly. We don't send 25 calls to our existing customers.</p>



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<p>1 Q. And the inside sales call center is</p> <p>2 located in Charlotte?</p> <p>3 A. Yes.</p> <p>4 Q. And occasionally if you happen to be</p> <p>5 visiting in Charlotte you might plug in and listen</p> <p>6 in on a sales call.</p> <p>7 A. Yes. Or a care call or account</p> <p>8 management call. So it's a broad group of</p> <p>9 individuals that, different groups, organizations</p> <p>10 are in Charlotte, yes.</p> <p>11 Q. So I infer that the care calls, those</p> <p>12 would be calls to Windstream customers, or</p> <p>13 involving Windstream customers, is that right?</p> <p>14 A. Maybe I'm getting hung up on the</p> <p>15 details but these are inbound calls coming in.</p> <p>16 Q. I screwed that up from the beginning,</p> <p>17 I said too didn't I?</p> <p>18 So care calls would be calls from</p> <p>19 Windstream customers.</p> <p>20 A. Typically, yes, sir.</p> <p>21 Q. And the care call center is also in</p> <p>22 Charlotte?</p> <p>23 A. That's one of them, yes, sir.</p> <p>24 Q. And so if you're in Charlotte you may</p> <p>25 side jack into the, into one of the inbound calls</p>	<p>1 to the care call representatives in Charlotte as</p> <p>2 well.</p> <p>3 A. Yes.</p> <p>4 Q. And is there a difference between</p> <p>5 care calls and account management calls?</p> <p>6 A. There should be. Typically our</p> <p>7 account management teams will both do inbound and</p> <p>8 outbound calls, so they do proactive calling to our</p> <p>9 accounts to, if they see, you know, opportunities</p> <p>10 to improve their service or it's as we would call</p> <p>11 it kind of a care and feeding of our customer base,</p> <p>12 making sure that their accounts are optimized, so</p> <p>13 they would do outbound calls, they would also</p> <p>14 receive inbound calls.</p> <p>15 Q. So the account management</p> <p>16 representatives would be calling residential, small</p> <p>17 business enterprise customers or just focused on</p> <p>18 one of those groups, or?</p> <p>19 A. So I'm referring to area of my</p> <p>20 responsibility and it does not include enterprise</p> <p>21 customers. So the account management teams</p> <p>22 typically are smaller and medium business</p> <p>23 customers, not typically consumers. Consumer</p> <p>24 customers, sorry.</p> <p>25 Q. So account management would typically</p>
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<p>1 be the small and medium, the SMB customers?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And those calls would involve</p> <p>4 potentially offering those small business customers</p> <p>5 or small and medium business customers faster</p> <p>6 speed, speed upgrades or more efficient packages</p> <p>7 and the like?</p> <p>8 A. Exactly. Sometimes customers just</p> <p>9 like to be heard as well.</p> <p>10 Q. And those would be both outbound and</p> <p>11 inbound calls at the account management center.</p> <p>12 A. Yes.</p> <p>13 Q. And as far as outbound calls, are</p> <p>14 those outbound calls always looking to make an up</p> <p>15 sell or are there sometimes just offering better</p> <p>16 speeds or more efficient packages for no other</p> <p>17 reason than Windstream would like its customers to</p> <p>18 have better speeds and more efficient packages?</p> <p>19 A. That's certainly the case but also we</p> <p>20 just like to talk to our customers and let them</p> <p>21 know that we're here and give them an opportunity</p> <p>22 to be heard.</p> <p>23 Q. So Windstream occasionally offers its</p> <p>24 customers increased speeds or more efficient</p> <p>25 billing packages simply as a matter of good</p>	<p>1 customer relations?</p> <p>2 A. I think good customer relations is an</p> <p>3 outcome, I think the primary purpose is to retain</p> <p>4 customers.</p> <p>5 Q. But that's something that Windstream</p> <p>6 will do proactively as opposed to simply a reactive</p> <p>7 fashion.</p> <p>8 A. Yes, we'll do both, proactive and</p> <p>9 recitative engagement.</p> <p>10 Q. Can you, do you have to be physically</p> <p>11 in Charlotte to side jack into call center calls?</p> <p>12 A. I'm not aware of whether or not you</p> <p>13 have to be physically present or not. That's how I</p> <p>14 perform it.</p> <p>15 Q. When you've done it you've been in</p> <p>16 Charlotte.</p> <p>17 A. Yes.</p> <p>18 Q. Beyond the two Wal-Mart related audio</p> <p>19 recordings that you discussed earlier have you</p> <p>20 listened to any audio recordings related to the</p> <p>21 Spectrum advertising at issue?</p> <p>22 A. No.</p> <p>23 Q. So in forming your belief that</p> <p>24 Windstream was harmed you relied on your</p> <p>25 experience, you relied on the people, some of which</p>

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<p>1 you can remember today that you talked to, you</p> <p>2 relied on the two Wal-Mart related audio recordings</p> <p>3 and you relied on the documents that we've</p> <p>4 discussed, is that right?</p> <p>5 A. Yes. Also transcripts.</p> <p>6 Q. Anything else?</p> <p>7 A. I believe that's primarily it. There</p> <p>8 may be other inputs.</p> <p>9 Q. You've described for me what you can</p> <p>10 think of today.</p> <p>11 A. Yes, sir.</p> <p>12 Q. Take a look at Exhibit 2, category</p> <p>13 16. Do you see that, sir?</p> <p>14 A. I do.</p> <p>15 Q. Beyond what you've already described</p> <p>16 for me related to the harm that you believe</p> <p>17 Windstream has suffered do you have any personal</p> <p>18 knowledge related to Windstream's claimed damages</p> <p>19 in this proceeding?</p> <p>20 MR. ROSS: We've objected to this and</p> <p>21 said we're not producing a witness on this except</p> <p>22 for the expert, so he's not here to testify about</p> <p>23 that.</p> <p>24 Q. (BY MR. KINGSTON) You can answer,</p> <p>25 sir.</p>	<p>1 MR. ROSS: No, you can't. You're</p> <p>2 instructed not to answer that question.</p> <p>3 MR. KINGSTON: You're instructing --</p> <p>4 just so I'm clear as to counsel's instruction,</p> <p>5 you're instructing the witness not to answer the</p> <p>6 question asking whether he has personal knowledge</p> <p>7 related to Windstream's damages in this adversary</p> <p>8 proceeding.</p> <p>9 MR. ROSS: Yes, he's not here to</p> <p>10 testify personally and you know that. I would</p> <p>11 object to that.</p> <p>12 Q. (BY MR. KINGSTON) I guess what I'd</p> <p>13 like to do is see if, whether we really have</p> <p>14 anything to fuss about and to that end if you have</p> <p>15 personal knowledge great, if you don't, you don't.</p> <p>16 If you don't have personal knowledge</p> <p>17 on this topic I don't see a need to fuss with my</p> <p>18 friend across the table about whether or not I'm</p> <p>19 allowed to ask you questions about it. So I'll</p> <p>20 take another run at sort of the threshold question.</p> <p>21 MR. ROSS: Let's just stop. He's not</p> <p>22 here to testify personally, I've let you have</p> <p>23 enormous leeway and we're not going to do any more.</p> <p>24 If you want to adjourn the deposition and file a</p> <p>25 motion, we'll do that.</p>
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<p>1 Q. (BY MR. KINGSTON) You don't have</p> <p>2 personal knowledge, sir --</p> <p>3 MR. ROSS: I've instructed the</p> <p>4 witness not to answer questions about his personal</p> <p>5 knowledge, he's not here to testify in a personal</p> <p>6 capacity.</p> <p>7 Q. (BY MR. KINGSTON) Mr. Auman, are you</p> <p>8 going to follow your counsel's advice not to answer</p> <p>9 my question of whether or not you have personal</p> <p>10 knowledge related to Windstream's claimed damage in</p> <p>11 this proceeding?</p> <p>12 A. Yes, sir, I am.</p> <p>13 Q. Take a look at 17, sir.</p> <p>14 MR. ROSS: 17 we've also said we're</p> <p>15 not producing a witness on this.</p> <p>16 Q. (BY MR. KINGSTON) Do you see that,</p> <p>17 sir? Do you see 17?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Mr. Auman, do you have personal</p> <p>20 knowledge related to Windstream's marketing and</p> <p>21 advertising campaigns that contain no outward</p> <p>22 indicia that the communication is from</p> <p>23 Windstream?</p> <p>24 MR. ROSS: So that's a hard question</p> <p>25 to answer the way you phrased it. If it's a null</p>	<p>1 set you can't answer the question you just posed.</p> <p>2 Do you understand what I'm saying to</p> <p>3 your question?</p> <p>4 MR. KINGSTON: I do.</p> <p>5 Ms. Benoist --</p> <p>6 MR. ROSS: I think the technical</p> <p>7 objection is it assumes facts not in evidence, but</p> <p>8 you can fix it if you want to.</p> <p>9 MR. KINGSTON: Ms. Benoist, do you</p> <p>10 mind reading my question back?</p> <p>11 Why don't I just take another run at</p> <p>12 it.</p> <p>13 Q. (BY MR. KINGSTON) Mr. Auman, I think</p> <p>14 I'm going to ask you, I'm probably going to ask you</p> <p>15 a bunch of questions today but on this one I think</p> <p>16 I'm looking for two questions and I'll preview them</p> <p>17 for everybody to hopefully avoid confusion and to</p> <p>18 the extent that we can have a clean record.</p> <p>19 First I want to know, is this</p> <p>20 something that you know about, and then if you know</p> <p>21 about it I may try and ask you some questions about</p> <p>22 it and your lawyer may instruct you not to answer</p> <p>23 and we may or may not fuss about it.</p> <p>24 MR. ROSS: The objection is simple.</p> <p>25 I don't want to be accused of coaching but if</p>

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1 something never happened you can't have personal  
2 knowledge of it.  
3 MR. KINGSTON: I understand what  
4 you're saying.  
5 Q. (BY MR. KINGSTON) I think what Mr.  
6 Ross is I'm sure not trying to suggest but raising  
7 as a possibility in his objection is I might ask  
8 you if you have personal knowledge about the  
9 marketing and advertising and you may say yes, and  
10 I can say did Windstream ever send out envelopes  
11 that contain no outward indicia that it comes from  
12 Windstream, and you have no personal knowledge  
13 about that and Mr. Ross is not coaching but  
14 suggesting that maybe you don't have any personal  
15 knowledge about that because there are no such  
16 envelopes.  
17 Does that make sense to you, sir?  
18 It's okay if it doesn't. It didn't entirely make  
19 sense to me.  
20 MR. ROSS: I actually understood it.  
21 A. I believe I understand what you're  
22 saying on that.  
23 Q. (BY MR. KINGSTON) That makes you and  
24 Mr. Ross. I got a little lost.  
25 A. I'm trying to be acutely sensitive to

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1 marketing or advertising campaign that contain no  
2 outward indicia that the communications from  
3 Windstream in fact come from Windstream?  
4 A. Not that I'm aware of.  
5 Q. Take a look at number 18. Do you see  
6 that, sir?  
7 A. Yes, sir.  
8 Q. Do you have any personal knowledge  
9 that would enable you to tell us whether Windstream  
10 has used a marketing and advertising campaign that  
11 involves the use of color palettes similar to those  
12 of its competitors?  
13 MR. ROSS: So I've got the same  
14 objection to 18 as I did for 17.  
15 Q. (BY MR. KINGSTON) You can answer,  
16 sir.  
17 A. I have no personal knowledge.  
18 Q. Mr. Auman, you want to take a break?  
19 A. Now would be a fabulous time for a  
20 break. Thank you for offering.  
21 VIDEOGRAPHER: It's 10:28 then, we're  
22 off the record at the end of our first media.  
23 (WHEREUPON, A RECESS WAS TAKEN BY THE PARTIES)  
24 VIDEOGRAPHER: It's 10:40, we're back  
25 on the record at the beginning of our second media.

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1 what you're saying and vigilant, so.  
2 Q. (BY MR. KINGSTON) Let me start with  
3 kind of my threshold question.  
4 A. Maybe we can take it in small bites.  
5 Q. Yes, sir. I think that's the way to  
6 do it. Do you mind if we do that?  
7 A. I do not.  
8 Q. Mr. Auman, do you have personal  
9 knowledge that would enable you to answer the  
10 question did Windstream use marketing and  
11 advertising campaigns without outward indicia that  
12 the communications come from Windstream since  
13 January of 2017?  
14 A. No, I do not.  
15 Q. Okay. Take a look at number 18.  
16 Actually before you do that, let me  
17 stick with number 17. Can we do that, sir?  
18 A. Yes.  
19 Q. Mr. Auman, are you aware of  
20 Windstream ever using marketing and advertising  
21 campaigns that contain no outward indicia that the  
22 communications come from Windstream?  
23 A. Can you repeat the question please?  
24 Q. I'll ask a different one.  
25 Mr. Auman, has Windstream ever used a

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1 Q. (BY MR. KINGSTON) Sticking with  
2 Exhibit 2 Mr. Auman. You see category 19?  
3 A. Yes.  
4 Q. Sir, do you have personal knowledge  
5 related to Windstream's communications with actual  
6 and potential customers regarding its bankruptcy?  
7 MR. ROSS: We objected to that and  
8 said we're not producing a witness on that. We had  
9 other objections, but ask him what he knows or  
10 something like that it's a really broad topic.  
11 Q. (BY MR. KINGSTON) Well let me start  
12 with that threshold question Mr. Auman --  
13 MR. ROSS: I should just say we  
14 didn't object to this part about after the and/or.  
15 It was just that one part of it, just to be clear.  
16 MR. KINGSTON: Thank you.  
17 Q. (BY MR. KINGSTON) Mr. Auman, do you  
18 have personal knowledge related to Windstream's  
19 communication with actual or potential customers  
20 regarding its bankruptcy?  
21 A. Yes.  
22 Q. Tell me the basis for that personal  
23 knowledge.  
24 A. I received the required  
25 communications at my home.

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<p>1 Q. So you received --</p> <p>2 A. Or -- let me clarify. Whatever I</p> <p>3 received at my home I read and it was regarding our</p> <p>4 chapter filing. I received communications from</p> <p>5 Windstream regarding the bankruptcy.</p> <p>6 Q. So, sir, you're a Windstream</p> <p>7 customer?</p> <p>8 A. I am not.</p> <p>9 Q. You are not?</p> <p>10 A. I'm not a customer, I'm an employee.</p> <p>11 I'm sorry, I thought you said</p> <p>12 communications. So I am not a customer but I am an</p> <p>13 employee and I receive communications regarding</p> <p>14 bankruptcy.</p> <p>15 Q. Okay. So you're an employee of</p> <p>16 Windstream and you received a communication from</p> <p>17 Windstream related to its Chapter 11 filing at</p> <p>18 home.</p> <p>19 A. Yes.</p> <p>20 Q. And beyond that communication from</p> <p>21 Windstream regarding its Chapter 11 filing that you</p> <p>22 received at home do you have any personal knowledge</p> <p>23 related to Windstream's communications with actual</p> <p>24 or potential customers regarding its bankruptcy?</p> <p>25 A. No.</p>	<p>1 Q. And do you have personal knowledge</p> <p>2 related to Windstream's communications with actual</p> <p>3 or potential customers regarding the Charter</p> <p>4 advertising at issue?</p> <p>5 A. Yes.</p> <p>6 Q. Take a look at 20 please. Actually I</p> <p>7 think 20 was objected to and we can skip it.</p> <p>8 21 is incomprehensible and I would</p> <p>9 make a snide remark about my friends in the</p> <p>10 intellectual property group, I wasn't worried that</p> <p>11 I would offend Mr. Ross.</p> <p>12 Do you see number 22, sir?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Do you have any personal knowledge</p> <p>15 related to Windstream's Chapter 11 case?</p> <p>16 A. Can you go further on the question</p> <p>17 please?</p> <p>18 Q. Sure. Do you have, do you know</p> <p>19 anything based on what you've seen with your own</p> <p>20 eyes or your own ears related to Windstream's</p> <p>21 Chapter 11 case?</p> <p>22 A. Yes.</p> <p>23 Q. Did you form that knowledge that you</p> <p>24 have related to Windstream's Chapter 11 case from</p> <p>25 talking to people and looking at documents?</p>
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<p>1 A. Yes.</p> <p>2 Q. Did you gain information related to</p> <p>3 Windstream's Chapter 11 case other than by talking</p> <p>4 to people and looking at documents?</p> <p>5 A. No.</p> <p>6 Q. Let's start with the documents.</p> <p>7 MR. ROSS: I'm going to object, he's</p> <p>8 not here to testify about his personal information.</p> <p>9 You asked him did he have personal knowledge, I let</p> <p>10 you do that but we're not going to waste time</p> <p>11 talking about that.</p> <p>12 Q. (BY MR. KINGSTON) So other than what</p> <p>13 you've learned by looking at documents and talking</p> <p>14 to people you don't have any other knowledge</p> <p>15 related to Windstream's Chapter 11 cases?</p> <p>16 A. Nothing comes to mind.</p> <p>17 Q. I'm going to ask a question and give</p> <p>18 your lawyer an opportunity to object, and he may</p> <p>19 advise you not to answer and I'll give him an</p> <p>20 opportunity to do that if he wants to as well.</p> <p>21 Are you ready, sir?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Tell me the people that you talked to</p> <p>24 in gathering information about Windstream's Chapter</p> <p>25 11 cases.</p>	<p>1 MR. ROSS: I'm going to object and</p> <p>2 instruct the witness not to answer.</p> <p>3 Q. (BY MR. KINGSTON) Are you going to</p> <p>4 follow your lawyer's advice?</p> <p>5 A. Yes.</p> <p>6 Q. And tell me the documents you looked</p> <p>7 at related to Windstream's Chapter 11 cases.</p> <p>8 MR. ROSS: I'm also going to object</p> <p>9 and instruct the witness not to answer.</p> <p>10 Q. (BY MR. KINGSTON) Are you going to</p> <p>11 follow your lawyer's advice?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Take a look at 23. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Beyond what you've described to me</p> <p>16 earlier related to your role as first a senior</p> <p>17 vice-president and then an executive vice-president</p> <p>18 at Windstream do you have any personal knowledge</p> <p>19 related to Windstream's operations and business</p> <p>20 prior to its Chapter 11 filing?</p> <p>21 A. Can you repeat the question, I'm</p> <p>22 interpreting it as very broad, I want to make sure</p> <p>23 I understand.</p> <p>24 Q. Maybe I'll try and break it up.</p> <p>25 Mr. Auman, you recall we talked</p>

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<p>1 earlier about what you did after starting with</p> <p>2 Windstream in March of 2017?</p> <p>3 A. November. November of 2017.</p> <p>4 Q. I'm sorry. Remember our discussion</p> <p>5 about, promoted to EVP in March 2019, joined</p> <p>6 Windstream in November of 2017.</p> <p>7 A. Yes, sir.</p> <p>8 Q. Remember our discussion about your</p> <p>9 job and responsibilities after you joined</p> <p>10 Windstream in 2017?</p> <p>11 A. Yes.</p> <p>12 Q. Beyond knowledge that you gained in</p> <p>13 the regular course doing this stuff that you and I</p> <p>14 talked about at the beginning of this deposition,</p> <p>15 do you have any personal knowledge related to</p> <p>16 Windstream's operations and business prior to its</p> <p>17 Chapter 11 filing?</p> <p>18 A. No. Not beyond anything obtained</p> <p>19 under my normal responsibilities.</p> <p>20 Q. Take a look at number 24. Do you</p> <p>21 have personal knowledge related to Windstream's</p> <p>22 Kinetic Internet campaign?</p> <p>23 MR. ROSS: I just have to object, I</p> <p>24 don't know what time Kinetic Internet campaign is.</p> <p>25 Maybe you do.</p>	<p>1 So vague, ambiguous.</p> <p>2 A. It's a -- I don't understand the</p> <p>3 question.</p> <p>4 Q. (BY MR. KINGSTON) Does Windstream,</p> <p>5 has Windstream engaged in an Internet campaign</p> <p>6 related to its Kinetic service?</p> <p>7 A. Can you narrow the question down? I</p> <p>8 don't know what an Internet campaign is. That's</p> <p>9 not a vernacular that I would, a marketing term we</p> <p>10 would use.</p> <p>11 Q. Do you ever use the term campaign, is</p> <p>12 campaign among the materials that you use in the</p> <p>13 marketing vernacular in your day-to-day business?</p> <p>14 A. Yes.</p> <p>15 Q. And tell me what you understand that</p> <p>16 term to mean.</p> <p>17 A. A campaign would be very broad in</p> <p>18 nature, it would be around, it would include kind</p> <p>19 of the four Ps, the typical four Ps of marketing,</p> <p>20 promotion, place, price and product. So it's a</p> <p>21 very broad term usually used, usually of a time</p> <p>22 duration, it would involve, you know, creative,</p> <p>23 what your strategy is, where you would advertise,</p> <p>24 be it on, you know, social media, be it on direct</p> <p>25 mail, be it on your website, so kind of a broad,</p>
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<p>1 it's a, campaigns are pretty broad in nature.</p> <p>2 Q. And has Windstream ever had a</p> <p>3 campaign related to its Kinetic service?</p> <p>4 A. Yes.</p> <p>5 Q. Probably more than one.</p> <p>6 A. Yes.</p> <p>7 Q. So Windstream has had many Kinetic</p> <p>8 related campaigns?</p> <p>9 A. Not to be a jerk but define many.</p> <p>10 Q. How many Windstream, how many Kinetic</p> <p>11 campaigns has Windstream had?</p> <p>12 MR. ROSS: Since he got there?</p> <p>13 Q. (BY MR. KINGSTON) Yeah. Since you</p> <p>14 got there.</p> <p>15 A. I, it's not a thing that we would,</p> <p>16 you know, kind of break down, but I can recall a</p> <p>17 couple. Maybe two, three.</p> <p>18 Q. Are you aware of any Kinetic</p> <p>19 campaigns that preceded your employment at</p> <p>20 Windstream?</p> <p>21 A. I believe the first campaign was in</p> <p>22 September of 2017, thereabouts, it was prior to my</p> <p>23 joining, it was the first time that we introduced,</p> <p>24 or Windstream introduced the Kinetic brand into a</p> <p>25 campaign.</p>	<p>1 Q. Take a look at number 25 please.</p> <p>2 Sir, were you involved in the drafting of any cease</p> <p>3 and desist letters to Charter?</p> <p>4 A. No.</p> <p>5 Q. Did you participate in any situations</p> <p>6 with Charter related to those cease and desist</p> <p>7 letters?</p> <p>8 A. No.</p> <p>9 Q. Do you know whether Windstream</p> <p>10 negotiated the terms of its restructuring with any</p> <p>11 stakeholders before filing for bankruptcy?</p> <p>12 MR. ROSS: So I object, where's that</p> <p>13 on the topic list?</p> <p>14 MR. KINGSTON: I think it's 22.</p> <p>15 MR. ROSS: I don't think so, but</p> <p>16 we've also objected to that and said we're not</p> <p>17 producing a witness on it.</p> <p>18 Q. (BY MR. KINGSTON) So it's not an</p> <p>19 area -- well. Let me ask it this way, give your</p> <p>20 lawyer a moment to object, I think you understand</p> <p>21 the drill now.</p> <p>22 Did Windstream negotiate the terms of</p> <p>23 its restructuring with any stakeholders before</p> <p>24 filing for bankruptcy?</p> <p>25 MR. ROSS: How's that question</p>

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<p>1 different from the one I just objected to?</p> <p>2 MR. KINGSTON: I don't know that it</p> <p>3 is.</p> <p>4 MR. ROSS: So I object, that's not on</p> <p>5 the list of topics here, instruct the witness not</p> <p>6 to answer.</p> <p>7 Q. (BY MR. KINGSTON) Are you going to</p> <p>8 follow counsel's advice?</p> <p>9 A. Yes, sir.</p> <p>10 Q. I can't recall, you understand, sir</p> <p>11 that --</p> <p>12 MR. KINGSTON: Do you have a copy of</p> <p>13 the objections? See if you can track one down for</p> <p>14 me.</p> <p>15 In the meantime I'll just ask, did</p> <p>16 you designate a witness to talk about harm to</p> <p>17 Windstream?</p> <p>18 MR. ROSS: Which number was it, tell</p> <p>19 me that? Number 15?</p> <p>20 MR. KINGSTON: Yes, sir.</p> <p>21 MR. ROSS: Yeah. He's been</p> <p>22 designated for that.</p> <p>23 MR. KINGSTON: Okay.</p> <p>24 (MARKED DEFENDANT'S EXHIBIT NO. 3)</p> <p>25 Q. (BY MR. KINGSTON) Mr. Auman, I'm</p>	<p>1 handing you deposition Exhibit 3 which is a</p> <p>2 multi-page document, it's a 17 page document</p> <p>3 bearing the ECF docket number Doc 599, purports to</p> <p>4 be a corporate monthly operating report signed by</p> <p>5 John Eichler, E-I-C-H-L-E-R, on behalf of</p> <p>6 Windstream's Holding, Inc, et al., the debtors.</p> <p>7 A. Thank you.</p> <p>8 Q. Do you see who signed Exhibit 3, sir?</p> <p>9 A. Yes.</p> <p>10 Q. And who is that?</p> <p>11 A. John Eichler.</p> <p>12 Q. And who is Mr. Eichler?</p> <p>13 A. Says to be SVP, controller.</p> <p>14 Q. Do you know Mr. Eichler personally?</p> <p>15 A. No.</p> <p>16 Q. Do you see above Mr. Eichler's</p> <p>17 signature there's an indication that he's signing</p> <p>18 pursuant to the penalty of perjury?</p> <p>19 A. Yes.</p> <p>20 Q. And can you read that into the record</p> <p>21 please?</p> <p>22 A. The bottom paragraph would state I</p> <p>23 declare under penalty of perjury 28 USC, United</p> <p>24 States code section appears to be 1746, that this</p> <p>25 report and the attached documents are true and</p>
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<p>1 correct to the best of my knowledge and belief.</p> <p>2 Q. Is there are anything false in</p> <p>3 Exhibit 3?</p> <p>4 MR. ROSS: So what topic is this in</p> <p>5 the list of topics that you've designated to</p> <p>6 examine this witness on?</p> <p>7 MR. KINGSTON: 15.</p> <p>8 MR. ROSS: 15?</p> <p>9 MR. KINGSTON: Yes, sir.</p> <p>10 MR. ROSS: Irreparable harm?</p> <p>11 MR. KINGSTON: Yes, sir.</p> <p>12 MR. ROSS: You're going to have to</p> <p>13 lay a foundation, otherwise I'm going to object and</p> <p>14 cut this off. Explain how this has anything to do</p> <p>15 with the irreparable harm caused by the</p> <p>16 advertising.</p> <p>17 Q. To your knowledge -- strike that. Do</p> <p>18 you mind if I start over, sir?</p> <p>19 A. For me?</p> <p>20 Q. Yes, sir.</p> <p>21 A. Please.</p> <p>22 Q. Are you aware ever any false or</p> <p>23 misleading statements in Exhibit 3?</p> <p>24 MR. ROSS: So I don't know how that's</p> <p>25 different from what I just objected to, but again,</p>	<p>1 I don't think that's part of any topic that's been</p> <p>2 designated for examination today. You contend that</p> <p>3 topic 15 is, if you want to lay a foundation to</p> <p>4 prove it, otherwise I'm saying no, he doesn't have</p> <p>5 to answer these questions.</p> <p>6 MR. KINGSTON: You can read my</p> <p>7 question back and give your lawyer time to object</p> <p>8 and make an instruction.</p> <p>9 MR. ROSS: I'm going to save the</p> <p>10 time. Instruct him not to answer this until you</p> <p>11 establish how this relates to topic 15. It's a</p> <p>12 simple question, if you've actually got a basis to</p> <p>13 examine him under topic 15 tell me what that is,</p> <p>14 I'm happy to let him do it.</p> <p>15 Q. (BY MR. KINGSTON) Are you going to</p> <p>16 follow your counsel's instruction?</p> <p>17 A. Yes.</p> <p>18 Q. Okay, sir.</p> <p>19 So just so we have a real clean</p> <p>20 record let's do it this way: Is there any false,</p> <p>21 misleading or incomplete to your knowledge?</p> <p>22 MR. ROSS: Same objection, instruct</p> <p>23 the witness not to answer.</p> <p>24 Q. (BY MR. KINGSTON) Are you going to</p> <p>25 follow your counsel's advice?</p>

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1 A. Yes, sir.  
2 Q. Thank you.  
3 (MARKED DEFENDANT'S EXHIBIT NO. 4)  
4 Q. (BY MR. KINGSTON) Mr. Auman, on  
5 Exhibit 4 is a single page document Bates labeled  
6 WIN2742. The top left indicates it's a customer  
7 letter containing important news about Windstream,  
8 it appears to include the signature of Tony Thomas,  
9 president and CEO.  
10 Take a moment to review Exhibit 4 and  
11 let me know when you're ready, sir.  
12 A. Thank you. (Reviewing document).  
13 Okay. I'm ready.  
14 Q. And so is Exhibit 4 a letter from  
15 Windstream informing its customers about the  
16 Chapter 11 bankruptcy?  
17 A. Yes, that's what it appears to be to  
18 me.  
19 Q. And what's the date of that letter?  
20 A. February 25th, 2019.  
21 Q. And does the letter refer customers  
22 to a press release in the first paragraph?  
23 A. Yes.  
24 Q. And is that a press release that can  
25 be found online?

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1 And I assume when you say run by, hosted.  
2 Q. Yes, sir.  
3 A. I don't know.  
4 Q. You have no idea one way or another  
5 what the website www.windstreamrestructuring.com is  
6 affiliated with?  
7 MR. ROSS: That's a different  
8 question.  
9 MR. KINGSTON: It got away from me,  
10 I'll take another run at it.  
11 Q. (BY MR. KINGSTON) You don't know one  
12 way or another, sir, whether the website  
13 www.windstreamrestructuring.com is operated or  
14 maintained by Kurtzman Carson?  
15 A. I'm not aware.  
16 Q. Did the following spelling of  
17 Kurtzman Carson Consultants sound right to you,  
18 sir: K-U-R-T-Z-M-A-N, C-A-R-S-O-N,  
19 C-O-N-S-U-L-T-A-N-T-S?  
20 A. Sounds like it would be a good  
21 spelling, yes, sir.  
22 (MARKED DEFENDANT'S EXHIBIT NO. 5)  
23 Q. (BY MR. KINGSTON) Mr. Auman, as soon  
24 as your lawyer's had a chance to glance at the  
25 piece of paper I've put in front of him I'm going

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1 A. I don't know if it exists today or  
2 not. It appears to be a url link. That's what it  
3 looks like to me, yes, sir.  
4 Q. I read the last sentence of the first  
5 paragraph of the customer letter dated February 25,  
6 2019 to direct customers to a press release we  
7 issued that can be found at news.windstream.com.  
8 Do you read it the same way, sir?  
9 A. Yes, sir.  
10 Q. And it looks like there's a reference  
11 to FAQs at the first sentence of the second to last  
12 paragraph.  
13 A. Yes, sir.  
14 Q. I read that as follows: A set of  
15 FAQs that should help address some of your initial  
16 questions can be accessed by visiting Windstream's  
17 restructuring website at  
18 www.windstreamrestructuring.com.  
19 Have I read that correctly?  
20 A. Yes, sir.  
21 Q. And is that restructuring website a  
22 website run by Kurtzman Carson Consultants, LLC?  
23 A. I'm not aware.  
24 Q. You don't know one way or the other?  
25 A. I don't know one way or the other.

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1 to hand you Exhibit 5. For the record Exhibit 5 is  
2 a --  
3 MR. ROSS: Three.  
4 Q. (BY MR. KINGSTON) Three page  
5 document that looks to be a printout of the  
6 news.windstream.com website that includes an  
7 article, or excuse me, it includes a press release  
8 dated February 25, 2019.  
9 Take a moment to review Exhibit 5 and  
10 let me know when you're ready, sir.  
11 A. Thank you. (Reviewing document).  
12 I've read it.  
13 Q. And is that the press release at  
14 news.windstream.com referenced in the first  
15 paragraph of the February 25, 2019 customer letter?  
16 A. It certainly appears to be, yes. It  
17 appears to be but I don't know for certain.  
18 Q. That to you appears to be the press  
19 release at www, excuse me, at news.windstream.com?  
20 A. Yes. And that's because I'm looking  
21 at the url down at the bottom, it appears to be  
22 that's where this was sourced.  
23 Q. And that's something we could verify  
24 just by going to the news.windstream.com website  
25 and clicking back to February 25 of 2019?

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<p>1 A. I would think so.</p> <p>2 Q. Directing your attention to the third</p> <p>3 paragraph from the top on the first page, I see</p> <p>4 sort of an extended quotation of some remarks given</p> <p>5 by Tony Thomas. Do you see that, sir?</p> <p>6 A. Can you just read the first four or</p> <p>7 five words?</p> <p>8 Q. Sure. Do you see the third paragraph</p> <p>9 that starts with the words I want to express?</p> <p>10 A. Yes.</p> <p>11 Q. I read the second sentence in that</p> <p>12 paragraph as follows: With approval from the court</p> <p>13 we will continue paying our employees, maintaining</p> <p>14 our relationships with our vendors and business</p> <p>15 partners and serving our customers as usual.</p> <p>16 Have I read that correctly?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And has the bankruptcy court approved</p> <p>19 Windstream's reorganization plan as we sit here</p> <p>20 today, sir?</p> <p>21 A. That's my understanding. Yes, sir.</p> <p>22 That's my understanding.</p> <p>23 Q. Your understanding is that the --</p> <p>24 A. I'm not a lawyer but that's my basis</p> <p>25 of, that's my understanding.</p>	<p>1 Q. Is that based on your reading of this</p> <p>2 sentence that I just read to you, sir?</p> <p>3 A. It's based on my recollection of the,</p> <p>4 my recollection that the court approved the</p> <p>5 restructuring plan.</p> <p>6 Q. And again, you're not speaking for</p> <p>7 the company on that point, you're just saying your</p> <p>8 personal understanding is that the court has</p> <p>9 already approved the restructuring plan?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Take a look at the second page.</p> <p>12 I think I know my confusion. You see</p> <p>13 a, I think it's on the second page, do you see a</p> <p>14 reference to cautionary statements regarding</p> <p>15 forward looking information?</p> <p>16 A. Yes.</p> <p>17 Q. I read the second line of that</p> <p>18 section as follows: Forward looking statements are</p> <p>19 typically identified by words or phrases such as</p> <p>20 will, anticipate, estimate, expect, project,</p> <p>21 intend, plan, believe, target, forecast and other</p> <p>22 words and terms of similar meanings.</p> <p>23 Have I read that correctly?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And is the, if we turn back to the</p>
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<p>1 statement regarding Windstream continuing to pay</p> <p>2 employees and serving customers as usual, do we see</p> <p>3 one of those forward looking statement words in</p> <p>4 there?</p> <p>5 MR. ROSS: Where are you again?</p> <p>6 MR. KINGSTON: With approval from the</p> <p>7 court we will continue paying our employees,</p> <p>8 maintaining our relationships with our vendors and</p> <p>9 business partners and serving our customers as</p> <p>10 usual.</p> <p>11 Q. (BY MR. KINGSTON) Do you see that,</p> <p>12 sir?</p> <p>13 A. Do you have a highlighter?</p> <p>14 MR. ROSS: I don't think you can</p> <p>15 highlight the official copy though.</p> <p>16 Q. (BY MR. KINGSTON) I don't mind as</p> <p>17 long as you're the one that does it and we --</p> <p>18 A. That's all right. (Reviewing</p> <p>19 document).</p> <p>20 That's the one sentence?</p> <p>21 Q. Yes, sir. And I see the word will in</p> <p>22 that sentence. Do you?</p> <p>23 A. Yes, I see the word will. We will</p> <p>24 continue paying our employees with the caveat with</p> <p>25 approval from the court in front of it. Yes is the</p>	<p>1 answer, will is in there.</p> <p>2 Q. With approval from the court we will</p> <p>3 continue serving our customers. Is that</p> <p>4 representation made in that sentence to your view,</p> <p>5 sir?</p> <p>6 A. Yes. That's how I interpret it.</p> <p>7 Q. And then later in the press release</p> <p>8 there's a caution that should be considered when</p> <p>9 you see the word will, isn't that right, sir?</p> <p>10 A. Yes. Typically identified words by</p> <p>11 words or phrases such as will.</p> <p>12 Q. And then the Windstream press release</p> <p>13 goes on to say that forward looking statements are</p> <p>14 subject to risks and uncertainties that could cause</p> <p>15 actual future events and results to differ</p> <p>16 materially from those expressed in the forward</p> <p>17 looking statements.</p> <p>18 Have I read that correctly?</p> <p>19 A. I'm trying to figure out where you</p> <p>20 were reading from. So the last sentence of the</p> <p>21 first paragraph under cautionary statements</p> <p>22 regarding forward looking information?</p> <p>23 Q. Yes, sir.</p> <p>24 A. Do you want to read it again there?</p> <p>25 Q. Sure, happy to. Thanks.</p>



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<p>1 I read the last sentence in the</p> <p>2 paragraph underneath the phrase cautionary</p> <p>3 statements regarding forward looking information as</p> <p>4 follows: Forward looking statements are subject to</p> <p>5 risks and uncertainties that could cause actual</p> <p>6 future events and results to differ materially from</p> <p>7 those expressed in the forward looking statements.</p> <p>8 Have I read that correctly, sir?</p> <p>9 A. Yes. Verbatim.</p> <p>10 Q. And so I read that to suggest that</p> <p>11 when Windstream indicates that with approval from</p> <p>12 the court we will continue serving our customers,</p> <p>13 that that statement is subject to risks and</p> <p>14 uncertainties that could cause actual future events</p> <p>15 and results to differ materially from those</p> <p>16 expressed in that statement.</p> <p>17 Do you read it the same way, sir?</p> <p>18 MR. ROSS: I'm just going to object.</p> <p>19 Are you asking for personal information, his</p> <p>20 personal knowledge, I'm sorry? His personal</p> <p>21 knowledge? Then I'm going to instruct him not to</p> <p>22 answer because that's not a topic he's designated</p> <p>23 corporate representative on.</p> <p>24 Q. (BY MR. KINGSTON) Are you going to</p> <p>25 follow your lawyer's advice not to answer my</p>	<p>1 question, sir?</p> <p>2 A. Yes.</p> <p>3 Q. Let me just ask you on behalf of</p> <p>4 Windstream then. Do you read the representation</p> <p>5 that with approval from the court we will continue</p> <p>6 serving our customers as usual to be subject to</p> <p>7 risks and uncertainties that could cause actual</p> <p>8 future events and results to differ materially from</p> <p>9 that expectation?</p> <p>10 MR. ROSS: You may have misunderstood</p> <p>11 my last objection based on this question. I</p> <p>12 objected to him answering that question on behalf</p> <p>13 of Windstream because it's not a designated topic.</p> <p>14 If you had meant to ask him personally I wouldn't</p> <p>15 have objected.</p> <p>16 Q. (BY MR. KINGSTON) You understand Mr.</p> <p>17 Auman that you are here on behalf of Windstream to</p> <p>18 testify regarding topic 19 which includes</p> <p>19 Windstream's communications with actual and</p> <p>20 potential customers regarding the bankruptcy.</p> <p>21 MR. ROSS: Yes, but we objected to</p> <p>22 that and said we're not producing a witness with</p> <p>23 respect to the bankruptcy. That's not part of this</p> <p>24 case.</p> <p>25 MR. KINGSTON: I'll ask it one more</p>
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<p>1 time --</p> <p>2 MR. ROSS: Don't waste your time,</p> <p>3 I've already instructed him not to answer, let's</p> <p>4 just move on.</p> <p>5 MR. KINGSTON: All right.</p> <p>6 Q. (BY MR. KINGSTON) Mr. Auman, if you</p> <p>7 take a look at the -- well, actually let me do it,</p> <p>8 Mr. Auman.</p> <p>9 A. Yes, sir.</p> <p>10 Q. I read Windstream's press release</p> <p>11 dated February 25, 2019 to suggest that the</p> <p>12 representation that we will continue serving our</p> <p>13 customers as usual is subject to risks and</p> <p>14 uncertainties that could cause actual future events</p> <p>15 and results to differ materially from those</p> <p>16 expressed in the forward looking statements.</p> <p>17 Do you read it the same way, sir?</p> <p>18 MR. ROSS: Are you asking him in his</p> <p>19 personal capacity or as a 30(b)(6) capacity?</p> <p>20 MR. KINGSTON: Either one.</p> <p>21 MR. ROSS: No, you make a choice.</p> <p>22 Q. (BY MR. KINGSTON) First let's do</p> <p>23 personally.</p> <p>24 MR. ROSS: You can answer that</p> <p>25 question.</p>	<p>1 A. Okay. With the drama back and forth</p> <p>2 can you re-read the question as you read it please?</p> <p>3 Q. (BY MR. KINGSTON) Personally Mr.</p> <p>4 Auman.</p> <p>5 A. Yes.</p> <p>6 Q. Actually do you mind if I start that</p> <p>7 over?</p> <p>8 A. Yes.</p> <p>9 Q. Mr. Auman, I read Windstream's press</p> <p>10 release to indicate that the representation on Page</p> <p>11 1 that with the approval from the court we will</p> <p>12 continue serving our customers as usual is subject</p> <p>13 to risks and uncertainties that could cause actual</p> <p>14 future events and results to differ materially from</p> <p>15 those expressed.</p> <p>16 Personally, sir, do you read it the</p> <p>17 same way?</p> <p>18 A. I don't.</p> <p>19 Q. Tell me how you read it.</p> <p>20 A. I believe with approval from the</p> <p>21 courts is the caveat there that I'm looking at, so.</p> <p>22 I just.</p> <p>23 Q. So tell me your personal view as to</p> <p>24 what that last sentence under forward, in the</p> <p>25 paragraph we've been discussing, that indicates</p>

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1 that forward looking statements are subject to  
2 risks and uncertainties that could cause actual  
3 future events and results to differ materially from  
4 those expressed means.  
5 A. To me personally?  
6 Q. Yeah.  
7 A. To me personally that's general  
8 language used for looking, for any document I have  
9 seen that says, you know, the future, there's  
10 uncertainty in anything, right? Like there's risk,  
11 there's a risk in anything. I look at this as with  
12 approval of the court we continue paying our  
13 employees, maintaining our relationships with  
14 vendors and business partners and serving our  
15 customers as usual. As to whether or not the court  
16 approves Windstream to use the financing that it  
17 said that it had already secured, so. That's my  
18 own interpretation.  
19 Q. Go on to the next page after that  
20 sentence we've just been discussing. Can you see,  
21 do you see specific risks and uncertainties that  
22 are identified?  
23 A. I'm sorry?  
24 MR. ROSS: Where are you?  
25 Q. (BY MR. KINGSTON) Just the very next

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1 that, sir?  
2 A. Yes.  
3 Q. And do you see where the press  
4 release refers the reader to Windstream's annual  
5 report?  
6 A. I see where it references the  
7 Securities and Exchange Commission website for the  
8 company annual report, yes. And subsequent  
9 filings.  
10 Q. I read the press release in that part  
11 as follows: Factors that could cause actual  
12 results to differ materially from those  
13 contemplated in our forward looking statements  
14 include among others factors under risk factors in  
15 item (a) of the company annual report and in  
16 subsequent filings with the Securities Exchange  
17 Commission at www.sec.gov.  
18 Have I read that correctly?  
19 A. Yes, sir. That's what it appears to  
20 me to be.  
21 Q. And so in its press release  
22 Windstream refers the reader to the company annual  
23 report and the SEC's website at www.sec.gov.  
24 A. Yes, sir.  
25 My stomach's telling me it's about

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1 paragraph.  
2 A. I moved on.  
3 Q. That's okay.  
4 A. So where am I reading?  
5 Q. So we were looking at the sentence  
6 regarding statements that were subject to risks and  
7 uncertainties.  
8 A. Last sentence?  
9 Q. Yes, sir.  
10 A. First paragraph under cautionary  
11 statements.  
12 Q. Uh-huh.  
13 A. Okay. Yes.  
14 Q. And if you take a look at the next  
15 paragraph of the press release do you see some  
16 risks and uncertainties that are spelled out  
17 specifically?  
18 A. Yes.  
19 Q. And do those include the length of  
20 time the company will operate under the Chapter 11  
21 case?  
22 A. Yes. I see that.  
23 Q. And then take a look at the last  
24 paragraph of the press release. Right above the  
25 media contact and the visitor contact, do you see

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1 that time.  
2 MR. ROSS: It's actually not.  
3 (MARKED DEFENDANT'S EXHIBIT NO. 6)  
4 Q. (BY MR. KINGSTON) Mr. Auman, I'm  
5 handing you Exhibit 6 which is a multi-page  
6 document Bates labeled WIN2749 through 2769. Take  
7 a moment to review Exhibit 6 and let me know when  
8 you're ready, sir.  
9 A. Yes. (Reviewing document).  
10 Okay.  
11 Q. What is Exhibit 6?  
12 A. What's the question, sir?  
13 Q. Do you recognize Exhibit 6?  
14 A. Yes.  
15 Q. And what is it?  
16 A. It's a consumer sales and care call  
17 document from April 1st, 2019.  
18 Q. And have you seen it before, have you  
19 seen Exhibit 6 before?  
20 A. I don't recall seeing this exhibit  
21 previously.  
22 Q. I forgot to ask you a bunch of  
23 typical beginning of deposition questions Mr.  
24 Auman.  
25 Did you review documents in preparing

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<p>1 for your deposition today?</p> <p>2 A. Yes.</p> <p>3 Q. And did you talk to people?</p> <p>4 A. Yes.</p> <p>5 Q. Who did you talk to?</p> <p>6 A. Inside and outside counsel.</p> <p>7 Q. Did you talk to anybody other than</p> <p>8 lawyers?</p> <p>9 A. With respect to this deposition?</p> <p>10 Q. Yes, sir.</p> <p>11 A. Yes.</p> <p>12 Q. Who did you talk to other than a</p> <p>13 lawyer?</p> <p>14 A. Brad Brannon. Paul Strickland.</p> <p>15 Q. Anybody other than Mr. Brannon and</p> <p>16 Mr. Strickland?</p> <p>17 A. No. I mean my team knows don't</p> <p>18 bother me I'm doing this today so they're aware I</p> <p>19 was doing it but I didn't talk to them about</p> <p>20 contents.</p> <p>21 I'm sorry, yes, I have. Aaron</p> <p>22 Pierce.</p> <p>23 Q. Anybody other than Mr. Pierce, Mr.</p> <p>24 Strickland and Mr. Brannon?</p> <p>25 A. No. My wife, I told her where I was</p>	<p>1 going.</p> <p>2 Q. No problem.</p> <p>3 A. She likes to know that.</p> <p>4 Q. They do and it's good to tell them.</p> <p>5 A. Yes.</p> <p>6 Q. And did you review any documents</p> <p>7 getting ready for your deposition today?</p> <p>8 A. Did I review documents in</p> <p>9 preparation?</p> <p>10 Q. Yes, sir.</p> <p>11 A. Yes.</p> <p>12 Q. And big stack, little stack? How</p> <p>13 many documents did you review?</p> <p>14 A. How many actual documents? I</p> <p>15 wouldn't call -- 10 maybe.</p> <p>16 Q. Tell me generally, describe those 10</p> <p>17 documents as best you can.</p> <p>18 MR. ROSS: I have to object to that,</p> <p>19 that's attorney client privileged, work product</p> <p>20 privileged. Documents were given to him by</p> <p>21 counsel.</p> <p>22 MR. KINGSTON: So if I understand the</p> <p>23 objection it's that identifying the documents would</p> <p>24 reveal attorney work product because of the work</p> <p>25 that counsel put in selecting the documents to put</p>
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<p>1 in front of him?</p> <p>2 MR. ROSS: That sounds like a good</p> <p>3 summary.</p> <p>4 Q. (BY MR. KINGSTON) And I guess are</p> <p>5 you relying on any of those documents for the basis</p> <p>6 of the testimony that you intend to provide on</p> <p>7 behalf of the company today?</p> <p>8 A. Yes.</p> <p>9 Q. Did you learn anything from those</p> <p>10 documents that you didn't already know based on</p> <p>11 your own personal knowledge?</p> <p>12 A. Yes.</p> <p>13 MR. KINGSTON: I do think then I am</p> <p>14 entitled to those documents. I think I understand</p> <p>15 the objection, I don't think it applies in the</p> <p>16 context of a corporate representative deposition.</p> <p>17 MR. ROSS: I disagree but we can</p> <p>18 always take it to the judge and fight about it if</p> <p>19 you want.</p> <p>20 MR. KINGSTON: Sure.</p> <p>21 Q. (BY MR. KINGSTON) So you reviewed</p> <p>22 approximately 10 documents getting ready for</p> <p>23 today's deposition.</p> <p>24 A. Yes.</p> <p>25 Q. All right. And in the course of</p>	<p>1 reviewing those 10 documents, those roughly 10</p> <p>2 documents, you learned things that you didn't</p> <p>3 already know?</p> <p>4 A. Yes.</p> <p>5 Q. And based on your review of those 10</p> <p>6 documents you learned things that you didn't</p> <p>7 already know related to this lawsuit.</p> <p>8 A. Yes.</p> <p>9 Q. Tell me the day on which you reviewed</p> <p>10 those documents. Day or days, sir?</p> <p>11 A. In the past week or so.</p> <p>12 Q. So it's fair to say that in the past</p> <p>13 week or so you reviewed somewhere in the</p> <p>14 neighborhood of 10 documents from which you learned</p> <p>15 things that you didn't already know relevant to</p> <p>16 this lawsuit.</p> <p>17 A. Yes.</p> <p>18 Q. Tell me what those 10 documents are.</p> <p>19 MR. ROSS: I'm instructing the</p> <p>20 witness not to answer, the same privilege grounds I</p> <p>21 just stated.</p> <p>22 Q. (BY MR. KINGSTON) Are you going to</p> <p>23 follow your lawyer's advice?</p> <p>24 A. Yes, sir.</p> <p>25 Q. When you talked to Mr. Brannon were</p>

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<p>1 lawyers present?</p> <p>2 A. No.</p> <p>3 Q. Tell me everything you can remember</p> <p>4 about your conversation with Mr. Brannon then.</p> <p>5 A. I asked Brad Brannon to validate what</p> <p>6 I believed to be true, that over the course between</p> <p>7 April and end of July in the markets that we</p> <p>8 compete head to head with Spectrum that we had a</p> <p>9 significant or material spike in customer</p> <p>10 disconnects during that timeframe. That that</p> <p>11 proved to be a material change from our previous,</p> <p>12 trajectory for the previous year. And that would</p> <p>13 have been the timeframe beginning a few weeks after</p> <p>14 the false or misleading advertising was sent out by</p> <p>15 Charter.</p> <p>16 Q. So Mr. Brannon told you that there</p> <p>17 was a spike in disconnects in that kind of April to</p> <p>18 July time period.</p> <p>19 A. Yes. He validated it. I knew that</p> <p>20 to be the case but I wanted to double check with</p> <p>21 Brad. He's the one who as we talked about before</p> <p>22 distributes the reports on customer disconnects.</p> <p>23 Q. And you knew that to be the case</p> <p>24 based on your review of the reports that Brad</p> <p>25 distributes on a monthly basis?</p>	<p>1 Do you mind if I take another run at</p> <p>2 that?</p> <p>3 A. Yes.</p> <p>4 Q. In your belief regarding the spike in</p> <p>5 disconnects in the April to July time period was</p> <p>6 based on your review of the reports circulated by</p> <p>7 Mr. Brannon's group that we've discussed earlier.</p> <p>8 A. Yes.</p> <p>9 Q. And then Mr. Brannon told you that</p> <p>10 that belief was correct when you talked to him.</p> <p>11 A. Yes.</p> <p>12 Q. When you spoke --</p> <p>13 A. And that the same impact on the other</p> <p>14 markets was true, that we did not see a spike in</p> <p>15 disconnects like we did in the Spectrum markets.</p> <p>16 Q. That's what Mr. Brannon told you?</p> <p>17 A. Yes. We also discussed pricing,</p> <p>18 Charter pricing, and that's all I recall.</p> <p>19 Oh, our current promotion costs that</p> <p>20 we're running right now, we're in the end of</p> <p>21 September timeframe.</p> <p>22 Q. Mr. Brannon told you things about</p> <p>23 pricing and promotion costs as well?</p> <p>24 A. Yes.</p> <p>25 Q. What did he tell you about pricing?</p>
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<p>1 A. We just reviewed our current go to</p> <p>2 market pricing by and large for Internet only</p> <p>3 customers, for business customers. And the costs</p> <p>4 associated with the current promotion. That's the</p> <p>5 validation behind it, I wanted to validate our cost</p> <p>6 estimate for what that promotion's costing us.</p> <p>7 Q. Explain that to me. You want to</p> <p>8 validate your cost estimate for what your current</p> <p>9 promotion was costing you?</p> <p>10 A. Yes.</p> <p>11 Q. How does the pricing information</p> <p>12 enable you to validate that cost estimate?</p> <p>13 A. The current promotion involves three</p> <p>14 months free for the customers. So there's a cost</p> <p>15 associated with that and that promotion is based on</p> <p>16 the fact that we had a spike in disconnects during</p> <p>17 the April to July timeframe in Spectrum markets and</p> <p>18 we wanted to maintain our commitment to achieving</p> <p>19 our growth plan. So we took action as a management</p> <p>20 team to introduce new pricing promotions into the</p> <p>21 marketplace as a result and there's a cost</p> <p>22 associated with that that we estimate to be 8</p> <p>23 million.</p> <p>24 Q. So the three months free, the cost of</p> <p>25 offering that three months free promotion you</p>	<p>1 estimate to be \$8 million.</p> <p>2 A. Yes.</p> <p>3 Q. And that's based on your discussion</p> <p>4 with Mr. Brannon?</p> <p>5 A. It was a foundation discussion. I</p> <p>6 knew that as my normal course of business.</p> <p>7 Q. Did you look at in forming your</p> <p>8 belief that the cost of the promotion was \$8</p> <p>9 million, did you look at documents?</p> <p>10 A. No.</p> <p>11 Q. That's all you know off the top of</p> <p>12 your head?</p> <p>13 A. Yes.</p> <p>14 Q. Walk me through the formula that you</p> <p>15 went through -- walk me through the formula that</p> <p>16 you employed to determine that the cost of that</p> <p>17 three month promotion was \$8 million off the top of</p> <p>18 your head.</p> <p>19 A. My finance director told me. I don't</p> <p>20 have the formula.</p> <p>21 Q. So your belief that the cost of the</p> <p>22 three month promotion that you've been referencing</p> <p>23 was \$8 million is the result of your finance</p> <p>24 director telling you that the cost of that</p> <p>25 promotion was \$8 million?</p>

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<p>1 A. Yes, sir.</p> <p>2 Q. And who's your finance director?</p> <p>3 A. Leena Lee. L-E-E-N-A. And Ben Bruce</p> <p>4 is the finance VP. So it would have been with that</p> <p>5 group.</p> <p>6 Q. Bruce did you say?</p> <p>7 A. Ben Bruce, B -E-N, I don't think I</p> <p>8 said his name before. B-E-N, Bruce, B-R-U-C-E.</p> <p>9 Q. So your belief that the three month</p> <p>10 promotion that you referenced earlier cost</p> <p>11 Windstream \$8 million is based on the fact that Ms.</p> <p>12 Lee and Mr. Bruce told you?</p> <p>13 A. Yes. I'm sure there's input from</p> <p>14 Brad as well. Brad manages pricing. Brad is over,</p> <p>15 he's VP over finance.</p> <p>16 Q. When did Ms. Lee and Mr. Bruce tell</p> <p>17 you about this clause?</p> <p>18 A. It would have been some time in</p> <p>19 August.</p> <p>20 Q. Mid August, early August, late</p> <p>21 August?</p> <p>22 A. I can't recall. Probably middle</p> <p>23 August. We introduced it beginning of September.</p> <p>24 To some markets.</p> <p>25 Q. How did you identify the markets</p>	<p>1 where Windstream competes with Spectrum?</p> <p>2 A. How do we identify them? Those are</p> <p>3 the known markets.</p> <p>4 Q. How is the knowledge that those are</p> <p>5 markets where Windstream competes with Spectrum</p> <p>6 acquired?</p> <p>7 A. Competitive assessments. I mean</p> <p>8 normal course of business would be keep</p> <p>9 competitive, you know, know your competitors in one</p> <p>10 of one of the markets and keep current on their</p> <p>11 offers and keep vigilant on the impacts of those</p> <p>12 offers and the impacts of the overall business.</p> <p>13 Q. Walk me through the competitive</p> <p>14 assessments that help you understand the markets</p> <p>15 where Spectrum competes with Windstream.</p> <p>16 A. How would one determine, it's not my</p> <p>17 area, but we did an assessment on whether or not</p> <p>18 that particular competitor has a sales presence in</p> <p>19 the market as distribution. He's marketing to</p> <p>20 customers and I believe has the authority to sell.</p> <p>21 Q. You say it's not your area. Whose</p> <p>22 area is it?</p> <p>23 A. Brannon. Brad Brannon. I don't</p> <p>24 believe that it has changed much. My understanding</p> <p>25 is it requires a license or some type of license to</p>
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<p>1 compete in geographies.</p> <p>2 Q. When you say it hasn't changed much,</p> <p>3 it hasn't changed much in how long?</p> <p>4 A. I typically look at in calendar year,</p> <p>5 and I don't believe that there's been any new</p> <p>6 markets that Charter has introduced or has</p> <p>7 withdrawn from during 2019 where we compete head to</p> <p>8 head. I might be wrong but I don't recall that</p> <p>9 happening in 2019. I'm pretty much looking at a</p> <p>10 calendar year. That must be our fiscal year as</p> <p>11 well.</p> <p>12 Q. Do you know what markets Windstream</p> <p>13 offers Kinetic TV in?</p> <p>14 A. I can get that information too. But</p> <p>15 broadly, yes. Every day it's evolving so I'd have</p> <p>16 to take a break and get that information back to</p> <p>17 you.</p> <p>18 Q. And along those same lines would you</p> <p>19 be able to take a break and get us information</p> <p>20 regarding where Spectrum offers services where</p> <p>21 Windstream offers Kinetic TV?</p> <p>22 A. Yes, I think we can do that. I don't</p> <p>23 know how long it would take me.</p> <p>24 Q. All right. So is there anything else</p> <p>25 that you recall about your conversation with Mr.</p>	<p>1 Brannon?</p> <p>2 A. Not relevant to this case, no. Or</p> <p>3 this deposition.</p> <p>4 Q. You talked just to Brannon alone?</p> <p>5 A. I did.</p> <p>6 Q. Sometimes you talk about personal</p> <p>7 stuff, sometimes you talk about the business.</p> <p>8 A. Correct.</p> <p>9 Q. I'm not asking you about any personal</p> <p>10 stuff.</p> <p>11 A. Okay. Trying to be very specific.</p> <p>12 Q. I appreciate that, sir.</p> <p>13 As far as you know you've described</p> <p>14 for me everything that you and Mr. Brannon</p> <p>15 discussed that is relevant to the case based on</p> <p>16 your understanding of what this case involves?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Now tell me about your conversation</p> <p>19 with Mr. Strickland. Maybe first tell me were</p> <p>20 lawyers present when you talked to Mr. Strickland?</p> <p>21 A. No.</p> <p>22 Q. All right. Now go ahead and tell me</p> <p>23 about your conversation with Mr. Strickland.</p> <p>24 A. I spoke with Paul after he was</p> <p>25 deposed on Friday.</p>

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<p>1 Q. And did you just generally talk about</p> <p>2 the deposition?</p> <p>3 A. Yes.</p> <p>4 Q. Tell me as best you can recall what</p> <p>5 he said and what you said.</p> <p>6 A. He felt that as though it was pretty</p> <p>7 straightforward when it was expected and that was</p> <p>8 about it.</p> <p>9 Q. Okay. Tell me about your</p> <p>10 conversation with Mr. Pierce.</p> <p>11 A. As you know Aaron Pierce is a direct</p> <p>12 report to me and so I asked Aaron Pierce to get an</p> <p>13 assessment on what our costs were from our agency</p> <p>14 for the development of the creative material that</p> <p>15 we proactively created and distributed following</p> <p>16 the, Spectrum's false and misleading testimony.</p> <p>17 And I asked him to validate any questions that,</p> <p>18 just to make sure I was correct on what my memory</p> <p>19 was on some of the costs associated with the</p> <p>20 creation, distribution and subsequent timing. I</p> <p>21 lived it but I wanted to make sure it was accurate</p> <p>22 in my head.</p> <p>23 MR. KINGSTON: Why don't we break for</p> <p>24 lunch?</p> <p>25 VIDEOGRAPHER: It is 11:56. We are</p>	<p>1 off the record at the end of our second media.</p> <p>2 (Whereupon, a lunch recess was taken)</p> <p>3 VIDEOGRAPHER: It's 12:52. We're</p> <p>4 back on the record at the beginning of our third</p> <p>5 media.</p> <p>6 Q. (BY MR. KINGSTON) Direct your</p> <p>7 attention, sir, back to Exhibit 6, the Kinetic</p> <p>8 PowerPoint. Do you see that?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Look at Page 5. Do you see a</p> <p>11 reproduction of the Charter mail order issue?</p> <p>12 A. Yes.</p> <p>13 Q. Looks like there's a copy of the</p> <p>14 front and back of a letter and the front and back</p> <p>15 of an envelope, do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And that flap on the envelope, is</p> <p>18 that purple to pink or pink to purple?</p> <p>19 A. The color scheme?</p> <p>20 Q. Yes, sir.</p> <p>21 A. Can you ask the question again?</p> <p>22 Q. Yeah. Looks like there's the back</p> <p>23 side of a Charter envelope?</p> <p>24 A. Yes.</p> <p>25 Q. That has a gradient color scheme, do</p>
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<p>1 you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Looks like it goes from pink on the</p> <p>4 left to purple on the right?</p> <p>5 A. I think that's fair. It definitely</p> <p>6 goes from lighter to darker.</p> <p>7 Q. Yeah, it's maybe sort of a blue on</p> <p>8 the right.</p> <p>9 A. Looks a lot like Windstream Kinetic</p> <p>10 colors to me. That's what it looks like.</p> <p>11 Q. Show me on the PowerPoint where else</p> <p>12 would I see that color?</p> <p>13 A. To me if you look at the line</p> <p>14 underneath on the same page shows a representation</p> <p>15 of a different color scheme.</p> <p>16 Q. So if we're sticking with Page 5, you</p> <p>17 see the back side of the Charter envelope with a</p> <p>18 sort of, with a pink on the left radiating to a</p> <p>19 purple to blue on the right. Do you see that, sir?</p> <p>20 A. I'm sorry?</p> <p>21 Q. That's all right. I was circling the</p> <p>22 airport there for a second.</p> <p>23 You see the back side of the Charter</p> <p>24 envelope on Page 5 which is Bates labeled WIN2753,</p> <p>25 do you see that, sir?</p>	<p>1 A. Yes.</p> <p>2 Q. And it looks like that back flap</p> <p>3 goes from pink to purple, do you see that, sir?</p> <p>4 A. Yes, I see. Light to dark.</p> <p>5 Q. Light to dark.</p> <p>6 A. Yeah.</p> <p>7 Q. And then we were discussing where we</p> <p>8 could find that color scheme on Exhibit 6 and you</p> <p>9 indicated at the bottom of Page 5, again WIN2753,</p> <p>10 right?</p> <p>11 A. Yes. That -- yes.</p> <p>12 Q. There's sort of a bar across the</p> <p>13 bottom of Page 5 that starts off blue and then</p> <p>14 goes to green and then goes to orange and then</p> <p>15 goes to kind of a blue purple and out to pink, is</p> <p>16 that right?</p> <p>17 A. Yes.</p> <p>18 Q. And your view is that Charter's, the</p> <p>19 back side of Charter's envelope mimics that final</p> <p>20 kind of purple to pink side of that bar at the</p> <p>21 bottom of the, of Exhibit 6, is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Go ahead, please.</p> <p>24 A. It looks very similar if not</p> <p>25 identical to the colors that we use, that I have</p>

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<p>1 seen us use on our mailings.</p> <p>2 Q. Does Windstream keep a database of</p> <p>3 its past mailings?</p> <p>4 A. Not that I'm aware of.</p> <p>5 Q. If I wanted to get my hands on</p> <p>6 exemplars of direct mail pieces that Windstream has</p> <p>7 sent 2017, '18 and '19 is that something that you</p> <p>8 have on file somewhere back at the office?</p> <p>9 A. You know, I don't know.</p> <p>10 Q. It may be, it may not be something</p> <p>11 that Windstream has back on file at the office.</p> <p>12 A. That's correct. May or may not.</p> <p>13 Q. What I'd like to do, sir, is I want</p> <p>14 to go through Exhibit 6 and circle all the color</p> <p>15 scheme portions that in your view look like the</p> <p>16 color scheme on the back of that envelope. What</p> <p>17 I'd like to you do is circle and put your initials</p> <p>18 by it.</p> <p>19 A. (Indicating). Is one of the bars</p> <p>20 sufficient or you want the same --</p> <p>21 Q. One is fine.</p> <p>22 A. Okay.</p> <p>23 Q. Would you mind if I took a look at</p> <p>24 your copy of Exhibit 6 whenever you're finished?</p> <p>25 A. Sure.</p>	<p>1 (Indicating).</p> <p>2 Q. Thank you, sir.</p> <p>3 And saw you circled the portions of</p> <p>4 Exhibit 6 that in your view, where in your view the</p> <p>5 Windstream color scheme is similar to the color</p> <p>6 scheme on the back of the mailer on Page 5, is that</p> <p>7 right, sir?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And it looks like you circled a</p> <p>10 portion of the logo on the first page and a portion</p> <p>11 of the bar at the bottom of the fifth page. Isn't</p> <p>12 that right, sir?</p> <p>13 A. Yes.</p> <p>14 Q. And that logo and that bar are</p> <p>15 reproduced kind of throughout Exhibit 6, is that</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. And so, and is that logo that's sort</p> <p>19 of a knot of different letters, is that the Kinetic</p> <p>20 logo?</p> <p>21 A. Yes, it is. The, what I'm not sure</p> <p>22 of is if this PowerPoint is an exact replica of the</p> <p>23 color palette that we use to print direct material</p> <p>24 on. This is an internal business document so it's</p> <p>25 not necessarily customer facing, so there's a,</p>
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<p>1 could be some slight variance, but.</p> <p>2 Q. That knot of colors next to the word</p> <p>3 Kinetic, does that look similar in your view to the</p> <p>4 logo that goes out on Windstream direct mails?</p> <p>5 A. That's a typical, it's a typical logo</p> <p>6 that we use.</p> <p>7 Q. And t looks like the knot of colors</p> <p>8 includes kind of a green strand, a purple strand, a</p> <p>9 blue strand and then that purple to pink strand, is</p> <p>10 that right, sir?</p> <p>11 A. Yes. There's a, the palette has a</p> <p>12 bunch of different colors to it, not all are used</p> <p>13 in our mailings. So I would recommend if we could</p> <p>14 is that we get the actual direct mailer piece as a,</p> <p>15 actual comparison and not an internal business</p> <p>16 document.</p> <p>17 Q. In your view a direct mailer piece</p> <p>18 from Windstream, or a sampling of the direct mailer</p> <p>19 piece from Windstream would be a better comparison</p> <p>20 than this PowerPoint, is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. It looks like there are portions of</p> <p>23 Exhibit 6 that have been blocked out. Do you see</p> <p>24 that?</p> <p>25 A. I definitely saw that. A lot of ink.</p>	<p>1 Q. Yes, a lot of ink has been used to</p> <p>2 cover up portions of Exhibit 6. Do you know what</p> <p>3 that ink is covering, sir?</p> <p>4 A. No, I don't. I don't believe I saw</p> <p>5 this document until today. I mean I do know what</p> <p>6 it references but I don't think I have seen this</p> <p>7 particular document until today.</p> <p>8 Q. What does it reference?</p> <p>9 A. It's our consumer sales and care call</p> <p>10 and it's used for informational purposes.</p> <p>11 Q. So how often -- so is there a regular</p> <p>12 call with the consumer sales and care group?</p> <p>13 A. Yes.</p> <p>14 Q. And is this sort of a situation where</p> <p>15 everybody dials in and looks at their computer and</p> <p>16 you kind of walk through a PowerPoint on the</p> <p>17 screen?</p> <p>18 A. Yes, typically.</p> <p>19 Q. And how many consumer sales and care</p> <p>20 employees does Windstream have, roughly?</p> <p>21 A. So just to clarify the question,</p> <p>22 we're broken into two independent business, not</p> <p>23 independent, but two business units so this is the</p> <p>24 business unit that would be on this call is the</p> <p>25 Kinetic business unit so it would be limited to</p>

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<p>1 those sales and care employees, so I want to verify</p> <p>2 the question you're asking. If you're asking</p> <p>3 Windstream overall or folks that would be on this</p> <p>4 call.</p> <p>5 Q. And so the folks that would be on</p> <p>6 this call would be in the Kinetic unit and related</p> <p>7 to consumer sales and care, is that right?</p> <p>8 A. Correct.</p> <p>9 Q. So there would be a different call</p> <p>10 for the small business group?</p> <p>11 A. Yes.</p> <p>12 Q. And forgive me this, does Kinetic</p> <p>13 have an enterprise component or is it just</p> <p>14 consumers and small business?</p> <p>15 A. Just consumers and small medium</p> <p>16 business.</p> <p>17 Q. I apologize, I keep saying small</p> <p>18 business, in my mind seeing the letters SMB, but</p> <p>19 small medium business.</p> <p>20 So Exhibit 6 would be a PowerPoint</p> <p>21 that would have gone with a teleconference among</p> <p>22 the consumer sales side of the Kinetic business, is</p> <p>23 that right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. So this Exhibit 6 is not something</p>	<p>1 that would have gone to the SMB side of Kinetic?</p> <p>2 A. Not this particular one but as you</p> <p>3 had already referenced and, you know, shared, there</p> <p>4 is a business one as well.</p> <p>5 Q. And how often do these calls occur?</p> <p>6 A. I believe they're either weekly or</p> <p>7 biweekly.</p> <p>8 Q. So, and by biweekly do you mean --</p> <p>9 A. Every other week. I think that's</p> <p>10 correct, I get confused on that.</p> <p>11 Q. I never even attempt it.</p> <p>12 So Windstream conducts consumer sales</p> <p>13 and care calls either on a weekly basis or every</p> <p>14 other week.</p> <p>15 A. That's correct. Or as needed on an</p> <p>16 ad hoc basis.</p> <p>17 Q. Or as needed on an ad hoc basis. And</p> <p>18 can you tell from Exhibit 6 whether Exhibit 6 was</p> <p>19 one of the regular weekly or every other week calls</p> <p>20 or an ad hoc call?</p> <p>21 A. I can't tell from this exhibit. What</p> <p>22 day was April 1st? I could speculate.</p> <p>23 MR. ROSS: Day of the week you mean?</p> <p>24 A. Yes.</p> <p>25 MR. ROSS: It was a Monday.</p>
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<p>1 A. Then this was likely the regular</p> <p>2 cadence scheduled call. Typically they're on</p> <p>3 Mondays.</p> <p>4 Q. (BY MR. KINGSTON) So I gather from</p> <p>5 Exhibit 6 that on that regular Monday call there</p> <p>6 was a discussion of the Spectrum marketing and then</p> <p>7 a discussion of some other stuff.</p> <p>8 A. Yes. I don't believe I was on the</p> <p>9 call that day but I agree with your assessment.</p> <p>10 And the timing would have been right which is a</p> <p>11 couple of weeks I think after we first saw the</p> <p>12 letters so we tried to react quickly.</p> <p>13 Q. And you don't know what the customer</p> <p>14 sales and care issues were that were being</p> <p>15 discussed on the pages that have been blacked out</p> <p>16 on Page 9 through 21?</p> <p>17 A. No, sir, I do not.</p> <p>18 Q. And does Exhibit 6 contain the</p> <p>19 talking points that were created in response to the</p> <p>20 Spectrum mailer?</p> <p>21 A. Yeah, I would say they definitely</p> <p>22 cover a few of the talking points. I think there</p> <p>23 would have likely been additional talking points</p> <p>24 developed as well. I think these certainly were</p> <p>25 talking points, most of the folks on this call I</p>	<p>1 believe manage other folks as well. So I'm not</p> <p>2 certain that actual representatives that are, you</p> <p>3 know, the front line employees within care are</p> <p>4 actually on this particular call. I think this is</p> <p>5 the, the audience on this is the managers of those</p> <p>6 teams, and some would be from my employees as well</p> <p>7 but I think there's, most of those discussions</p> <p>8 happen in a smaller audience because you can't have</p> <p>9 everybody off the telephone at the same time.</p> <p>10 Q. And so Page 6 Bates labeled WIN 2754</p> <p>11 of Exhibit 6 reflects the talking points that would</p> <p>12 have been circulated to more of a managerial level</p> <p>13 employees in response to the Spectrum mailer.</p> <p>14 A. Yes. That's the audience that's</p> <p>15 typically on this call, along with some sales folks</p> <p>16 are able to jump on as well. Particularly those</p> <p>17 that manage some of our agents, so we have agents</p> <p>18 that then would need to be trained on, that</p> <p>19 represent Kinetic Windstream within their companies</p> <p>20 as well.</p> <p>21 Q. Direct your attention to Page 8. And</p> <p>22 do you see on Page 8 an image of a letter from</p> <p>23 Windstream to its customers notifying them of its</p> <p>24 Chapter 11 filing and then the first page of an</p> <p>25 attachment to that letter?</p>



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<p>1 A. Yes, I do. Embarrassingly as it is</p> <p>2 it's a little small print, but I think I could make</p> <p>3 that out, yes.</p> <p>4 Q. And it looks like there's -- so the</p> <p>5 letter looks like it's signed by Tony Thomas, the</p> <p>6 president and CEO of Windstream, is that right?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And then it looks like there's a list</p> <p>9 of companies on the notice attachment. Do you see</p> <p>10 that?</p> <p>11 A. I do. Yes, sir. They look like a</p> <p>12 list, representative sample of companies. It's a</p> <p>13 little hard for me to see that.</p> <p>14 Q. I read the first sentence of Page 8</p> <p>15 of Exhibit 6 as follows: We started sending the</p> <p>16 below communication to customers on March 15th and</p> <p>17 were done in waves.</p> <p>18 Have I read that correctly?</p> <p>19 A. Yes. Yes, that I can see, yes.</p> <p>20 Q. Is that a true statement, that</p> <p>21 Windstream started sending out that notice on March</p> <p>22 15th and it was done in waves?</p> <p>23 A. I can't say if it started on March</p> <p>24 15th definitively or not. I will take this as</p> <p>25 certainly what we communicated internally. I think</p>	<p>1 to my recollection, the best recollection I have is</p> <p>2 customers would have started to receive it around</p> <p>3 the March 22nd or so, so that seems to be accurate.</p> <p>4 Q. So you have no reason to disbelieve</p> <p>5 the representation in the Windstream PowerPoint</p> <p>6 that it started sending the below communication to</p> <p>7 customers on March 15th and were done in waves?</p> <p>8 A. Yes, sir. On or around March 15th.</p> <p>9 Q. And below that I read the Windstream</p> <p>10 PowerPoint to say that customers should have</p> <p>11 received them the week of March 18 and March 25th.</p> <p>12 Do you have any reason to disbelieve</p> <p>13 that, sir?</p> <p>14 A. No, sir. I do know that -- it says</p> <p>15 customer should have. I do know surprisingly as it</p> <p>16 is with the U.S. Mail sometimes things show up a</p> <p>17 lot longer out than you'd expect it. So I would</p> <p>18 say I wouldn't think that everybody received these</p> <p>19 communications by the 25th. Some of the markets</p> <p>20 are very rural.</p> <p>21 Q. Has Windstream done anything on its</p> <p>22 own to determine when in fact its customers did</p> <p>23 receive the communications represented on Page 8 of</p> <p>24 Exhibit 6?</p> <p>25 A. Not that I'm aware of.</p>
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<p>1 Q. Has Windstream done anything to track</p> <p>2 customer responses to the communication on Page 8</p> <p>3 of Exhibit 6?</p> <p>4 A. Nothing that comes to mind, no.</p> <p>5 Particular tracking.</p> <p>6 May I speak with my counsel for a</p> <p>7 moment?</p> <p>8 Q. There's not a question pending, if</p> <p>9 you guys want to take a break and talk you're</p> <p>10 welcome to.</p> <p>11 MR. ROSS: Let's not take a break,</p> <p>12 just real quick.</p> <p>13 VIDEOGRAPHER: It's 1:14. We're off</p> <p>14 the record.</p> <p>15 (DISCUSSION HELD OFF THE RECORD)</p> <p>16 VIDEOGRAPHER: It's 1:15, we're back</p> <p>17 on the record.</p> <p>18 (MARKED DEFENDANT'S EXHIBIT NO. 7)</p> <p>19 Q. (BY MR. KINGSTON) Mr. Auman, I'm</p> <p>20 handing you exhibit, a document I've marked as</p> <p>21 Exhibit 7. Exhibit 7 is a multi page document</p> <p>22 Bates numbered WIN 2064 through 2071.</p> <p>23 A. Thank you.</p> <p>24 Q. Do you recognize Exhibit 7, sir?</p> <p>25 A. Yes.</p>	<p>1 Q. And is Exhibit 7 the communication we</p> <p>2 were just talking about on Page 8 of the Windstream</p> <p>3 PowerPoint?</p> <p>4 A. Yes, sir, it appears to be. It's</p> <p>5 much easier for me to read.</p> <p>6 Q. Yeah. I read the third paragraph of</p> <p>7 the letter on the first page of Exhibit 7 as</p> <p>8 follows: If you have any questions you should</p> <p>9 visit <a href="http://www.kcciloc.net/windstream">http://www.kcciloc.net/windstream</a> or call</p> <p>10 877-709-4757 toll free.</p> <p>11 Have I read that correctly?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Has Windstream made any effort to</p> <p>14 determine how many customers visited that website?</p> <p>15 A. I'm not aware of any effort.</p> <p>16 Q. As far as you are aware Windstream</p> <p>17 has made no effort to determine the number of</p> <p>18 customers that visited the website referenced in</p> <p>19 the third paragraph of Mr. Thomas's letter to</p> <p>20 Windstream's customers?</p> <p>21 MR. ROSS: Didn't he just answer that</p> <p>22 question?</p> <p>23 MR. KINGSTON: I think he answered a</p> <p>24 slightly different question.</p> <p>25 MR. ROSS: Read the new question back</p>

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<p>1 then.</p> <p>2 (Whereupon, the reporter read from the record)</p> <p>3 A. I'm not aware of if there was effort</p> <p>4 or no effort or if there was any collection or not.</p> <p>5 I'm not aware.</p> <p>6 Q. (BY MR. KINGSTON) Did Windstream</p> <p>7 make any effort to identify -- strike that. Do you</p> <p>8 mind if I start over?</p> <p>9 A. Yes.</p> <p>10 Q. Did Windstream make any effort to</p> <p>11 determine the number of customers that called that</p> <p>12 phone number in the middle paragraph of Mr.</p> <p>13 Thomas's letter?</p> <p>14 A. Again, I'm not aware of any effort to</p> <p>15 determine the number of customers that called.</p> <p>16 Q. And Exhibit 7 is the letter and</p> <p>17 notice that went out on March 15th and would have</p> <p>18 started arriving in homes the week of March 18th</p> <p>19 and 25th extending out for some time thereafter</p> <p>20 depending on the efficiency of the United States</p> <p>21 Postal Service, is that right?</p> <p>22 A. Yes, sir. As far as I can tell, yes.</p> <p>23 Q. Do you know Katherine Webb?</p> <p>24 A. Yes.</p> <p>25 Q. And who is Ms. Webb?</p>	<p>1 A. Excuse me, who is she?</p> <p>2 Q. Yes.</p> <p>3 A. She's an employee of Windstream.</p> <p>4 Q. Looks like was Ms. Webb the author or</p> <p>5 somehow involved in the portion of the Windstream</p> <p>6 PowerPoint discussing Spectrum marketing?</p> <p>7 A. Yes. Ms. Webb typically participates</p> <p>8 in a leadership role in these calls.</p> <p>9 Q. Let's go back to Exhibit 6 for just a</p> <p>10 second.</p> <p>11 So on Page 5 I see a reference to</p> <p>12 Spectrum. Do you see that, sir?</p> <p>13 A. Yes.</p> <p>14 Q. And then on the next two pages I see</p> <p>15 talking points related to that Spectrum marketing?</p> <p>16 A. (Reviewing document).</p> <p>17 Q. Do you see that, sir?</p> <p>18 A. I do. I'm just reading it through.</p> <p>19 Yes, I do.</p> <p>20 Q. Were there talking points circulated</p> <p>21 related to the Windstream bankruptcy letter on Page</p> <p>22 8?</p> <p>23 A. I'm not aware of talking points</p> <p>24 specifically related to this communication that</p> <p>25 were issued. There were general talking points</p>
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<p>1 sent to all employees of Windstream. But I'm not</p> <p>2 aware of any specific talking points issued with</p> <p>3 respect to this particular communication.</p> <p>4 (MARKED DEFENDANT'S EXHIBIT NO. 8)</p> <p>5 Q. (BY MR. KINGSTON) Mr. Auman, I'm</p> <p>6 handing you a document I've marked as Exhibit 8.</p> <p>7 Exhibit 8 is a multi page document starting with</p> <p>8 the Bates number WIN 2784 and ending with WIN 2736.</p> <p>9 A. Thank you.</p> <p>10 Q. Take a moment to review Exhibit 8 and</p> <p>11 let me know when you're ready, sir.</p> <p>12 A. (Reviewing document).</p> <p>13 Okay. I've read through it.</p> <p>14 Q. What is Exhibit 8?</p> <p>15 A. This appears to me to be frequently</p> <p>16 asked questions of a queue of employees, that help</p> <p>17 employees understand Chapter 11, the why behind the</p> <p>18 filing, and what to expect it looks like in the</p> <p>19 near term. I'm not, I don't see when this was</p> <p>20 produced but the way I read it seems to be it would</p> <p>21 be shortly after the filing, but I'm not aware.</p> <p>22 Q. Take a look if you would at bullet</p> <p>23 point 13.</p> <p>24 A. I see it.</p> <p>25 Q. Why do you say the word, or why do</p>	<p>1 you say expect is the question, do you see that,</p> <p>2 sir?</p> <p>3 A. Yes, sir.</p> <p>4 Q. It's because the word expect is used</p> <p>5 I guess various points before Question 13. I read</p> <p>6 the first bullet point on Page 2736 as follows:</p> <p>7 This is a routine part of every Chapter 11 process</p> <p>8 and we expect that the court will approve our</p> <p>9 request to do so at the first day hearing which</p> <p>10 will take place in the coming days.</p> <p>11 Have I read that correctly?</p> <p>12 A. Yes.</p> <p>13 Q. Is it a reasonable inference then</p> <p>14 that these FAQs were distributed at some point</p> <p>15 before the first day hearing in the Windstream</p> <p>16 bankruptcy cases?</p> <p>17 A. I think so, yes.</p> <p>18 Q. Read if you would -- I'll just</p> <p>19 direct your attention to Question number 9. Do you</p> <p>20 see that, sir?</p> <p>21 A. Yes.</p> <p>22 Q. How is Windstream's management team</p> <p>23 handling these legal proceedings while also</p> <p>24 effectively running the business.</p> <p>25 Have I read that correctly?</p>

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1 A. Yes, sir.  
2 Q. And you see a reference to Lewis  
3 Langston in the second bullet point?  
4 A. Yes, sir.  
5 Q. I read that as follows: In fact,  
6 Lewis Langston is staying on to help advise the  
7 company through this process so our legal, so our  
8 leaders can stay focused on our customers.  
9 Have I read that correctly?  
10 A. Yes, sir.  
11 Q. So is it true that the purpose of  
12 Lewis Langston staying on was to enable leaders to  
13 focus on Windstream's customers?  
14 A. Yes, sir. I would agree with that.  
15 I'm sure, among other things, but certainly that's  
16 one of them.  
17 Q. There are a variety of reasons why  
18 Mr. Langston may have stayed on to help advise the  
19 company but the one that was important enough to  
20 identify for employees in the frequently asked  
21 questions would be to enable the leaders to stay  
22 focused on Windstream's customers, true?  
23 A. Yes, sir. I would agree with that.  
24 Q. Has there been any turnover in  
25 management since Windstream filed for bankruptcy?

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1 MR. ROSS: What topic does this go to  
2 in this?  
3 MR. KINGSTON: Topic 22, Windstream's  
4 Chapter 11 cases.  
5 MR. ROSS: We've objected to that and  
6 said we're not producing a witness on that. So I'm  
7 instructing the witness not to answer that  
8 question.  
9 Q. (BY MR. KINGSTON) Sir, are you going  
10 to follow the advice of your lawyer?  
11 A. Yes, sir.  
12 Q. Take a look at I guess Question 21.  
13 Page 2736. What should I tell our customers,  
14 suppliers and channel partners.  
15 Have I read that correctly?  
16 A. Yes, sir.  
17 Q. Can you read the first bullet point  
18 in response into the record please?  
19 A. Yes. We expect that most of our  
20 suppliers, customers and channel partner's  
21 questions can be answered by the information  
22 contained in the materials distributed to them and  
23 our teams.  
24 Q. So is that the customer letter and  
25 news release that we've already talked about?

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1 A. I can't answer definitively if there  
2 was more information to that or not. I'm not -- I  
3 don't know. I do know that we communicated with  
4 our customers and suppliers and channel partners as  
5 to, informing them as to our actions, our necessary  
6 actions, so. It could be the communications that  
7 referenced and additional communications or just  
8 those and whatever contact that our folks would  
9 have with them.  
10 Q. So you have no reason to think that  
11 materials weren't actually distributed to your  
12 customers, suppliers and channel partners as  
13 indicated in Exhibit 8.  
14 A. That's correct.  
15 Q. Has Windstream taken any steps to  
16 identify customers that have expressed concerns  
17 regarding the company's Chapter 11 bankruptcy  
18 filing?  
19 MR. ROSS: You asked him this this  
20 morning.  
21 I object, asked and answered.  
22 Q. (BY MR. KINGSTON) Was the answer no?  
23 I can't recall.  
24 A. Repeat the question please.  
25 Q. Sure. Has Windstream taken any steps

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1 to identify customers that expressed concern  
2 regarding Windstream's Chapter 11 bankruptcy?  
3 MR. ROSS: I'll object and explain  
4 you can't answer a question like that has a null  
5 set as an answer. He told you this morning that  
6 they are unaware of any customers who have ever  
7 expressed a concern. So how can he say that  
8 they've taken steps? It's like a question where  
9 you ask have you stopped beating your wife yet, it  
10 can't be answered.  
11 Q. (BY MR. KINGSTON) Windstream's  
12 customers call call center employees, right?  
13 A. They call in to our call center  
14 that's staffed with call center employees, yes,  
15 sir.  
16 Q. What did Windstream do to find out  
17 whether any of the employees that called your call  
18 center expressed concerns about the bankruptcy?  
19 A. I'm not aware ever any concerns  
20 expressed by any customers about Windstream's  
21 bankruptcy.  
22 Q. What did you do to find out whether  
23 or not there had been any concerns expressed?  
24 MR. ROSS: Again object, you can't  
25 answer a question that has a null set as an answer.

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<p>1 You can answer it however you want but you just 2 can't answer these questions the way you're 3 phrasing them. 4 Q. (BY MR. KINGSTON) Has a single 5 customer called Windstream with a question about 6 Windstream's Chapter 11 bankruptcy? 7 A. I'm not aware of any customers 8 calling us, calling Windstream concerned or having 9 concerns about our bankruptcy. 10 Q. Has a single customer called an agent 11 of Windstream with a question about Windstream's 12 bankruptcy? 13 MR. ROSS: Vague and ambiguous as to 14 what an agent is. This man's not a lawyer, if you 15 want to explain what an agent is so he can answer 16 the question. 17 Q. (BY MR. KINGSTON) You understand 18 that Windstream employs, or did you know that 19 Windstream was employing Kurtzman Carson 20 Consulting? 21 A. I believe that's correct, yes. 22 Q. Do you know if any customers called 23 Kurtzman Carson Consulting with questions about 24 Windstream's bankruptcy? 25 A. I'm not aware of any customers</p>	<p>1 calling them with concerns. 2 Q. As far as you know no customers have 3 called Kurtzman Carson Consulting with questions 4 about Windstream's bankruptcy? 5 A. Yes. I'm not aware of any calls into 6 Kurtzman from any of our customers with concerns 7 about bankruptcy. 8 Q. Are you aware of calls from your 9 customers to Kurtzman? 10 A. Has, have any customers called them? 11 I'm not aware of any customers calling them. 12 Q. As far as you are aware no customers 13 have called Kurtzman. 14 A. I'm not aware of calls coming in to 15 Kurtzman. I just don't have that information. 16 Q. In preparing to testify today on 17 behalf of Windstream what steps did you take to 18 find out if any customers had called with questions 19 about Windstream's bankruptcy? 20 MR. ROSS: What topic does that go 21 to? 22 MR. KINGSTON: Five. 23 MR. ROSS: I don't see anything about 24 Kurtzman. 25 Can we just say KCC on the record,</p>
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<p>1 can we agree what that? 2 MR. KINGSTON: Sure, that's fine with 3 me. 4 MR. ROSS: I don't see anything in 5 topic 5 about calls to KCC. 6 MR. KINGSTON: I don't think my 7 question was related to KCC, I don't think my 8 question was about KCC, it was a more general 9 question. 10 Rather than torturing Ms. Benoist 11 I'll just ask a different question. 12 Q. (BY MR. KINGSTON) Actually let's do 13 this. 14 (MARKED DEFENDANT'S EXHIBIT NO. 9) 15 Q. (BY MR. KINGSTON) Mr. Auman, I've 16 handed you Exhibit 9 which is a copy of Windstream 17 Holding, Inc.'s Objections and Responses to 18 Defendants' Amended Notice Of Videotaped Deposition 19 pursuant to Rule 30(b)(6). 20 I'll direct your attention to Page 6. 21 You see topic 5, sir? 22 A. Yes. 23 Q. And is topic 5 Windstream customers 24 that have expressed concerns regarding Windstream's 25 bankruptcy?</p>	<p>1 A. Yes. 2 Q. And you see there's a response with 3 an objection and then there's a paragraph below 4 that response that reads as follows: Subject to 5 and without waiving, or excuse me, subject to and 6 without waiver of the previously asserted 7 objections Windstream will produce a witness to 8 testify on those Windstream customer that it knows 9 have expressed concerns regarding Chapter 11 10 bankruptcy filing. 11 Have I read that correctly? 12 A. Yes, sir. 13 Q. And what steps did Windstream take to 14 identify Windstream customers that expressed 15 concern regarding the Company's Chapter 11 16 bankruptcy filing? 17 A. So I'm not aware of any customers 18 that have called Windstream that have expressed 19 concern regarding our Chapter 11 bankruptcy filing. 20 Q. So among the steps that Windstream 21 took to identify customers that had expressed 22 concern about Windstream's bankruptcy filing would 23 have been sort of you searching your own personal 24 memory, that's one step, right? 25 A. Sure.</p>

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1 Q. What's the next step?  
2 A. So what steps could we take or have  
3 we taken?  
4 Q. I want to focus on what steps did you  
5 take for now, sir. And so we've identified a  
6 single step, right?  
7 A. (Indicating).  
8 Q. Right?  
9 A. Yes.  
10 Q. And that single step that we've  
11 identified was Mr. Auman searching his sort of  
12 internal memory for his personal knowledge of  
13 customers that expressed concern, and my question  
14 is -- that's right?  
15 A. That's correct.  
16 Q. And my question is what are the other  
17 steps?  
18 A. So I'm aware that we did a search and  
19 found roughly 200 customers that complained about  
20 Windstream's, or I'm sorry, Spectrum's false and  
21 misleading advertising and in that search we didn't  
22 uncover any customer that called in with concerns  
23 of bankruptcy.  
24 Q. So the second step would be a review  
25 of the 200 some odd transcripts that have been

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1 produced to us wherein customers called?  
2 A. I'm not aware if transcripts were  
3 provided or not.  
4 MR. ROSS: And that's also not what  
5 he testified to. He testified there were 215 but  
6 they had conducted a search of them all.  
7 Q. (BY MR. KINGSTON) There was, Mr.  
8 Langston explained the search to us back in May.  
9 Are you familiar with that?  
10 A. No.  
11 MR. ROSS: So if you change that  
12 question -- this is Mr. Langston's deposition  
13 testimony he's referring to when he says explained  
14 it to them.  
15 A. Okay. I'm sorry.  
16 Q. (BY MR. KINGSTON) That's all right.  
17 A. Can you repeat the question?  
18 Q. No, no, it's okay. I'm just trying  
19 to avoid plowing new ground, I want to make sure I  
20 understand sort of what we're talking about.  
21 So there was a search conducted in  
22 March and April that generated some 200 audio  
23 recordings wherein customers discussed the Spectrum  
24 advertising, is that right?  
25 A. That's my understanding. I'm

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1 familiar with that, yes.  
2 Q. So the results of that search were  
3 reviewed as part of Windstream's effort to identify  
4 customers that had expressed a concern about the  
5 Chapter 11 bankruptcy, is that right?  
6 A. Repeat the question.  
7 Q. Sure. I'll just call that search the  
8 Spectrum search, will you understand what I'm  
9 talking about?  
10 MR. ROSS: That would mislabel it  
11 because it wasn't just a Spectrum search. That  
12 implies there's a subset that related to Spectrum  
13 that were the only ones searched.  
14 Q. (BY MR. KINGSTON) Did you perform  
15 the search Mr. Auman?  
16 A. No, sir.  
17 Q. Who did?  
18 A. I'm not aware.  
19 Q. You don't know who performed the  
20 search?  
21 A. No.  
22 Q. Have you reviewed any pieces of paper  
23 describing the search?  
24 A. I'm aware of how -- no, I haven't  
25 reviewed any piece of paper. I have seen output

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1 that resulted in the number of customers.  
2 Q. You've seen the results of the  
3 search.  
4 A. The number. I'm familiar with the  
5 number.  
6 Q. You're familiar with the number of  
7 customers that were identified in the search.  
8 A. Yes, sir.  
9 Q. Did you talk to somebody about how  
10 this search was actually conducted?  
11 A. No, I have not.  
12 Q. Okay.  
13 A. About the mechanics of it?  
14 Q. Yes, sir.  
15 A. No, I have not. I'm familiar with  
16 how we search our records with calls coming in,  
17 somewhat directionally.  
18 Q. But you don't have a specific  
19 understanding as to how the search that generated  
20 the 200 some odd results was conducted.  
21 A. No, sir.  
22 Q. All right. But however it was  
23 conducted you reviewed the results of that search.  
24 Yes?  
25 A. Yes, sir.

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1 Q. And when you reviewed the output of  
2 that search you didn't identify any customers that  
3 expressed concern about Windstream's bankruptcy.  
4 A. That's correct. And I'm not aware of  
5 any.  
6 Q. So other than reviewing the results  
7 of that search and sort of searching your own  
8 memory banks what has Windstream done to identify  
9 customers that have expressed concerns regarding  
10 Windstream's Chapter 11 bankruptcy filing?  
11 A. I'm not aware of any further actions.  
12 I will share that things --  
13 Q. Well.  
14 A. Go ahead.  
15 MR. ROSS: He's allowed to finish  
16 that answer.  
17 Go ahead.  
18 A. So we're pretty responsive when  
19 topics come up with respect to customers calling in  
20 and I think, you know, case in point was the  
21 misleading advertisements causing confusion among  
22 customers as to whether or not Spectrum was, you  
23 know, buying us out or going out of business and  
24 that quickly raised awareness. We were  
25 hypersensitive to our customers and our partners

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1 upon filing and, you know, as an employee and a  
2 senior person I'm not aware of any customers that  
3 called in concerned with our Chapter 11 filing.  
4 That was consistent with my colleagues.  
5 Q. What was consistent with your  
6 colleagues?  
7 A. That it was not creating call volume  
8 or creating concern among our customers.  
9 Q. Your colleagues at Windstream told  
10 you that the Windstream notice of bankruptcy wasn't  
11 creating an increase in call volume?  
12 A. That's correct. Paul Strickland's  
13 organization, and I have personal knowledge as far  
14 as managing the inside call center.  
15 Q. Take a look at Mr. Thomas's letter,  
16 Exhibit 7. Do you see that, sir?  
17 A. Yes.  
18 Q. Third line where Mr. Thomas  
19 indicates, if you have any questions you should  
20 visit [www.KCCLLCnetwindstream](http://www.KCCLLCnetwindstream) or call 877-709-4747  
21 told free.  
22 Do you see that, sir?  
23 A. Yes.  
24 Q. Is that 877 number a Windstream  
25 number?

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1 A. You mean does the call route to a  
2 Windstream call center?  
3 Q. Yes, sir.  
4 A. I'm not sure. I haven't called that.  
5 Q. Do you know if any customers called  
6 that number with questions in response to Mr.  
7 Thomas's letter?  
8 A. I'm not personally aware of the  
9 number of customers that called that number.  
10 Q. In preparing to testify about  
11 Windstream customers that it knows have expressed  
12 concern regarding Windstream's Chapter 11  
13 bankruptcy did you take any steps to identify the  
14 number of calls to that number on Mr. Thomas's  
15 letter?  
16 A. No.  
17 Q. And so as far as you are aware zero  
18 customers could have called that number in response  
19 to Mr. Thomas's letter?  
20 A. Could have?  
21 MR. ROSS: Are you asking him to  
22 speculate?  
23 Q. (BY MR. KINGSTON) As far as you're  
24 aware personally.  
25 A. Could have called?

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1 Q. Yes, sir.  
2 MR. ROSS: Could have. Calls for  
3 speculation.  
4 I object, speculative answer.  
5 I'm not instructing you, you can go  
6 ahead and answer.  
7 A. I think any number of customers could  
8 have called. I don't know if any did. I'm unaware  
9 of any customers calling with concerns about our  
10 bankruptcy.  
11 Q. Do you know whether more than 200  
12 customers called the number given by Mr. Thomas in  
13 the middle of his letter?  
14 MR. ROSS: He just said he's not  
15 aware of any. How can he tell you whether 200  
16 called?  
17 Q. (BY MR. KINGSTON) You can answer.  
18 MR. ROSS: Objection, speculative,  
19 lacks foundation.  
20 A. I'm not aware of the number of  
21 customers that called or may have called.  
22 Q. (BY MR. KINGSTON) Are there any  
23 documents or other materials that Kurtzman has  
24 related to its work for Windstream that Windstream  
25 isn't entitled to?

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1 MR. ROSS: Where's that topic on  
2 here?  
3 MR. KINGSTON: It relates to topic 5.  
4 MR. ROSS: I don't see any possible  
5 way that could relate to topic number 5.  
6 Q. (BY MR. KINGSTON) Are there topics,  
7 excuse me, is there any information that Kurtzman  
8 is entitled to -- excuse me, do you mind if I start  
9 that over, sir?  
10 A. Please.  
11 Q. (BY MR. KINGSTON) Are you aware of  
12 any information or documents that KCC is in  
13 possession of that Windstream is not entitled to?  
14 MR. ROSS: Object, that is not one of  
15 the topics noticed for deposition, I'm going to  
16 instruct the witness not to answer that question.  
17 Q. (BY MR. KINGSTON) Are you going to  
18 follow your counsel's instruction?  
19 A. Yes, sir.  
20 Q. As far as you know if it's something  
21 that KCC has and it relates to Windstream's  
22 bankruptcy that's something that Windstream should  
23 be entitled to have.  
24 MR. ROSS: Objection, that's not one  
25 of the topics that's been noticed for deposition,

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1 phone number provided by Mr. Thomas in Exhibit 7  
2 ever shared with you while you were preparing to  
3 testify on behalf of the company today?  
4 MR. ROSS: I'll object to that,  
5 that's attorney client privileged and work product.  
6 So you're instructed not to answer that question.  
7 Q. (BY MR. KINGSTON) Are you going to  
8 follow your counsel's advice?  
9 A. Yes, sir.  
10 Q. How many calls do you think KCC  
11 received in response to Mr. Thomas's letter?  
12 MR. ROSS: Objection, it assumes a  
13 fact not in evidence that there were calls. It  
14 also calls for speculation on the part of the  
15 witness.  
16 You can answer.  
17 A. I really don't know.  
18 Q. (BY MR. KINGSTON) Do you think KCC  
19 received more than 100 calls in response to Mr.  
20 Thomas's letter?  
21 MR. ROSS: This is sort of silly. If  
22 he says he didn't know if there were any how can  
23 you ask if there were 100?  
24 If you keep this up John I'm going to  
25 shut this down and take you to the judge, and you

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1 I'm going to instruct the witness not to answer.  
2 Q. (BY MR. KINGSTON) Are you going to  
3 follow counsel's instruction?  
4 A. Yes.  
5 Q. Did you ask anybody at KCC if the  
6 Windstream customers that called the KCC number  
7 provided by Mr. Thomas expressed concerns regarding  
8 Windstream's Chapter 11 bankruptcy filing?  
9 MR. ROSS: Can you read that one back  
10 please? I missed the very beginning.  
11 (Whereupon, the reporter read from the record)  
12 MR. ROSS: You said did you. Are you  
13 asking him personally did he do that?  
14 MR. KINGSTON: Yes.  
15 MR. ROSS: You can answer.  
16 A. No, I did not.  
17 Q. (BY MR. KINGSTON) In preparing to  
18 testify on behalf of the company did Windstream  
19 inquire with KCC as to the number of customers that  
20 called the KCC phone number provided by Mr. Thomas  
21 in Exhibit 7?  
22 A. I'm not aware.  
23 Q. Were the results of any conversation  
24 between somebody at Windstream and somebody at KCC  
25 related to the number of customers who called the

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1 know how he feels about this.  
2 You're instructed not to answer the  
3 question.  
4 Q. (BY MR. KINGSTON) Are you going to  
5 follow your counsel's advice?  
6 A. Yes, sir.  
7 (MARKED DEFENDANT'S EXHIBIT NO. 10)  
8 Q. (BY MR. KINGSTON) Mr. Auman, I'm  
9 handing you Exhibit 11, excuse me, Exhibit 10.  
10 I'll represent to you that Exhibit 10 is a copy of  
11 the complaint filed by Windstream in this adversary  
12 proceeding.  
13 MR. ROSS: Let me just point out for  
14 the record that this is not a complete copy of the  
15 complaint in that it's lacking the exhibits that  
16 are filed with it and are an integral part of the  
17 complaint.  
18 Q. (BY MR. KINGSTON) Directing your  
19 attention, sir, to Paragraph 3 on Page 3. I read  
20 the last sentence of paragraph, or take a moment if  
21 you would and read Paragraph 3 to yourself, you  
22 don't need to read it out loud.  
23 A. Okay. (Reviewing document).  
24 Okay.  
25 Q. Directing your attention to the last

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<p>1 sentence, I read that to say accordingly, to the</p> <p>2 extent there is any uncertainty created by the</p> <p>3 debtor's Chapter 11 filing, it is entirely</p> <p>4 manufactured by Charter.</p> <p>5 Have I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. And is it a true statement that any</p> <p>8 uncertainty created by the debtor's Chapter 11</p> <p>9 filing has been entirely manufactured by Charter?</p> <p>10 A. Repeat the question please.</p> <p>11 Q. Is it a true statement that any</p> <p>12 uncertainty created by the debtor's Chapter 11</p> <p>13 filing has been entirely manufactured by Charter?</p> <p>14 A. I believe the only uncertainty that</p> <p>15 I'm aware of is being created by the false and</p> <p>16 misleading advertisements when customers have</p> <p>17 called in confused as to what they received at</p> <p>18 home. So that's the extent of what I know about</p> <p>19 uncertainty created.</p> <p>20 Q. So Charter sent advertising in March</p> <p>21 of 2019?</p> <p>22 A. Yes.</p> <p>23 Q. After that advertising there was</p> <p>24 uncertainty created by debtor's Chapter 11 filing,</p> <p>25 yes?</p>	<p>1 MR. ROSS: Now that's incorrect,</p> <p>2 that's not what he just testified to. You just</p> <p>3 misstated his testimony I think deliberately.</p> <p>4 Q. (BY MR. KINGSTON) Explain to me what</p> <p>5 I got wrong.</p> <p>6 MR. ROSS: Read the question back and</p> <p>7 it will be obvious.</p> <p>8 MR. KINGSTON: That's okay, I'll take</p> <p>9 another run at it.</p> <p>10 Q. (BY MR. KINGSTON) Windstream's view</p> <p>11 is that there is no uncertainty created by its</p> <p>12 Chapter 11 filing except that which was</p> <p>13 manufactured by Charter's March 2019 advertising,</p> <p>14 is that a fair statement, sir?</p> <p>15 A. I would say that the uncertainty that</p> <p>16 we have seen in the marketplace from our customers</p> <p>17 was created by the advertising that Charter sent</p> <p>18 out. Those are the calls that we have documented,</p> <p>19 that I have heard, that I've read transcripts of</p> <p>20 that created uncertainty in the marketplace with</p> <p>21 our customers. They called in thinking that we</p> <p>22 were going out of business, that we were going to</p> <p>23 be acquired by Spectrum, afraid to pay their bill</p> <p>24 in some cases and so that's the uncertainty that</p> <p>25 I'm aware of.</p>
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<p>1 Q. There's no other uncertainty created</p> <p>2 by debtor's Chapter 11 filing beyond that which</p> <p>3 you've just described.</p> <p>4 A. As it relates to customers that's the</p> <p>5 uncertainty that I'm aware of.</p> <p>6 Q. My question is -- let me direct your</p> <p>7 attention to Windstream's assertion at the end of</p> <p>8 Paragraph 3. Was there any uncertainty created by</p> <p>9 the fact that debtor filed Chapter 11?</p> <p>10 MR. ROSS: He's now answered that</p> <p>11 three times in three different ways. I mean just</p> <p>12 because you don't like the answer doesn't entitle</p> <p>13 you to keep asking the question.</p> <p>14 Q. (BY MR. KINGSTON) You can answer.</p> <p>15 A. I haven't seen any uncertainty in the</p> <p>16 marketplace from the Chapter 11 filing. It has</p> <p>17 been business as usual and frankly we continued on</p> <p>18 our growth trajectory until the false and</p> <p>19 misleading advertisements came from Charter in mid</p> <p>20 March and from April on to the end of July is when</p> <p>21 we had a spike in customer disconnects. So I</p> <p>22 hadn't seen or heard about uncertainty in the</p> <p>23 marketplace created by our Chapter 11 filing. I</p> <p>24 just haven't seen any banter around that.</p> <p>25 Q. How did, what steps has Windstream</p>	<p>1 taken to identify customers that it believes</p> <p>2 switched to Charter?</p> <p>3 A. So that's pretty broad.</p> <p>4 Q. Let me try to narrow it.</p> <p>5 Windstream contends that customers</p> <p>6 have switched from Windstream to Charter since</p> <p>7 March of 2019. Yes?</p> <p>8 A. Yes.</p> <p>9 Q. Tell me how Windstream goes about</p> <p>10 identifying those customers.</p> <p>11 A. So in some cases customers will tell</p> <p>12 us and in those cases the representatives are</p> <p>13 supposed to notate that. That's certainly one way,</p> <p>14 and that's qualitative nature.</p> <p>15 Q. If I call Windstream --</p> <p>16 MR. ROSS: You're interrupting him in</p> <p>17 the middle of an answer John.</p> <p>18 Q. (BY MR. KINGSTON) I beg your pardon,</p> <p>19 I didn't realize you weren't finished. Go ahead.</p> <p>20 A. I think a very conclusive way is when</p> <p>21 a customer ports their number out of Windstream to</p> <p>22 Spectrum we know that definitively, and so there's</p> <p>23 a, that's a very quantitative data driven way that</p> <p>24 has to be reported. So those are, you know, two</p> <p>25 areas that we document. A third would be is kind</p>



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<p>1 of referencing back our daily, you know, subscriber 2 additions versus disconnects and we know by 3 exchange, when I say the term exchange, geography 4 or wire center that customers are served in how 5 many customers leave us on a daily basis and so we 6 can connect the dots and look for trajectory 7 changes and make some assessments on market share 8 and whether or not customers are going to Spectrum, 9 you know, that way, by deducing. You know, we 10 monitor, you know, market share reports and 11 competitive assessments to see what has changed 12 over time. And so those are kind of internal 13 analytics if you will. I would say those are the 14 kind of key areas that we, you know, validate or 15 ascertain of customers, where they're going.</p> <p>16 Q. So sort of the three avenues by which 17 Windstream would identify customers that switched 18 to Charter would be records of people actually 19 talking to customers.</p> <p>20 A. They tell us.</p> <p>21 Q. A purported customer list and then 22 analytics that you discussed with Mr. Brannon?</p> <p>23 A. Yeah. It's kind of a whole work 24 effort around analytics from both internal sources 25 and external sources.</p>	<p>1 Q. What are the external sources?</p> <p>2 A. I look at what's reported by company 3 as far as what their gains and losses are on a 4 quarterly basis for publicly traded companies and 5 ascertain based on what your own metrics are, how 6 well they're doing in the marketplace, where their 7 customers are going and it's certainly not 8 exclusive to Spectrum, it's any number of 9 competitors. I'd say the most straightforward is 10 by far the ports, right, and the second is, is what 11 customers say. And I will say that a lot of 12 customers don't say a thing, they're not required 13 to. They're not required to share why or where 14 they're going and a lot of customers and my 15 experience has been they'll just say I'm moving, 16 you know, even if they're switching competitors. 17 So the most conclusive would be the reports.</p> <p>18 Q. Your experience is that customers 19 will lie and say they are moving when they're just 20 switching to another carrier?</p> <p>21 A. I would say they're avoidant, some, 22 but not all customers tell us why. And a lot of 23 times it's after the fact anyhow, a lot of 24 customers will make sure they have, they've already 25 moved prior to disconnect, so. And they'll say</p>
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<p>1 moving, not a geographical move but they just move 2 companies. It can vary.</p> <p>3 Q. So is there a way to tell when a 4 customer calls a customer care employee that he or 5 she is canceling because she is moving?</p> <p>6 A. No. I mean not unless it would be to 7 move within our same geography and share the new 8 address with us so that we could establish new 9 service then we would know about that, but 10 typically not.</p> <p>11 Q. So your experience that a customer 12 would lie and say they're moving when they're 13 simply switching carriers, where did you gain that 14 experience?</p> <p>15 A. First, for the record I'm not saying 16 they lie, I say they're moving and sometimes 17 they'll be moving carriers or they'll just not say 18 a thing. I think the point there is customers are 19 not required to disclose what they're doing. All 20 they have to do is tell us that they no longer want 21 the service.</p> <p>22 Q. Okay. Your experience that customers 23 would indicate they are moving physical locations 24 when in fact they're just moving between carriers 25 comes from where?</p>	<p>1 A. I've been in subscription based 2 businesses my entire career, wireless, security and 3 now broadband. My experience has been, is that 4 customers sometimes don't want to upset the company 5 and they'll just avoid the question.</p> <p>6 Q. So as far as the data point where 7 customers actually say I'm switching to Charter 8 your belief is reliance exclusively on that data 9 point would be, would tend to understate the number 10 of switch customers because customers may be less 11 than candid about the reason for their switch, or 12 disconnection.</p> <p>13 A. Disconnect. Yes. That's my 14 experience. And that's across all subscription 15 based businesses.</p> <p>16 Q. Can you tell from a ported customer 17 list why any particular customer is porting his or 18 her number?</p> <p>19 A. I'm not familiar with any reason on 20 just a port list as to why the customer ported. I 21 don't know if there are reason codes in there and a 22 customer has self identified, but as far as a port 23 request is concerned there doesn't need to be any 24 information for that to happen. I'm not aware if 25 you try to collect that or not, to be honest.</p>

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1 Q. Does Windstream offer, does  
2 Windstream offer mobile telephone service?  
3 A. No. Windstream does not offer mobile  
4 telephone service.  
5 Q. So as far as the ported telephone  
6 list that would be customers who were moving their  
7 land line number away from Windstream?  
8 A. Yes.  
9 Q. Do you know, would the ported  
10 customer list, is that just land line to land line  
11 or would it be also land line to mobile?  
12 A. I think a port is a port, you're  
13 going beyond my expertise on that but I believe a  
14 port is a port.  
15 Q. One of the reasons a number might be  
16 ported is because a customer is giving up the land  
17 line and simply moving to a mobile phone.  
18 A. Yes. I'm not sure if you can take a  
19 land line number for a mobile device or not. I  
20 don't know.  
21 Q. You don't know whether or not the  
22 ported number list would reflect land line moving  
23 to mobile phones?  
24 A. I'm not familiar with that. I do  
25 know that we do not need to be notified that a

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1 customer has ported their number.  
2 Q. Say that to me again.  
3 A. So a customer does not need to notify  
4 us that, when they want to port their number. It's  
5 a customary thing, we have to port their number to  
6 wherever the new company is that they switch to.  
7 MR. KINGSTON: Actually now is a good  
8 stopping point. We can go off now.  
9 VIDEOGRAPHER: It's 2:17. We're  
10 going off the record at the end of our third media.  
11 (WHEREUPON, A RECESS WAS TAKEN BY THE PARTIES)  
12 VIDEOGRAPHER: It's 2:33 and we're  
13 back on the record at the beginning of our fourth  
14 media.  
15 Q. (BY MR. KINGSTON) So is Kinetic  
16 Internet offered through exchanges?  
17 A. Say that one again.  
18 Q. Tell me, exchanges have some function  
19 in Windstream providing the service that it  
20 provides?  
21 A. Yes.  
22 Q. Tell me about that.  
23 A. So typically we speak in the terms of  
24 exchanges as a central office. So it's another  
25 term would be wire center, kind of an old telephone

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1 company terminology. So customers would be  
2 serviced out of a central office or a wire center  
3 or exchange and so it's one of the smallest common  
4 denominator and so there's thousands of these wire  
5 centers, these exchanges.  
6 Q. So once upon a time when your long  
7 distance phone company was a different company from  
8 your local phone company, you have a central office  
9 which would be sometimes called an exchange, that  
10 would be sort of your local calling area and the  
11 long distance would be a different company that  
12 would run in connection with those exchanges?  
13 A. Yeah. I know, unfortunately I  
14 remember that.  
15 Q. And so Windstream's market is tracked  
16 in terms of those sort of holdover, those exchanges  
17 from the land line days?  
18 A. That's right. It's a legacy type of  
19 reporting. You know, most of the business now has  
20 evolved to broadband, right, but how we serve  
21 customers is still fundamentally the same, those  
22 central offices.  
23 Q. Windstream is at its root a telephone  
24 company and so it sort of customer footprint is  
25 still identified in terms of exchanges?

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1 A. Yes, sir, I believe that's a fair  
2 characterization.  
3 Q. And is Windstream given its telephone  
4 company roots subject to regulatory requirements  
5 that its competitors in the cable industry aren't  
6 subject to?  
7 A. So that's kind of outside my scope.  
8 MR. ROSS: Is it a legal question,  
9 you're not a lawyer.  
10 Q. (BY MR. KINGSTON) If you don't know  
11 the answer's fine. You don't have to know.  
12 A. I don't know.  
13 Q. All right. So certain exchanges  
14 offer Windstream Internet service.  
15 A. To the best of my knowledge all of  
16 our exchanges we offer broadband service. It  
17 emanates from a central office which we'll call an  
18 exchange.  
19 Q. And is Kinetic TV available on all  
20 exchanges?  
21 A. No, it's not.  
22 Q. What percentage of, roughly, of  
23 Windstream's footprint is Kinetic TV available in?  
24 A. We have that answer, I don't have  
25 that answer. Less than half.

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<p>1 Q. Less than half?</p> <p>2 A. Much less than half.</p> <p>3 MR. ROSS: I'll ask somebody right</p> <p>4 now.</p> <p>5 (MARKED DEFENDANT'S EXHIBIT NO. 11)</p> <p>6 Q. (BY MR. KINGSTON) Mr. Auman, I'm</p> <p>7 handing you Exhibit 11 which for the record is a</p> <p>8 multi-page document labeled WIN2536 through</p> <p>9 WIN2587.</p> <p>10 A. Thank you.</p> <p>11 MR. ROSS: I'm sorry, what number did</p> <p>12 we give this?</p> <p>13 MR. KINGSTON: 11.</p> <p>14 Q. (BY MR. KINGSTON) Mr. Auman, do you</p> <p>15 recognize Exhibit 11?</p> <p>16 A. No, sir.</p> <p>17 Q. Have you ever seen a report of this</p> <p>18 format before?</p> <p>19 A. One with all blank pages?</p> <p>20 Q. Well, I recognize -- yes, I guess</p> <p>21 what looks to be sort of a table of contents on</p> <p>22 Page 1 of Exhibit 11, do you see that, sir?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And then it looks like almost every</p> <p>25 single page after that is, has been blacked out.</p>	<p>1 Do you read Exhibit 11 the same way that I do?</p> <p>2 A. Yes, sir, I do.</p> <p>3 Q. And then if you look at the page four</p> <p>4 pages from the very back page labeled WIN2584.</p> <p>5 A. Yes, sir.</p> <p>6 Q. Looks like that page hasn't been</p> <p>7 blacked out entirely but has had almost everything</p> <p>8 on it blacked out. Can you tell me what I'm</p> <p>9 looking at on Page 2584?</p> <p>10 A. I can see it. I haven't seen this</p> <p>11 format previously but I recognize the vernacular in</p> <p>12 the vertical column to the left.</p> <p>13 Q. Maybe the easiest thing to do, why</p> <p>14 don't we walk through that column and you tell me</p> <p>15 what all that stuff means. So what's a PFL?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you know what merge is referring</p> <p>18 to?</p> <p>19 A. I don't. I haven't seen this</p> <p>20 particular format honestly.</p> <p>21 Q. Okay. Tell me generally what the</p> <p>22 other, are there terms in that left-hand column on</p> <p>23 Page 2584 that you do recognize?</p> <p>24 A. Yes. I mean the vernacular of gross</p> <p>25 adds would be new customer acquisitions that have</p>
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<p>1 installed the service. Disconnects would be a</p> <p>2 customer defection or termination. We typically</p> <p>3 use the word bundle to refer to a customer has</p> <p>4 multiple services with us, so maybe a voice and</p> <p>5 Internet customer. Bundle kind of originated</p> <p>6 within cable so it's a cable category, so we have</p> <p>7 multiple services that's a bundle, any time there's</p> <p>8 a discount associated with a bundle. Households,</p> <p>9 looks like kind of a households past or household</p> <p>10 covered, kind of like what's your market</p> <p>11 opportunity, typically speaking households, common</p> <p>12 term.</p> <p>13 Q. I'm sorry to interrupt you. You used</p> <p>14 the phrase past households as well, or households</p> <p>15 past?</p> <p>16 A. I don't. I don't think that's a</p> <p>17 particularly effective term but people do, talk</p> <p>18 about what your serviceable area is I'm familiar</p> <p>19 with that.</p> <p>20 Q. What does the past, there's been a</p> <p>21 build out such that you could provide service to</p> <p>22 those households if they were so inclined to</p> <p>23 purchase your service?</p> <p>24 A. That's exactly what it is. In</p> <p>25 wireless you would use a term like covered pops or</p>	<p>1 covered populations in a new territory, so</p> <p>2 households would be kind of a security or cable or</p> <p>3 telephone type of category.</p> <p>4 Q. Okay. Bundle penetration?</p> <p>5 A. Same thing. Percentage of customer</p> <p>6 base that is actually in a bundle versus stand</p> <p>7 alone service. So, you know, you don't have</p> <p>8 Internet services so that's, if you had, if your</p> <p>9 customer base of 100, you know, nine out of 10 had</p> <p>10 more than one service with you you have 90 percent</p> <p>11 bundle penetration.</p> <p>12 Q. What's HSI penetration?</p> <p>13 A. Typically called high speed Internet,</p> <p>14 so whatever you designate, there's no technical</p> <p>15 designation of what high speed Internet is, it kind</p> <p>16 of evolves, at one time it was five meg, it's 200</p> <p>17 meg now so internally it's got like a gap term.</p> <p>18 Q. Got you. Everything about voice</p> <p>19 lines is traditional telephone line service or</p> <p>20 voiceover IP, we provide pot services still. The</p> <p>21 same would hold true under voice lines here, you</p> <p>22 know, gross add, customers you added, ones you</p> <p>23 disconnected, we categorize disconnects as</p> <p>24 voluntary, in other words a customer decides to</p> <p>25 leave us, they either move or they switch</p>

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<p>1 providers. A non pay would be either protest pay</p> <p>2 and we disconnect them or they can't pay for</p> <p>3 whatever reason.</p> <p>4 Q. So is a non pay disconnect called a</p> <p>5 voluntary disconnect?</p> <p>6 A. Yes. They didn't have a choice,</p> <p>7 right.</p> <p>8 Q. So in looking at these terms as you</p> <p>9 understand them as far as who's the voluntary and</p> <p>10 who's the involuntary is it, that's from the</p> <p>11 customer's perspective, they voluntarily left us</p> <p>12 with, they left us involuntarily?</p> <p>13 A. Yeah. I think it would be from both</p> <p>14 perspectives, a customer, involuntary means --</p> <p>15 Q. You don't have a choice.</p> <p>16 A. Right. You finally have to, we're</p> <p>17 losing our shirt, we got to cut them off. And then</p> <p>18 churn, churn would be a calculation, generally it</p> <p>19 also is not a gap term so churn is a percentage of</p> <p>20 your customer base that would typically leave you</p> <p>21 on a monthly basis but you can define change many</p> <p>22 different ways.</p> <p>23 Q. And there are actually are churn</p> <p>24 numbers on, if you look at the bottom right-hand</p> <p>25 corner on Page 2584.</p>	<p>1 A. Yes.</p> <p>2 Q. Can you explain those numbers to me,</p> <p>3 sir?</p> <p>4 A. So I, you know, I haven't seen this</p> <p>5 report before so I don't know what it's referencing</p> <p>6 or the calculation around this, but in the way that</p> <p>7 we talk about churn we typically talk about the</p> <p>8 number of customers that leave us as a percentage</p> <p>9 of our base on a monthly basis. And there's</p> <p>10 nuances into that calculation, that's not my role</p> <p>11 but there's some puts and takes as to how you get</p> <p>12 to that calculation too. There's different ways to</p> <p>13 calculate the churn, there's early life churn,</p> <p>14 there's a certain number of months a customer has</p> <p>15 to stay with you to get into that category. But at</p> <p>16 the end of the day it's the number of customers</p> <p>17 that leave you relative to your existing customer</p> <p>18 base or your customer base plus the additions less</p> <p>19 the defections.</p> <p>20 Q. So is the information displayed on</p> <p>21 Page 2584 of Exhibit 11 consistent with the</p> <p>22 information that you had obtained in your periodic</p> <p>23 reports from Mr. Brannon's group?</p> <p>24 A. So, I mean we absolutely look at</p> <p>25 churn and consumer churn. I don't know what this</p>
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<p>1 calculation is so I can't say definitively yes or</p> <p>2 no, but, if it's the same. But as far as churn and</p> <p>3 a percentage and what it means I have no reason to</p> <p>4 believe that this would be similar in nature. You</p> <p>5 know, this looks like it's a year to date number in</p> <p>6 February. I don't know though, like that number, 2</p> <p>7 dot 06 percent does not ring a bell from what this,</p> <p>8 this says December 8, 2018. So yeah. This looks</p> <p>9 like it will have been at the end of December,</p> <p>10 2018. Which would imply year to date, last year</p> <p>11 would probably be 2017 but I don't know the</p> <p>12 geographies on this one.</p> <p>13 Q. I guess is the information down on</p> <p>14 the left-hand side, those are sort of the</p> <p>15 performance analytics?</p> <p>16 A. Yes, absolutely. And then talk about</p> <p>17 kind of a monthly report it's, you know, these are</p> <p>18 the things that we're looking at as far as</p> <p>19 performance analytics.</p> <p>20 Q. Do you track those on a weekly basis?</p> <p>21 A. We track these a lot of times on a</p> <p>22 daily basis.</p> <p>23 Q. So the sort of performance analytics</p> <p>24 that were reflected down this left side of WIN2584</p> <p>25 reflect information that Windstream would track on</p>	<p>1 a weekly and sometimes daily basis.</p> <p>2 A. I think that's fair. I certainly do,</p> <p>3 again, I don't know what all of this, I don't know,</p> <p>4 I'm not familiar, this is not a report I look at on</p> <p>5 a daily basis, this is not a report that I</p> <p>6 reference that Brad sends around, this seems like a</p> <p>7 roll up.</p> <p>8 Q. Okay. You can put that aside, sir.</p> <p>9 (MARKED DEFENDANT'S EXHIBIT NO. 12)</p> <p>10 Q. (BY MR. KINGSTON) Mr. Auman, I've</p> <p>11 handed you Exhibit 12. Exhibit 12 is a two page</p> <p>12 document, looks to be a screenshot of a Windstream</p> <p>13 website captioned Is Kinetic TV Available In My</p> <p>14 Area?</p> <p>15 Do you recognize Exhibit 12, sir?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And as far as you know is that an</p> <p>18 accurate depiction of the cities across Kentucky,</p> <p>19 Nebraska, North Carolina and Texas where Kinetic TV</p> <p>20 is available?</p> <p>21 A. When was this taken, 9/6?</p> <p>22 Q. Yes, sir.</p> <p>23 A. Yes. I think some of these cities we</p> <p>24 might have kind of a projection of when it's going</p> <p>25 to launch, but these are the general areas that</p>

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<p>1 it's available. We have, I believe we also, what's</p> <p>2 not reflected here is Georgia.</p> <p>3 We also had a legacy cable TV</p> <p>4 television service that were migrating customers</p> <p>5 over to the Kinetic TV. So that would be largely</p> <p>6 in Georgia.</p> <p>7 Q. So at some point Windstream acquired</p> <p>8 a cable TV service in Georgia and it is in the</p> <p>9 process of migrating those customers over to</p> <p>10 Kinetic TV?</p> <p>11 A. Yes.</p> <p>12 Q. And so the Kinetic TV isn't</p> <p>13 necessarily available throughout the cities listed</p> <p>14 on Exhibit 12 but it may be available in certain</p> <p>15 households within those cities or any for lack of a</p> <p>16 better phrase be coming soon to some of those</p> <p>17 cities, is that fair?</p> <p>18 A. That's fair. It's kind of real time</p> <p>19 so it's changing all the time.</p> <p>20 Q. And so Windstream will update its</p> <p>21 website as Kinetic TV becomes available in new</p> <p>22 cities?</p> <p>23 A. Yes.</p> <p>24 Q. No Kinetic TV in Arkansas?</p> <p>25 A. No.</p>	<p>1 Q. The mother ship, it just surprised me</p> <p>2 a little bit the mother ship doesn't have access to</p> <p>3 the Kinetic TV. Is there a reason why Kinetic TV</p> <p>4 is not available in Arkansas?</p> <p>5 A. Yes.</p> <p>6 Q. What's that reason?</p> <p>7 A. It's not profitable for us. So we</p> <p>8 offer it in some markets and not others and there's</p> <p>9 a certain, there's requirements around it, there's</p> <p>10 license that is required. So there's a lot of</p> <p>11 reasons. I don't know that the specific reason is</p> <p>12 that it's not a very profitable product for us,</p> <p>13 but. We don't have a whole lot of coverage in</p> <p>14 Arkansas either from a geography that we would be</p> <p>15 offering a Kinetic brand, if that makes sense.</p> <p>16 Arkansas is a pretty small footprint for us, even</p> <p>17 though the company headquartered there, also our</p> <p>18 Windstream Enterprises is a national player, so.</p> <p>19 Q. Okay. Did Windstream track any of</p> <p>20 the news articles related to its bankruptcy in</p> <p>21 February and March of 2019?</p> <p>22 A. So what do you mean track?</p> <p>23 Q. When Windstream entered bankruptcy it</p> <p>24 was reported in the news. Yes?</p> <p>25 A. Yes.</p>
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<p>1 Q. And did Windstream monitor any of the</p> <p>2 news reports related to its bankruptcy?</p> <p>3 A. I'm not aware if we did any</p> <p>4 monitoring. My team did not. What we did do is we</p> <p>5 monitored social media pretty extensively for</p> <p>6 comments, questions, things of that nature and we</p> <p>7 didn't see any spike or any material activity in</p> <p>8 it.</p> <p>9 Q. So was that social media -- I spoke</p> <p>10 over you, I apologize.</p> <p>11 A. Very similar that we continue to see</p> <p>12 spikes in call volume to our call centers. You</p> <p>13 know, that's one thing we do extremely well, we</p> <p>14 stay on top of what our customers are telling us</p> <p>15 real time because we have managers that are in</p> <p>16 small groups with our customer care and sales</p> <p>17 representative and when there's an issue frankly it</p> <p>18 shows up on that, you know, on the sales and care</p> <p>19 call that you saw. That's kind of like our real</p> <p>20 time hot issues list and so we do monitor, you</p> <p>21 know, social and calls into our care.</p> <p>22 Q. So the social media monitoring, how</p> <p>23 is that reported and tracked?</p> <p>24 A. We have a group within Paul</p> <p>25 Strickland's team that does nothing but monitor</p>	<p>1 Facebook and primarily, and Twitter accounts.</p> <p>2 Q. So there's a group on Paul</p> <p>3 Strickland's team that is focused exclusively on</p> <p>4 monitoring Facebook and Twitter accounts?</p> <p>5 A. That's correct. Mostly Facebook,</p> <p>6 that's where most of our, you know, posts and blogs</p> <p>7 and messages, any type of social presence. It's a</p> <p>8 new, you know, it's a very effective means for</p> <p>9 customers to be heard. And frankly it's a great</p> <p>10 real time mechanism to keep your pulse on the</p> <p>11 business.</p> <p>12 Q. So Windstream understands the way</p> <p>13 folks pay quite a bit of attention on monitoring</p> <p>14 the, monitoring social media to track customer</p> <p>15 concerns?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And who in Mr. Strickland's group</p> <p>18 would be at the top of the social media monitoring</p> <p>19 group?</p> <p>20 A. Paul's got that one squarely on his</p> <p>21 shoulders.</p> <p>22 Q. Mr. Strickland?</p> <p>23 A. Yes. There's a woman within his</p> <p>24 organization that's her primarily responsibility,</p> <p>25 Andrea Curtis I think is her last name, but.</p>

<p>Page 165</p> <p>1 Q. And did, does this group generate</p> <p>2 internal reports within Windstream?</p> <p>3 A. Yes. Yeah.</p> <p>4 Q. So how frequently does that happen?</p> <p>5 A. The ones that I get brought in, so</p> <p>6 I'm not sure how frequently she sends reports, it</p> <p>7 may be at a granular level more frequently, what I</p> <p>8 see typically is you have a monthly readout, it</p> <p>9 seems like it's every week but it's technically</p> <p>10 every month, it's just that long of a session and</p> <p>11 we'll go through, we'll go through as a leadership</p> <p>12 team what's going on and she'll consolidate issues</p> <p>13 into kind of actual things, and frankly that's</p> <p>14 where we just saw the customer confusion arise from</p> <p>15 the Spectrum advertisement. It showed up there</p> <p>16 very quickly.</p> <p>17 Q. And these, so do these reports,</p> <p>18 there's an e-mail and it sends you to a link or is</p> <p>19 there a document attached or how does that work?</p> <p>20 A. Typically for me it's a, kind of a</p> <p>21 meeting, presentation. We could, we certainly can,</p> <p>22 I'm not aware of any, you know, like url where we</p> <p>23 keep it, she may, but. We have a, she consolidates</p> <p>24 that into similar content and tries to make it</p> <p>25 accessible so we can do something with it. And by</p> <p>Page 167</p> <p>1 to review and sign the transcript of the</p> <p>2 deposition.</p> <p>3 VIDEOGRAPHER: All right. Then we're</p> <p>4 going offer the record. It is 3 o'clock p.m. This</p> <p>5 concludes today's testimony given by the corporate</p> <p>6 rep of Windstream Holdings, Incorporated, Jeffery</p> <p>7 Auman. The total number of media units used was</p> <p>8 four and will be retained by Veritext Legal</p> <p>9 Solutions.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 166</p> <p>1 the way, you get a lot of competitive intelligence</p> <p>2 there as well. Customers sometimes like to,</p> <p>3 sometimes they like to tell you where they're</p> <p>4 going, they like to announce.</p> <p>5 Q. Sure. And so does this boil down in</p> <p>6 some sort of presentation, will there be kind of a</p> <p>7 PowerPoint, is that what people are putting on</p> <p>8 their Facebook and Twitter and that kind of thing?</p> <p>9 A. Yes.</p> <p>10 Q. And does she track, or did the group</p> <p>11 track metrics such as this is how many times</p> <p>12 somebody mentioned Windstream and Internet on</p> <p>13 Facebook, that kind of thing?</p> <p>14 A. I haven't seen that, but she's pretty</p> <p>15 thorough in her work.</p> <p>16 MR. KINGSTON: I pass the witness.</p> <p>17 MR. ROSS: Do you have any questions?</p> <p>18 MS. GREER: I don't have any</p> <p>19 questions.</p> <p>20 MR. ROSS: We don't have any</p> <p>21 questions.</p> <p>22 I'll get you some information, I'm</p> <p>23 just going to have to send it to you.</p> <p>24 MR. KINGSTON: That's fine.</p> <p>25 MR. ROSS: Witness reserves the right</p> <p>Page 168</p> <p>1 REPORTER CERTIFICATE</p> <p>2</p> <p>3 I, SUZANNE BENOIST, Certified Shorthand</p> <p>4 Reporter, do hereby certify that there came before</p> <p>5 me at the law firm of Thompson Coburn, One US Bank</p> <p>6 Plaza, St. Louis, MO 63101, the above-referenced</p> <p>7 parties, that the proceeding was translated and</p> <p>8 proofread using computer-aided transcription, and</p> <p>9 the above transcript of proceedings is a true and</p> <p>10 accurate transcript of my notes as taken at the</p> <p>11 time of said event.</p> <p>12 I further certify that I am neither</p> <p>13 attorney nor counsel for nor related nor employed</p> <p>14 by any of the parties to the action in which this</p> <p>15 examination is taken; further, that I am not a</p> <p>16 relative or employee of any attorney or counsel</p> <p>17 employed by the parties hereto or financially</p> <p>18 interested in this action.</p> <p>19 Dated this 4th day of October, 2019.</p> <p>20</p> <p>21 &lt;%15322,Signature%&gt;</p> <p>22 Ms. Suzanne Benoist, RPR, CCR-MO,</p> <p>23 CCR-KS, CSR-IL</p> <p>24</p> <p>25</p>
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<p>Veritext Legal Solutions 1100 Superior Ave Suite 1820 Cleveland, Ohio 44114 Phone: 216-523-1313</p> <p>October 4, 2019</p> <p>To: TERENCE P. ROSS</p> <p>Case Name: Windstream Holdings, Inc., et al. v. Charter Communications, Inc., et al.</p> <p>Veritext Reference Number: 3561325</p> <p>Witness: Jeffrey Auman Deposition Date: 9/25/2019</p> <p>Dear Sir/Madam:</p> <p>Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.</p> <p>If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.</p> <p>Sincerely,</p> <p>Production Department</p> <p>NO NOTARY REQUIRED IN CA</p>	<p>1 DEPOSITION REVIEW 2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT REFERENCE NO: 3561325 4 Windstream Holdings, Inc. v. Charter Communications, Inc. 5 DATE OF DEPOSITION: 9/25/2019 6 WITNESS' NAME: Jeffrey Auman 7 In accordance with the Rules of Civil 8 Procedure, I have read the entire transcript of 9 my testimony or it has been read to me. 10 I have made no changes to the testimony 11 as transcribed by the court reporter.</p> <p>12</p> <p>13 Date <u>Jeffrey Auman</u> 14 Sworn to and subscribed before me, a 15 Notary Public in and for the State and County, 16 the referenced witness did personally appear 17 and acknowledge that:</p> <p>18 They have read the transcript; 19 They signed the foregoing Sworn 20 Statement; and 21 Their execution of this Statement is of 22 their free act and deed.</p> <p>23 I have affixed my name and official seal 24 this ____ day of _____, 20____.</p> <p>25 Notary Public Commission Expiration Date</p>																																																												
<p>1 DEPOSITION REVIEW 2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT REFERENCE NO: 3561325 4 Windstream Holdings, Inc. v. Charter Communications, Inc. 5 DATE OF DEPOSITION: 9/25/2019 6 WITNESS' NAME: Jeffrey Auman 7 In accordance with the Rules of Civil 8 Procedure, I have read the entire transcript of 9 my testimony or it has been read to me. 10 I have listed my changes on the attached 11 Errata Sheet, listing page and line numbers as 12 well as the reason(s) for the change(s). 13 I request that these changes be entered 14 as part of the record of my testimony.</p> <p>15 I have executed the Errata Sheet, as well 16 as this Certificate, and request and authorize 17 that both be appended to the transcript of my 18 testimony and be incorporated therein.</p> <p>19 Date <u>Jeffrey Auman</u> 20 Sworn to and subscribed before me, a 21 Notary Public in and for the State and County, 22 the referenced witness did personally appear 23 and acknowledge that: 24 They have read the transcript; 25 They have listed all of their corrections in the appended Errata Sheet; They signed the foregoing Sworn Statement; and Their execution of this Statement is of their free act and deed. I have affixed my name and official seal this ____ day of _____, 20____.</p> <p>Notary Public</p> <p>Commission Expiration Date</p>	<p>1 ERRATA SHEET 2 VERITEXT LEGAL SOLUTIONS MIDWEST</p> <p>3 ASSIGNMENT NO: 3561325</p> <table border="1"><thead><tr><th>4 PAGE/LINE(S) /</th><th>5 CHANGE</th><th>6 /REASON</th></tr></thead><tbody><tr><td>7</td><td></td><td></td></tr><tr><td>8</td><td></td><td></td></tr><tr><td>9</td><td></td><td></td></tr><tr><td>10</td><td></td><td></td></tr><tr><td>11</td><td></td><td></td></tr><tr><td>12</td><td></td><td></td></tr><tr><td>13</td><td></td><td></td></tr><tr><td>14</td><td></td><td></td></tr><tr><td>15</td><td></td><td></td></tr><tr><td>16</td><td></td><td></td></tr><tr><td>17</td><td></td><td></td></tr><tr><td>18</td><td></td><td></td></tr><tr><td>19</td><td></td><td></td></tr><tr><td>20</td><td></td><td></td></tr><tr><td>21</td><td></td><td></td></tr><tr><td>22</td><td></td><td></td></tr><tr><td>23</td><td></td><td></td></tr><tr><td>24</td><td></td><td></td></tr><tr><td>25</td><td></td><td></td></tr></tbody></table> <p>20 Date <u>Jeffrey Auman</u> 21 SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ 22 DAY OF _____, 20____.</p> <p>23 Notary Public 24 Commission Expiration Date</p>	4 PAGE/LINE(S) /	5 CHANGE	6 /REASON	7			8			9			10			11			12			13			14			15			16			17			18			19			20			21			22			23			24			25		
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*Proposed Counsel to the Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK**

In re:

WINDSTREAM HOLDINGS, INC., *et al.*,<sup>1</sup>

Debtors.

)  
 ) Chapter 11  
 )  
 ) Case No. 19-22312 (RDD)  
 )  
 ) (Joint Administration Requested)  
 )

**DEBTORS' MOTION OF FOR  
 ENTRY OF AN ORDER (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**

Windstream Holdings, Inc. and its debtor affiliates as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors") respectfully state the following in support of this motion (this "Motion"):

<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.



### **Relief Requested**

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”): (a) authorizing them to: (i) prepare a consolidated list of creditors in lieu of submitting separate mailing matrices for each debtor (the “Creditor Matrix”), (ii) file a consolidated list of the Debtors’ 50 largest unsecured creditors, and (iii) mail initial notices through their Proposed Claims and Noticing Agent (as defined herein); (b) authorizing them to redact certain personal identification information for individual creditors; and (c) approving the form and manner of notifying creditors of commencement of these chapter 11 cases.

### **Jurisdiction and Venue**

2. The United States Bankruptcy Court for the Southern District of New York (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 Motion 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.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a), 342(a), and 521 of title 11 of the United States Code (the “Bankruptcy Code”), Bankruptcy Rules 1007(a)(1) and (d) and 2002(a) and (f), and Rules 1007-1 and 5075-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

### **Background**

5. The Debtors are a leading provider of advanced network communications and technology solutions for businesses across the United States. The Debtors also offer broadband, entertainment and security solutions to consumers and small businesses primarily in rural areas in 18 states. Additionally, the Debtors supply core transport solutions on a local and long-haul fiber network spanning approximately 150,000 miles. As of the date hereof, the Debtors had approximately 11,600 employees.

6. As set forth in greater detail in the *Declaration of Tony Thomas, Chief Executive Officer and President of Windstream Holdings, Inc., (I) in Support of Debtors' Chapter 11 Petitions and First Day Motions and (II) Pursuant to Local Bankruptcy Rule 1007-2* (the "First Day Declaration"), on February 15, 2019, the United States District Court for the Southern District of New York entered a *Memorandum Decision and Order* against Debtor Windstream Services, LLC after trial in the matter styled *U.S. Bank National Association v. Windstream Services, Inc. v. Aurelius Capital Master, Ltd.*, Case No. 17-cv-7857 (JMF), that recognized an event of default under the Debtors' prepetition unsecured bond indentures, which in turn resulted in a cross-default under the Debtors' secured credit facilities and certain other material agreements. As of the date hereof, the Debtors are obligated for approximately \$5.6 billion in funded debt obligations. To avoid any precipitous action against the Debtors' assets that would have harmed the Debtors' businesses, the Debtors commenced these chapter 11 cases to obtain the protection of the automatic stay and preserve value for stakeholders enterprise wide.

7. On February 25, 2019 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, the Office of the United States Trustee for the

Southern District of New York (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in these chapter 11 cases. Additional information regarding the Debtors’ business, their capital structure, and the circumstances leading to these chapter 11 filings is contained in the First Day Declaration.

### **Basis for Relief**

8. Section 521(a) of the Bankruptcy Code, Bankruptcy Rule 1007(a)(1), and Local Rule 1007-1(a) require a debtor in a voluntary chapter 11 case to file a list containing the name and complete address of each creditor. In addition, Bankruptcy Rule 1007(d) requires a debtor to file a list containing the name, address, and claim of the creditors holding the 20 largest unsecured claims against the debtor. Bankruptcy Rule 2002(a)(1) also provides that the clerk (or other person directed by the court) must give the debtor, the U.S. Trustee, all creditors, and any indenture trustee at least 21-days’ notice by mail of the meeting of creditors under Section 341 of the Bankruptcy Code. Bankruptcy Rule 2002(f)(1) also provides that notice of “the order for relief” shall be sent by mail to all creditors.

9. The Debtors submit that permitting them to maintain a single consolidated list of creditors in lieu of filing a separate creditor matrix for each debtor entity is warranted under the circumstances of these chapter 11 cases. Specifically, maintaining a single consolidated list of creditors will benefit the Debtors and their estates by allowing the Debtors to more efficiently provide required notices to parties-in-interest and reduce the potential for duplicate mailings. Indeed, many of the Debtors’ creditors overlap and thus, to the extent that the Debtors are required to maintain separate mailing matrices, a substantial number of parties likely would receive multiple copies of the same notice.

10. More specifically, there are 205 entities that are debtors in these chapter 11 cases. The Debtors estimate that there are hundreds of thousands of potential creditors and parties-in-

interest (on a consolidated basis) in these chapter 11 cases. As such, requiring the Debtors to comply with the matrix requirements would be an exceptionally burdensome task and would greatly increase the risk of error of information already on computer systems maintained by the Debtors or their agents.

11. Accordingly, the Debtors, working with the Proposed Claims and Noticing Agent (as defined below), have prepared a single, consolidated list of the Debtors' creditors in electronic format. To ensure that no parties-in-interest are prejudiced, the Debtors will make their consolidated list of creditors available in readable electronic format to any party in interest who so requests (or in non-electronic format at such requesting party's sole cost and expense). The Debtors therefore submit that the preparation and maintenance of a single consolidated creditor list is warranted under the facts and circumstances present in these chapter 11 cases.

12. Concurrently with the filing of this Motion, and in accordance with Local Rule 5075-1, the Debtors are seeking to retain Kurtzman Carson Consultants LLC as their notice and claims agent in these chapter 11 cases (the "Proposed Claims and Noticing Agent").<sup>2</sup> If this application is granted, the Proposed Claims and Noticing Agent will, among other things, assist with the consolidation of the Debtors' computer records into a creditor database and complete the mailing of notices to the parties in such database.

13. Specifically, the Debtors propose that the Proposed Claims and Noticing Agent undertake all mailings directed by the Bankruptcy Court or the U.S. Trustee, or that are required by section 342(a) of the Bankruptcy Code and Bankruptcy Rules 2002(a) and (f), including the

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<sup>2</sup> The request to retain the Proposed Claims and Noticing Agent is made pursuant to Section 156(c) of title 28 of the United States Code, which empowers the Bankruptcy Court to use outside facilities or services pertaining to the provisions of notice of the administrative information to parties-in-interest so long as the costs of the services are paid for out of assets of the estate. See 28 U.S.C. § 156(c); see also *Debtors' Application for Entry of an Order Appointing Kurtzman Carson Consultants LLC as the Claims and Noticing Agent*, filed contemporaneously herewith.

notice of commencement of these chapter 11 cases, substantially in the form annexed as **Exhibit 1** to **Exhibit A** attached hereto (the “Notice of Commencement”). The Debtors believe that using the Proposed Claims and Noticing Agent to promptly provide notices to all applicable parties will maximize efficiency in administering these chapter 11 cases and will ease administrative burdens that would otherwise fall upon the Bankruptcy Court and the U.S. Trustee. Additionally, the Proposed Claims and Noticing Agent will assist the Debtors in preparing creditor lists and mailing initial notices. Accordingly, the Debtors believe maintaining electronic-format lists of creditors rather than preparing and filing separate creditor matrices for each debtor will not only maximize efficiency and accuracy, but also reduce costs.

**I. Cause Exists To Authorize the Debtors To Prepare a List of Creditors in Lieu of Submitting a Formatted Mailing Matrix.**

14. As stated above, unless a debtor’s schedules of assets and liabilities are filed simultaneously with a chapter 11 petition, the Notice Rules require a debtor to file a list containing the name and address of each creditor. In addition, and as discussed below, Bankruptcy Rule 1007(d) requires a debtor to file a list containing the name, address, and claim of the creditors holding the 20 largest unsecured claims against the debtor. Further, Bankruptcy Rule 2002(a)(1) provides, in relevant part, that “the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21-days’ notice by mail of . . . the meeting of creditors under § 341 or § 1104(b) of the [Bankruptcy] Code. . . .” *See* Fed. R. Bankr. P. 2002(a)(1). Bankruptcy Rule 2002(f)(1) also provides that notice of “the order for relief” shall be sent by mail to all creditors. Local Rule 1007-1 directs a debtor to comply with any standing orders issued by the Bankruptcy Court regarding the filing of creditor lists. Pursuant to Local Rule 5075-1, a debtor filing a petition with more than 250 creditors, as is the case here, is

required to retain an approved claims and noticing agent pursuant to an order of the Bankruptcy Court.

15. Permitting the Debtors to maintain a consolidated list of their creditors in electronic format only, in lieu of filing a creditor matrix, is warranted under the circumstances of these cases. Indeed, because the Debtors have hundreds of thousands of potential creditors and other parties-in-interest, converting the Debtors' computerized information to a format compatible with the matrix requirements would be a burdensome task and would greatly increase the risk of error with respect to information on computer systems maintained by the Debtors or their agents. As such, the Debtors submit that the proposed maintenance of an electronic list of creditors under the auspices of the Proposed Claims and Noticing Agent is consistent with applicable Local Rules.

16. The Debtors, working together with the Proposed Claims and Noticing Agent, already have prepared a single, consolidated list of the Debtors' creditors in electronic format. The Debtors are prepared to make that list available in electronic form to any party in interest who so requests (or in non-electronic form at such requesting party's sole cost and expense) in lieu of submitting a mailing matrix to the Bankruptcy Court's clerk's office (the "Clerk of the Bankruptcy Court").

17. Courts in this jurisdiction have approved relief similar to the relief requested in this Motion with respect to preparation of a consolidated, electronic list of a debtor's creditors. *See, e.g., In re Aegean Marine Petrol. Network Inc.*, Case No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 8, 2018) (authorizing the debtors to prepare a list of creditors in lieu of submitting a formatted mailing matrix); *In re Nine West Holdings, Inc.*, Case No. 18-10947 (SCC) (Bankr. S.D.N.Y. Apr. 9, 2018) (same); *In re Cenveo Inc.*, Case No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 6, 2018) (same); *In re BCBG Max Azria Glob. Holdings, LLC*, Case No. 17-10466 (SCC) (Bankr.

S.D.N.Y. Mar. 3, 2017) (same); *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Feb. 10, 2017) (same).<sup>3</sup>

## **II. Cause Exists To Authorize the Debtors to File a Single Consolidated List of the Debtors' 50 Largest Unsecured Creditors.**

18. Bankruptcy Rule 1007(d) provides that a debtor shall file “a list containing the name, address, and claim of the creditors that hold the 20 largest unsecured claims, excluding insiders. . . .” *See* Fed. R. Bankr. P. 1007(d). Because certain of Debtors share many creditors and the Debtors operate as a single business enterprise, the Debtors request authority to file a single, consolidated list of their 50 largest general unsecured creditors.

19. Compiling separate top 20 creditor lists for each individual debtor would consume a substantial amount of the Debtors' time and resources. Further, the Debtors believe a single, consolidated list of their 50 largest unsecured, non-insider creditors will aid the U.S. Trustee in its efforts to communicate with these creditors. As such, the Debtors believe that filing a single consolidated list of the 50 largest unsecured creditors in these chapter 11 cases is appropriate.

20. Courts in this jurisdiction have approved relief similar to the relief requested in this motion with respect to filing a single consolidated list of the largest unsecured creditors of a debtor and its debtor affiliates. *See, e.g., In re Aegean Marine Petrol. Network Inc.*, Case No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 8, 2018) (authorizing the debtors to file a single consolidated list of the 50 largest unsecured creditors of the debtors); *In re Nine West Holdings, Inc.*, Case No. 18-10947 (SCC) (Bankr. S.D.N.Y. Apr. 9, 2018) (same); *In re Cenveo Inc.*, Case No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 6, 2018) (same); *In re BCBG Max Azria Glob. Holdings, LLC*, Case

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<sup>3</sup> Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 3, 2017) (same); *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Feb. 10, 2017) (same).

### III. Redaction of Certain Confidential Information.

21. Section 107(c)(1)(A) of the Bankruptcy Code provides that the court “for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft . . . [a]ny means of identification . . . contained in a paper filed, or to be filed in a case under” the Bankruptcy Code. *See* 11 U.S.C. § 107(c)(1)(A). The Debtors respectfully submit that cause exists to authorize the Debtors to redact address information of individual creditors—many of whom are the Debtors’ employees—and interest holders from the Creditor Matrix because such information could be used to perpetrate identity theft. The Debtors propose to provide, under seal, an un-redacted version of the Creditor Matrix to the Bankruptcy Court, the U.S. Trustee, and any official committee of unsecured creditors appointed in these chapter 11 cases.

22. Courts in this jurisdiction and others have granted the relief requested herein in comparable chapter 11 cases. *See, e.g., In re Aegean Marine Petrol. Network Inc.*, Case No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 8, 2018) (allowing the debtors to redact from the Creditor Matrix address information of individual creditors); *In re Nine West Holdings, Inc.*, Case No. 18-10947 (SCC) (Bankr. S.D.N.Y. Apr. 9, 2018) (same); *In re Cenveo Inc.*, Case No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 6, 2018) (same).

### IV. Authority to Mail Initial Notices to Creditors.

23. As stated above, the Debtors request that the Proposed Claims and Noticing Agent undertake all mailings directed by the Bankruptcy Court, the U.S. Trustee, or as required by the Bankruptcy Code, including the Notice of Commencement of these chapter 11 cases. The Proposed Claims and Noticing Agent’s assistance with the mailing and preparation of creditor lists



and notices will ease administrative burdens that would otherwise fall upon the Bankruptcy Court and the U.S. Trustee. With such assistance, the Debtors can file a computer-readable consolidated list of creditors and also undertake all necessary mailings.

### **Motion Practice**

24. This Motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of its application to this Motion. Accordingly, the Debtors submit that this Motion satisfies Local Rule 9013-1(a).

### **Notice**

25. The Debtors will provide notice of this Motion to the following parties and/or their respective counsel, as applicable: (a) the Office of the U.S. Trustee; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the agent under the proposed postpetition debtor in possession financing facility; (d) the administrative agents and indenture trustees under the Debtors' prepetition credit agreement and note indentures; (e) Milbank LLP, counsel to an *ad hoc* group of second lien noteholders; (f) Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel to an *ad hoc* group of first lien term lenders; (g) Shearman & Sterling LLP, counsel to the Midwest noteholders; (h) the Pension Benefit Guaranty Corporation; (i) the United States Attorney's Office for the Southern District of New York; (j) the Internal Revenue Service; (k) the United States Securities and Exchange Commission; (l) the attorneys general in the states where the Debtors conduct their business operations; (m) the Federal Communications Commission; and (n) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

**No Prior Request**

26. No prior request for the relief sought in this Motion has been made to this or any other court.

*[Remainder of page intentionally left blank.]*

WHEREFORE, the Debtors respectfully request that the Bankruptcy Court enter the Order granting the relief requested herein and such other relief as the Bankruptcy Court deems appropriate under the circumstances.

Dated: February 25, 2019  
New York, New York

/s/ Stephen E. Hessler

Stephen E. Hessler, P.C.

Marc Kieselstein, P.C.

Cristine Pirro Schwarzman

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- and -

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Ross M. Kwasteniet, P.C. (*pro hac vice* pending)

Brad Weiland (*pro hac vice* pending)

John R. Luze (*pro hac vice* pending)

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Facsimile: (312) 862-2200

*Proposed Counsel to the Debtors and Debtors in Possession*

Exhibit A

**Proposed Order**

**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.	)	(Joint Administration Requested)
	)	

**ORDER (I) AUTHORIZING THE 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**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of an order (this “Order”): (a) authorizing the Debtors to: (i) prepare a consolidated list of creditors in lieu of submitting any required mailing matrix, (ii) file a consolidated list of the Debtors’ 50 largest unsecured creditors, and (iii) mail initial notices through their Proposed Claims and Noticing Agent; (b) authorizing the Debtors to redact certain personal identification information for individual creditors; and (c) approving the form and manner of notifying creditors of commencement of the Debtors’ chapter 11 cases; all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference*

<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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

from the United States District Court for the Southern District of New York, dated February 1, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized to file a consolidated list of the 50 largest unsecured creditors in these chapter 11 cases in lieu of each Debtor filing a list of its 20 largest unsecured creditors.
3. In lieu of submitting a formatted mailing matrix, the Debtors shall make available a single, consolidated list of all of the Debtors' creditors in electronic form to any entity who so requests and in non-electronic form at such requesting entity's sole cost and expense.
4. The Debtors are authorized to redact address information of individual creditors listed on the Creditor Matrix; *provided* that the Debtors shall provide an unredacted version of the Creditor Matrix to the Bankruptcy Court, the U.S. Trustee, and any official committee of unsecured creditors appointed in these chapter 11 cases.

5. The Notice of Commencement of these chapter 11 cases, substantially in the form attached to this Order as **Exhibit 1**, is hereby approved.

6. The Debtors, with the assistance of the Proposed Claims and Noticing Agent (upon the Bankruptcy Court's approval of the Debtors' retention of the Proposed Claims and Noticing Agent), is authorized, but not directed, to undertake all mailings directed by the Bankruptcy Court, the U.S. Trustee, or as required by the Bankruptcy Code, including the Notice of Commencement of these chapter 11 cases, and any other correspondence that the Debtors may wish to send to creditors.

7. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

White Plains, New York  
Dated: \_\_\_\_\_, 2019

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THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

**Notice of Commencement**



<b>Information to identify the case:</b>	
Debtor: <u>Windstream Holdings, Inc.</u> Name	EIN: 46-2847717
United States Bankruptcy Court for the Southern District of New York	
Case Number: <u>19-22312 (RDD)</u>	Date case filed for Chapter 11: <u>02/25/2019</u>

## Official Form 309F (For Corporations or Partnerships)

### Notice of Chapter 11 Bankruptcy Case

12/17

For the debtor listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 11 plan may result in a discharge of debt. A creditor who wants to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 11 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

**The staff of the bankruptcy clerk's office cannot give legal advice.**

Do not file this notice with any proof of claim or other filing in the case.

1. Debtors' full name: See chart below.

#### List of Jointly Administered Cases

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
1.	Windstream Holdings, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22312	46-2847717
2.	Windstream Business Holdings, LLC	6 International Drive Rye Brook, NY 10573	19-22310	46-4238089
3.	Allworx Corp.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22345	26-0259247
4.	American Telephone Company, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22349	20-5108783

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
5.	ARC Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22362	11-3464934
6.	A.R.C. Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22338	11-3240814
7.	ATX Communications, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22368	13-4078506
8.	ATX Licensing, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22371	23-3039838
9.	ATX Telecommunications Services of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22377	31-1773888
10.	Birmingham Data Link, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22382	26-3497422
11.	BOB, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22387	02-0754753
12.	Boston Retail Partners LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22392	27-0447904
13.	BridgeCom Holdings, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22403	13-4162965
14.	BridgeCom International, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22408	13-4123985
15.	BridgeCom Solutions Group, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22428	13-4123989
16.	Broadview Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22456	16-1401082
17.	Broadview Networks of Massachusetts, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22440	11-3448054
18.	Broadview Networks of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22454	06-1596404
19.	Broadview NP Acquisition Corp.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22461	51-0402734
20.	Buffalo Valley Management Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22463	84-1619403
21.	Business Telecom of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22466	56-2131188
22.	Business Telecom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22469	56-1426866
23.	BV-BC Acquisition Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22471	20-5377846
24.	Cavalier IP TV, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22474	20-2386185

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
25.	Cavalier Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22313	20-2047841
26.	Cavalier Telephone Mid-Atlantic, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22315	54-2028580
27.	Cavalier Telephone, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22317	54-1914822
28.	CCL Historical, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22319	23-3032245
29.	Choice One Communications of Connecticut Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22322	15-1564111
30.	Choice One Communications of Maine Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22324	16-1564112
31.	Choice One Communications of Massachusetts Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22326	16-1554916
32.	Choice One Communications of New York Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22329	15-1564111
33.	Choice One Communications of Ohio Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22331	16-1564113
34.	Choice One Communications of Pennsylvania Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22332	16-1554919
35.	Choice One Communications of Rhode Island Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22335	16-1563050
36.	Choice One Communications Resale L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22341	80-0364519
37.	Choice One Communications of Vermont Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22339	16-1564114
38.	Choice One of New Hampshire, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22344	16-1564110
39.	Cinergy Communications Company of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22353	20-8076097
40.	Conestoga Enterprises, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22356	23-2565087
41.	Conestoga Management Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22358	84-1619408
42.	Conestoga Wireless Company	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22360	23-2926187
43.	Connecticut Broadband, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22363	06-1459693
44.	Connecticut Telephone & Communication Systems, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22365	06-1122868

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
45.	Conversent Communications Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22366	84-1530125
46.	Conversent Communications of Connecticut, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22369	84-1473088
47.	Conversent Communications of Maine, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22372	84-1473089
48.	Conversent Communications of Massachusetts, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22375	20-2643836
49.	Conversent Communications of New Hampshire, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22378	84-1485259
50.	Conversent Communications of New Jersey, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22380	84-1522507
51.	Conversent Communications of New York, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22384	84-1473087
52.	Conversent Communications of Pennsylvania, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22386	84-1473090
53.	Conversent Communications of Rhode Island, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22388	84-1485260
54.	Conversent Communications of Vermont, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22391	84-1473085
55.	Conversent Communications Resale L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22394	80-0364505
56.	CoreComm-ATX, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22401	23-3060529
57.	CoreComm Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22399	13-4072077
58.	CTC Communications Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22405	04-2731202
59.	CTC Communications of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22407	54-1905656
60.	D&E Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22411	27-0147149
61.	D&E Management Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22414	88-0509645
62.	D&E Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22417	25-1780894
63.	D&E Wireless, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22419	23-2896654
64.	Deltacom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22423	63-0832070

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
65.	Earthlink Business, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22427	94-3331274
66.	Earthlink Carrier, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22430	58-1970339
67.	Equity Leasing, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22432	20-0810636
68.	Eureka Broadband Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22435	06-1506004
69.	Eureka Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22437	20-3341318
70.	Eureka Networks, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22438	20-3341244
71.	Eureka Telecom, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22445	13-3793720
72.	Eureka Telecom of VA, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22442	52-2325508
73.	Georgia Windstream, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22447	38-2027315
74.	Heart of the Lakes Cable Systems, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22451	41-1577709
75.	Infocore, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22314	23-2894188
76.	Info-Highway International, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22321	76-0438543
77.	InfoHighway Communications Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22318	76-0530551
78.	InfoHighway of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22325	26-0291600
79.	Intellifiber Networks, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22328	54-1861675
80.	Iowa Telecom Data Services, L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22330	74-3083835
81.	Iowa Telecom Technologies, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22333	47-0937013
82.	IWA Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22336	20-8346096
83.	KDL Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22337	48-1251032
84.	LDMI Telecommunications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22342	38-2940840

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
85.	Lightship Telecom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22346	06-1519100
86.	MASSCOMM, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22347	83-2381119
87.	McLeodUSA Information Services LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22350	76-0529757
88.	McLeodUSA Purchasing, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22352	42-1501014
89.	McLeodUSA Telecommunications Services, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22355	42-1407242
90.	MPX, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22357	16-1468411
91.	Nashville Data Link, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22361	04-3639722
92.	Network Telephone, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22364	59-3477521
93.	Norlight Telecommunications of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22367	26-3497118
94.	Oklahoma Windstream, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22370	73-0630965
95.	Open Support Systems, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22373	11-3409972
96.	PaeTec Communications of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22376	16-6486048
97.	PaeTec Communications, LLC	2700 Westchester Avenue, Suite 421, Purchase, New York 10577	19-22311	16-1551095
98.	PAETEC Holding, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22381	20-5339741
99.	PAETEC iTEL, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22385	47-0903254
100.	PAETEC Realty LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22389	27-1866972
101.	PAETEC, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22393	16-1551094
102.	PCS Licenses, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22396	88-0397829
103.	Progress Place Realty Holding Company, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22398	27-1255466
104.	RevChain Solutions, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22402	46-3139610

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
105.	SM Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22406	26-0970378
106.	Southwest Enhanced Network Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22409	75-2885419
107.	Talk America of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22412	54-1871946
108.	Talk America, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22416	23-2582790
109.	Teleview, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22420	58-2033040
110.	Texas Windstream, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22316	75-0984391
111.	The Other Phone Company, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22323	65-0705374
112.	TriNet, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22327	58-2183044
113.	TruCom Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22334	13-3940714
114.	US LEC Communications LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22340	56-2162051
115.	US LEC of Alabama LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22343	56-2104211
116.	US LEC of Florida LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22348	56-2046424
117.	US LEC of Georgia LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22351	56-2065537
118.	US LEC of Maryland LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22379	56-2117626
119.	US LEC of North Carolina LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22383	56-2091767
120.	US LEC of Pennsylvania LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22395	56-2117625
121.	US LEC of South Carolina LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22404	56-2056428
122.	US LEC of Tennessee LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22410	56-2065536
123.	US LEC of Virginia LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22415	56-2012173
124.	US Xchange Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22455	16-1590395

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
125.	US Xchange of Illinois, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22425	38-3388717
126.	US Xchange of Indiana, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22436	38-3377167
127.	US Xchange of Michigan, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22443	38-3442002
128.	US Xchange of Wisconsin, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22450	38-3342305
129.	Valor Telecommunications of Texas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22460	52-2194219
130.	WaveTel NC License Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22465	30-0020203
131.	WIN Sales & Leasing, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22470	41-1340032
132.	Windstream Accucomm Networks, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22472	58-1579785
133.	Windstream Accucomm Telecommunications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22475	58-0641816
134.	Windstream Alabama, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22478	63-0364952
135.	Windstream Arkansas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22483	71-0400407
136.	Windstream Buffalo Valley, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22487	23-2825123
137.	Windstream BV Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22494	11-3310798
138.	Windstream Cavalier, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22500	54-1946546
139.	Windstream Communications Kerrville, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22424	74-0724580
140.	Windstream Communications Telecom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22429	74-2955898
141.	Windstream Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22433	74-2955898
142.	Windstream Concord Telephone, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22439	56-0186420
143.	Windstream Conestoga, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22446	23-0488700
144.	Windstream CTC Internet Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22448	52-2101328



NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
145.	Windstream D&E Systems, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22452	23-2971125
146.	Windstream D&E, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22457	23-0520190
147.	Windstream Direct, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22459	41-1903994
148.	Windstream Eagle Holdings LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22464	N/A
149.	Windstream Eagle Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22467	82-3462246
150.	Windstream EN-TEL, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22390	41-1928105
151.	Windstream Finance Corp.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22397	47-3595713
152.	Windstream Florida, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22413	59-0717786
153.	Windstream Georgia Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22418	58-2046299
154.	Windstream Georgia Telephone, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22422	58-0802675
155.	Windstream Georgia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22426	58-0202560
156.	Windstream Holding of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22431	47-0632436
157.	Windstream Iowa Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22434	27-1635465
158.	Windstream Iowa-Comm, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22441	42-1525756
159.	Windstream IT-Comm, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22444	35-2256532
160.	Windstream KDL, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22449	61-1196739
161.	Windstream KDL-VA, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22453	20-0817269
162.	Windstream Kentucky East, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22458	73-1621772
163.	Windstream Kentucky West, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22462	61-0487133
164.	Windstream Kerrville Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22468	74-2228603

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
165.	Windstream Lakedale Link, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22473	41-1815232
166.	Windstream Lakedale, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22477	41-0643917
167.	Windstream Leasing, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22482	27-2348873
168.	Windstream Lexcom Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22486	56-0298450
169.	Windstream Lexcom Entertainment, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22491	56-2261861
170.	Windstream Lexcom Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22498	56-2261863
171.	Windstream Lexcom Wireless, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22502	56-2261865
172.	Windstream Mississippi, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22504	64-0323983
173.	Windstream Missouri, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22506	43-0690837
174.	Windstream Montezuma, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22508	42-0422100
175.	Windstream Nebraska, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22510	47-0223220
176.	Windstream Network Services of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22511	91-1772936
177.	Windstream New York, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22512	15-0306510
178.	Windstream Norlight, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22513	61-0927928
179.	Windstream North Carolina, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22514	56-0509132
180.	Windstream NorthStar, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22515	27-0297987
181.	Windstream NTI, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22516	39-1712867
182.	Windstream NuVox Arkansas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22517	43-1830185
183.	Windstream NuVox Illinois, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22518	43-1861148
184.	Windstream NuVox Indiana, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22519	43-1861150

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
185.	Windstream NuVox Kansas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22476	43-1830186
186.	Windstream NuVox Missouri, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22480	43-1830184
187.	Windstream NuVox Ohio, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22484	43-1861151
188.	Windstream NuVox Oklahoma, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22489	43-1850572
189.	Windstream NuVox, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22492	57-1072836
190.	Windstream of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22496	47-0803453
191.	Windstream Ohio, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22501	31-4265290
192.	Windstream Oklahoma, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22503	71-0406211
193.	Windstream Pennsylvania, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22505	25-1145739
194.	Windstream Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22400	20-0792300
195.	Windstream SHAL Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22507	41-1701143
196.	Windstream SHAL, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22509	41-1858078
197.	Windstream Shared Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22479	51-0553722
198.	Windstream South Carolina, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22481	57-0140680
199.	Windstream Southwest Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22485	75-2884847
200.	Windstream Standard, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22488	58-0445370
201.	Windstream Sugar Land, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22490	74-0672235
202.	Windstream Supply, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22493	31-4359937
203.	Windstream Systems of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22495	47-0650357
204.	Windstream Western Reserve, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22497	34-0614000

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
205.	Xeta Technologies, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22499	73-1130045

<b>2. All other names used in the last 8 years:</b>	<u>See Rider 1.</u>		
<b>3. Address:</b>	See chart above.		
<b>4. Debtors' attorneys:</b>	<p>Stephen E. Hessler, P.C.  Marc Kieselstein, P.C.  Cristine Pirro Schwarzman  Kirkland &amp; Ellis LLP  Kirkland &amp; Ellis International LLP  601 Lexington Avenue  New York, New York 10022  Telephone number: (212) 446-4800</p> <p>- and -</p> <p>James H.M. Sprayregen, P.C.  Ross M. Kwasteniet, P.C.  Brad Weiland  John R. Luze  Kirkland &amp; Ellis LLP  Kirkland &amp; Ellis International LLP  300 North LaSalle Street  Chicago, Illinois 60654  Telephone number: (312) 862-2000</p>		
<b>5. Bankruptcy Clerk's Office</b>	<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>US Bankruptcy Court  Southern District of New York  300 Quarropas Street  Room 248  White Plains, NY 10601</p> </div> <div style="width: 35%;"> <p>Hours Open: Monday - Friday  8:30 AM - 5:00 PM  Contact phone: (914) 467-7088</p> </div> </div> <p>Documents in this case may be filed at this address.  You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.gov">www.pacer.gov</a></p> <p>All documents in this case are available free of charge on the website of the Debtors' notice and claims agent at <a href="http://www.kccllc.net/windstream">http://www.kccllc.net/windstream</a></p>		
<b>6. Meeting of Creditors</b>	<div style="display: flex;"> <div style="width: 30%;"> <p>The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.</p> </div> <div style="width: 40%;"> <p><b>Time and Date to be Determined</b>  The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p> </div> <div style="width: 30%;"> <p><b>Location:</b>  <div style="border: 1px solid black; height: 15px; width: 100%; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 15px; width: 100%;"></div> </p> </div> </div>		
<b>7. Proof of claim deadline:</b>	<p><b>Deadline for filing proof of claim:</b> Not yet set. If a deadline is set, notice will be sent at a later time.</p> <p>A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at <a href="http://www.uscourts.gov">www.uscourts.gov</a></p>		

or any bankruptcy clerk's office.

Your claim will be allowed in the amount scheduled unless:

- Your claim is designated as disputed, contingent or unliquidated;
- You file a proof of claim in a different amount; or
- You receive another notice

If your claim is not scheduled or if your claim is designated as disputed, contingent, or unliquidated, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled.

You may review the schedules at the bankruptcy clerk's office or online at [www.pacer.gov](http://www.pacer.gov)

Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.

**8. Exception to discharge deadline**

You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 1141(d)(6)(A).

The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.

**Deadline for filing the complaint: To be Determined**

**9. Creditors with a foreign address**

If you are a creditor receiving notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

**10. Filing a Chapter 11 bankruptcy case**

Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate its business.

**11. Discharge of debts**

Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge under 11 U.S.C. § 1141(d)(6)(A), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.

Rider 1

Other Names Used in the Last 8 Years

Current Entity Name	Former Names
Windstream Business Holdings, LLC	Earthlink, LLC
Windstream Holdings, Inc.	N/A
A.R.C. Networks, Inc.	N/A
Allworx Corp.	N/A
American Telephone Company LLC	N/A
ARC Networks, Inc.	N/A
ATX Communications, Inc.	N/A
ATX Licensing, Inc.	N/A
ATX Telecommunications Services of Virginia, LLC	N/A
Birmingham Data Link, LLC	N/A
BOB, LLC	BOB Merger Sub, LLC; Business Only Broadband; Windstream Fixed Wireless, LLC.
Boston Retail Partners, LLC	N/A
BridgeCom Holdings, Inc.	N/A
BridgeCom International, Inc.	N/A
BridgeCom Solutions Group, Inc.	N/A
Broadview Networks of Massachusetts, Inc.	N/A
Broadview Networks of Virginia, Inc.	N/A
Broadview Networks, Inc.	N/A
Broadview NP Acquisition Corp.	N/A
Buffalo Valley Management Services, Inc.	N/A
Business Telecom of Virginia, Inc.	N/A
Business Telecom, LLC	N/A
BV-BC Acquisition Corporation	N/A
Cavalier IP TV, LLC	N/A
Cavalier Services, LLC	N/A
Cavalier Telephone Mid-Atlantic, L.L.C.	N/A
Cavalier Telephone, L.L.C.	N/A
CCL Historical, Inc.	N/A
Choice One Communications of Connecticut, Inc.	EarthLink Business; One Communications; One Communications Corp.
Choice One Communications of Maine, Inc.	EarthLink Business; EarthLink Business II; One Communications.
Choice One Communications of Massachusetts, Inc.	EarthLink Business; One Communications.
Choice One Communications of New York, Inc.	EarthLink Business; One Communications.
Choice One Communications of Ohio, Inc.	EarthLink Business; One Communications.
Choice One Communications of Pennsylvania, Inc.	EarthLink Business; One Communications.
Choice One Communications of Rhode Island, Inc.	EarthLink Business; One Communications.
Choice One Communications of Vermont, Inc.	EarthLink Business; EarthLink Business IV; One Communications.
Choice One Communications Resale, L.L.C.	EarthLink Business; One Communications.
Choice One of New Hampshire, Inc.	EarthLink Business; One Communications.
Cinergy Communications Company of Virginia, LLC	Cinergy Communications Company of Virginia
Conestoga Enterprises, Inc.	N/A
Conestoga Management Services, Inc.	N/A
Conestoga Wireless Company	N/A

Current Entity Name	Former Names
Connecticut Broadband, LLC	EarthLink Business; One Communications.
Connecticut Telephone & Communication Systems, Inc.	EarthLink Business; One Communications.
Conversent Communications Long Distance, LLC	EarthLink Business; One Communications Long Distance of New Hampshire.
Conversent Communications of Connecticut, LLC	EarthLink Business; One Communications; One Communications Corp.
Conversent Communications of Maine, LLC	EarthLink Business IV; One Communications IV.
Conversent Communications of Massachusetts, Inc.	EarthLink Business; One Communications.
Conversent Communications of New Hampshire, LLC	EarthLink Business; One Communications of New Hampshire.
Conversent Communications of New Jersey, LLC	EarthLink Business.
Conversent Communications of New York, LLC	EarthLink Business; One Communications.
Conversent Communications of Pennsylvania, LLC	EarthLink Business; One Communications.
Conversent Communications of Rhode Island, LLC	EarthLink Business IV; One Communications IV.
Conversent Communications of Vermont, LLC	EarthLink Business; EarthLink Business IV; One Communications.
Conversent Communications Resale, L.L.C.	EarthLink Business; EarthLink Business III; EarthLink Business IV; One Communications.
CoreComm Communications, LLC	N/A
CoreComm-ATX, Inc.	N/A
CTC Communications Corporation	EarthLink Business; EarthLink Business I; EarthLink Business IV; EarthLink Business Inc.; One Communications; One Communications Corp.
CTC Communications of Virginia, Inc.	N/A
D&E Communications, LLC	D&E Communications, Inc.
D&E Management Services, Inc.	N/A
D&E Networks, Inc.	N/A
D&E Wireless, Inc.	N/A
DeltaCom, LLC	DeltaCom, Inc.; EarthLink Business; EarthLink Business I; EarthLink Business IV; EarthLink Business Solutions.
EarthLink Business, LLC	EarthLink Business.
EarthLink Carrier, LLC	N/A
Equity Leasing, Inc.	Equity Leasing of Illinois (Illinois only).
Eureka Broadband Corporation	N/A
Eureka Holdings, LLC	N/A
Eureka Networks, LLC	N/A
Eureka Telecom of VA, Inc.	N/A
Eureka Telecom, Inc.	N/A
Georgia Windstream, LLC	N/A
Heart of the Lakes Cable Systems, Inc.	N/A
Infocore, Inc.	N/A
InfoHighway Communications Corporation	N/A
Info-Highway International, Inc.	N/A
InfoHighway of Virginia, Inc.	N/A
Intellifiber Networks, LLC	Intellifiber Networks, Inc.
Iowa Telecom Data Services, L.C.	N/A
Iowa Telecom Technologies, LLC	N/A

Current Entity Name	Former Names
IWA Services, LLC	N/A
KDL Holdings, LLC	N/A
LDMI Telecommunications, LLC	LDMI Telecommunications, Inc.; LDMI Telecommunications.
Lightship Telecom, LLC	EarthLink Business; EarthLink Business I; EarthLink Business IV; One Communications.
MASSCOMM, LLC	N/A
McLeodUSA Information Services LLC	N/A
McLeodUSA Purchasing, L.L.C.	N/A
McLeodUSA Telecommunications Services, L.L.C.	PaeTec Business Services.
MPX, Inc.	N/A
Nashville Data Link, LLC	N/A
Network Telephone, LLC	Cavalier Telephone; Cavalier Telephone and TV; Cavalier Business Communications;.
Norlight Telecommunications of Virginia, LLC	Norlight Telecommunications of Virginia, Inc.
Oklahoma Windstream, LLC	N/A
Open Support Systems, LLC	N/A
PaeTec Communications of Virginia, LLC	N/A
PaeTec Communications, LLC	PaeTec Communications, Inc.
PAETEC Holding, LLC	PAETEC Holding Corp.
PAETEC iTel, L.L.C.	N/A
PAETEC Realty LLC	N/A
PAETEC, LLC	PAETEC Corp.
PCS Licenses, Inc.	N/A
Progress Place Realty Holding Company, LLC	N/A
RevChain Solutions, LLC	N/A
SM Holdings, LLC	N/A
Southwest Enhanced Network Services, LLC	Southwest Enhanced Network Services, LP
Talk America of Virginia, LLC	Talk America of Virginia, Inc.; Cavalier Telephone.
Talk America, LLC	Talk America, Inc.; Cavalier Telephone; Cavalier Business Communications.
Televue, LLC	N/A
Texas Windstream, LLC	Texas Windstream, Inc.
The Other Phone Company, LLC	Cavalier Business Communications; The Phone Company.
Trinet, LLC	N/A
TruCom Corporation	N/A
US LEC Communications LLC	PaeTec Business Services.
US LEC of Alabama LLC	N/A
US LEC of Florida LLC	N/A
US LEC of Georgia LLC	PAETEC Business Services.
US LEC of Maryland LLC	N/A
US LEC of North Carolina LLC	N/A
US LEC of Pennsylvania LLC	N/A
US LEC of South Carolina LLC	N/A
US LEC of Tennessee LLC	N/A
US LEC of Virginia LLC	PAETEC Business Services.
US Xchange of Illinois, L.L.C.	EarthLink Business; One Communications.
US Xchange of Indiana, L.L.C.	EarthLink Business; One Communications.
US Xchange of Michigan, L.L.C.	EarthLink Business; One Communications.
US Xchange of Wisconsin, L.L.C.	EarthLink Business; One Communications.





Current Entity Name	Former Names
Windstream Norlight, LLC	Windstream Norlight, Inc.
Windstream North Carolina, LLC	N/A
Windstream NorthStar, LLC	N/A
Windstream NTI, LLC	Windstream NTI, Inc.
Windstream NuVox Arkansas, LLC	Windstream NuVox Arkansas, Inc.
Windstream NuVox Illinois, LLC	Windstream NuVox Illinois, Inc.
Windstream NuVox Indiana, LLC	Windstream NuVox Indiana, Inc.
Windstream NuVox Kansas, LLC	Windstream NuVox Kansas, Inc.
Windstream NuVox Missouri, LLC	Windstream NuVox Missouri, Inc.
Windstream NuVox Ohio, LLC	Windstream NuVox Ohio, Inc.
Windstream NuVox Oklahoma, LLC	Windstream NuVox Oklahoma, Inc.
Windstream NuVox, LLC	Windstream Nuvox, Inc.
Windstream of the Midwest, Inc.	N/A
Windstream Ohio, LLC	N/A
Windstream Oklahoma, LLC	N/A
Windstream Pennsylvania, LLC	N/A
Windstream Services, LLC	Windstream Corporation
Windstream SHAL Networks, Inc.	N/A
Windstream SHAL, LLC	N/A
Windstream Shared Services, LLC	Earthlink Shared Services, LLC
Windstream South Carolina, LLC	N/A
Windstream Southwest Long Distance, LLC	N/A
Windstream Standard, LLC	N/A
Windstream Sugar Land, LLC	N/A
Windstream Supply, LLC	N/A
Windstream Systems of the Midwest, Inc.	N/A
Windstream Western Reserve, LLC	N/A
XETA Technologies, Inc.	N/A

**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 Administred)
	)	

**ORDER (I) AUTHORIZING THE 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**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of an order (this “Order”) (a) authorizing the Debtors to: (i) prepare a consolidated list of creditors in lieu of submitting any required mailing matrix, (ii) file a consolidated list of the Debtors’ 50 largest unsecured creditors, and (iii) mail initial notices through their Proposed Claims and Noticing Agent, (b) authorizing the Debtors to redact certain personal identification information for individual creditors, and (c) approving the form and manner of notifying creditors of commencement of the Debtors’ chapter 11 cases; all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the *Amended Standing Order of*

<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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

*Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012; and this Court having found that venue of the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409 and that this is a core proceeding pursuant to 28 U.S.C. § 157(b) that this Court may decide by a final order consistent with Article III of the United States Constitution; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances, and that no other notice need be provided; and upon the record of the hearing held by the Court on the Motion on February 26, 2019 (the “Hearing”); and the Court having considered the objection raised at the Hearing by the U.S. Trustee, which has been resolved by the terms of this Order; and after due deliberation this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish good and sufficient cause for the relief granted herein and that such relief is in the best interests of the Debtors and their estates, it is **HEREBY ORDERED THAT**:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized to file a consolidated list of the 50 largest unsecured creditors in these chapter 11 cases in lieu of each Debtor filing a list of its 20 largest unsecured creditors.
3. In lieu of submitting a formatted mailing matrix, the Debtors shall make available a single, consolidated list of all of the Debtors’ creditors in electronic form to any entity who so requests and in non-electronic form at such requesting entity’s sole cost and expense.
4. The Debtors are authorized to redact address information of individual creditors listed on the Creditor Matrix; *provided* that the Debtors shall provide an unredacted version of the Creditor Matrix to the Bankruptcy Court (to be filed under seal), the U.S. Trustee, and any official committee of unsecured creditors appointed in these chapter 11 cases; *provided, further* that

nothing in this Order shall preclude a party in interest from requesting access to an unredacted version of the Creditor Matrix upon a motion filed with the Bankruptcy Court and appropriate notice.

5. The Notice of Commencement of these chapter 11 cases, substantially in the form attached to this Order as **Exhibit 1**, is hereby approved.

6. The Debtors, with the assistance of the Proposed Claims and Noticing Agent (upon the Bankruptcy Court's approval of the Debtors' retention of the Proposed Claims and Noticing Agent), is authorized, but not directed, to undertake all mailings directed by the Bankruptcy Court, the U.S. Trustee, or as required by the Bankruptcy Code, including the Notice of Commencement of these chapter 11 cases, and any other correspondence that the Debtors may wish to send to creditors.

7. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: White Plains, New York  
March 5, 2019

/s/Robert D. Drain

THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

**Notice of Commencement**

<b>Information to identify the case:</b>	
Debtor: Windstream Holdings, Inc. Name	EIN: 46-2847717
United States Bankruptcy Court for the Southern District of New York	
Case Number: 19-22312 (RDD)	Date case filed for Chapter 11: 02/25/2019

## Official Form 309F (For Corporations or Partnerships)

### Notice of Chapter 11 Bankruptcy Case

12/17

For the debtor listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 11 plan may result in a discharge of debt. A creditor who wants to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 11 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

**The staff of the bankruptcy clerk's office cannot give legal advice.**

**Do not file this notice with any proof of claim or other filing in the case.**

Debtors' full name: See chart below.

#### List of Jointly Administered Cases

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
1.	Windstream Holdings, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22312	46-2847717
2.	Windstream Business Holdings, LLC	6 International Drive Rye Brook, NY 10573	19-22310	46-4238089
3.	Allworx Corp.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22345	26-0259247
4.	American Telephone Company, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22349	20-5108783

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
5.	ARC Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22362	11-3464934
6.	A.R.C. Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22338	11-3240814
7.	ATX Communications, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22368	13-4078506
8.	ATX Licensing, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22371	23-3039838
9.	ATX Telecommunications Services of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22377	31-1773888
10.	Birmingham Data Link, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22382	26-3497422
11.	BOB, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22387	02-0754753
12.	Boston Retail Partners LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22392	27-0447904
13.	BridgeCom Holdings, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22403	13-4162965
14.	BridgeCom International, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22408	13-4123985
15.	BridgeCom Solutions Group, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22428	13-4123989
16.	Broadview Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22456	16-1401082
17.	Broadview Networks of Massachusetts, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22440	11-3448054
18.	Broadview Networks of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22454	06-1596404
19.	Broadview NP Acquisition Corp.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22461	51-0402734
20.	Buffalo Valley Management Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22463	84-1619403
21.	Business Telecom of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22466	56-2131188
22.	Business Telecom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22469	56-1426866
23.	BV-BC Acquisition Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22471	20-5377846
24.	Cavalier IP TV, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22474	20-2386185



NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
25.	Cavalier Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22313	20-2047841
26.	Cavalier Telephone Mid-Atlantic, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22315	54-2028580
27.	Cavalier Telephone, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22317	54-1914822
28.	CCL Historical, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22319	23-3032245
29.	Choice One Communications of Connecticut Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22322	15-1564111
30.	Choice One Communications of Maine Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22324	16-1564112
31.	Choice One Communications of Massachusetts Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22326	16-1554916
32.	Choice One Communications of New York Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22329	15-1564111
33.	Choice One Communications of Ohio Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22331	16-1564113
34.	Choice One Communications of Pennsylvania Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22332	16-1554919
35.	Choice One Communications of Rhode Island Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22335	16-1563050
36.	Choice One Communications Resale L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22341	80-0364519
37.	Choice One Communications of Vermont Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22339	16-1564114
38.	Choice One of New Hampshire, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22344	16-1564110
39.	Cinergy Communications Company of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22353	20-8076097
40.	Conestoga Enterprises, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22356	23-2565087
41.	Conestoga Management Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22358	84-1619408
42.	Conestoga Wireless Company	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22360	23-2926187
43.	Connecticut Broadband, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22363	06-1459693
44.	Connecticut Telephone & Communication Systems, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22365	06-1122868

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
45.	Conversent Communications Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22366	84-1530125
46.	Conversent Communications of Connecticut, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22369	84-1473088
47.	Conversent Communications of Maine, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22372	84-1473089
48.	Conversent Communications of Massachusetts, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22375	20-2643836
49.	Conversent Communications of New Hampshire, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22378	84-1485259
50.	Conversent Communications of New Jersey, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22380	84-1522507
51.	Conversent Communications of New York, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22384	84-1473087
52.	Conversent Communications of Pennsylvania, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22386	84-1473090
53.	Conversent Communications of Rhode Island, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22388	84-1485260
54.	Conversent Communications of Vermont, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22391	84-1473085
55.	Conversent Communications Resale L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22394	80-0364505
56.	CoreComm-ATX, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22401	23-3060529
57.	CoreComm Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22399	13-4072077
58.	CTC Communications Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22405	04-2731202
59.	CTC Communications of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22407	54-1905656
60.	D&E Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22411	27-0147149
61.	D&E Management Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22414	88-0509645
62.	D&E Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22417	25-1780894
63.	D&E Wireless, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22419	23-2896654
64.	Deltacom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22423	63-0832070

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
65.	Earthlink Business, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22427	94-3331274
66.	Earthlink Carrier, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22430	58-1970339
67.	Equity Leasing, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22432	20-0810636
68.	Eureka Broadband Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22435	06-1506004
69.	Eureka Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22437	20-3341318
70.	Eureka Networks, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22438	20-3341244
71.	Eureka Telecom, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22445	13-3793720
72.	Eureka Telecom of VA, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22442	52-2325508
73.	Georgia Windstream, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22447	38-2027315
74.	Heart of the Lakes Cable Systems, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22451	41-1577709
75.	Infocore, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22314	23-2894188
76.	Info-Highway International, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22321	76-0438543
77.	InfoHighway Communications Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22318	76-0530551
78.	InfoHighway of Virginia, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22325	26-0291600
79.	Intellifiber Networks, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22328	54-1861675
80.	Iowa Telecom Data Services, L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22330	74-3083835
81.	Iowa Telecom Technologies, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22333	47-0937013
82.	IWA Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22336	20-8346096
83.	KDL Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22337	48-1251032
84.	LDMI Telecommunications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22342	38-2940840

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
85.	Lightship Telecom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22346	06-1519100
86.	MASSCOMM, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22347	83-2381119
87.	McLeodUSA Information Services LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22350	76-0529757
88.	McLeodUSA Purchasing, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22352	42-1501014
89.	McLeodUSA Telecommunications Services, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22355	42-1407242
90.	MPX, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22357	16-1468411
91.	Nashville Data Link, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22361	04-3639722
92.	Network Telephone, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22364	59-3477521
93.	Norlight Telecommunications of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22367	26-3497118
94.	Oklahoma Windstream, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22370	73-0630965
95.	Open Support Systems, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22373	11-3409972
96.	PaeTec Communications of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22376	16-6486048
97.	PaeTec Communications, LLC	2700 Westchester Avenue, Suite 421, Purchase, New York 10577	19-22311	16-1551095
98.	PAETEC Holding, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22381	20-5339741
99.	PAETEC iTEL, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22385	47-0903254
100.	PAETEC Realty LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22389	27-1866972
101.	PAETEC, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22393	16-1551094
102.	PCS Licenses, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22396	88-0397829
103.	Progress Place Realty Holding Company, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22398	27-1255466
104.	RevChain Solutions, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22402	46-3139610

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
105.	SM Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22406	26-0970378
106.	Southwest Enhanced Network Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22409	75-2885419
107.	Talk America of Virginia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22412	54-1871946
108.	Talk America, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22416	23-2582790
109.	Teleview, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22420	58-2033040
110.	Texas Windstream, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22316	75-0984391
111.	The Other Phone Company, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22323	65-0705374
112.	TriNet, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22327	58-2183044
113.	TruCom Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22334	13-3940714
114.	US LEC Communications LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22340	56-2162051
115.	US LEC of Alabama LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22343	56-2104211
116.	US LEC of Florida LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22348	56-2046424
117.	US LEC of Georgia LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22351	56-2065537
118.	US LEC of Maryland LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22379	56-2117626
119.	US LEC of North Carolina LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22383	56-2091767
120.	US LEC of Pennsylvania LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22395	56-2117625
121.	US LEC of South Carolina LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22404	56-2056428
122.	US LEC of Tennessee LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22410	56-2065536
123.	US LEC of Virginia LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22415	56-2012173
124.	US Xchange Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22455	16-1590395

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
125.	US Xchange of Illinois, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22425	38-3388717
126.	US Xchange of Indiana, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22436	38-3377167
127.	US Xchange of Michigan, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22443	38-3442002
128.	US Xchange of Wisconsin, L.L.C.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22450	38-3342305
129.	Valor Telecommunications of Texas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22460	52-2194219
130.	WaveTel NC License Corporation	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22465	30-0020203
131.	WIN Sales & Leasing, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22470	41-1340032
132.	Windstream Accucomm Networks, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22472	58-1579785
133.	Windstream Accucomm Telecommunications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22475	58-0641816
134.	Windstream Alabama, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22478	63-0364952
135.	Windstream Arkansas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22483	71-0400407
136.	Windstream Buffalo Valley, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22487	23-2825123
137.	Windstream BV Holdings, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22494	11-3310798
138.	Windstream Cavalier, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22500	54-1946546
139.	Windstream Communications Kerrville, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22424	74-0724580
140.	Windstream Communications Telecom, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22429	74-2955898
141.	Windstream Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22433	74-2955898
142.	Windstream Concord Telephone, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22439	56-0186420
143.	Windstream Conestoga, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22446	23-0488700
144.	Windstream CTC Internet Services, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22448	52-2101328

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
145.	Windstream D&E Systems, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22452	23-2971125
146.	Windstream D&E, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22457	23-0520190
147.	Windstream Direct, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22459	41-1903994
148.	Windstream Eagle Holdings LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22464	N/A
149.	Windstream Eagle Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22467	82-3462246
150.	Windstream EN-TEL, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22390	41-1928105
151.	Windstream Finance Corp.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22397	47-3595713
152.	Windstream Florida, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22413	59-0717786
153.	Windstream Georgia Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22418	58-2046299
154.	Windstream Georgia Telephone, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22422	58-0802675
155.	Windstream Georgia, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22426	58-0202560
156.	Windstream Holding of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22431	47-0632436
157.	Windstream Iowa Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22434	27-1635465
158.	Windstream Iowa-Comm, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22441	42-1525756
159.	Windstream IT-Comm, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22444	35-2256532
160.	Windstream KDL, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22449	61-1196739
161.	Windstream KDL-VA, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22453	20-0817269
162.	Windstream Kentucky East, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22458	73-1621772
163.	Windstream Kentucky West, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22462	61-0487133
164.	Windstream Kerrville Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22468	74-2228603

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
165.	Windstream Lakedale Link, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22473	41-1815232
166.	Windstream Lakedale, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22477	41-0643917
167.	Windstream Leasing, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22482	27-2348873
168.	Windstream Lexcom Communications, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22486	56-0298450
169.	Windstream Lexcom Entertainment, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22491	56-2261861
170.	Windstream Lexcom Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22498	56-2261863
171.	Windstream Lexcom Wireless, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22502	56-2261865
172.	Windstream Mississippi, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22504	64-0323983
173.	Windstream Missouri, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22506	43-0690837
174.	Windstream Montezuma, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22508	42-0422100
175.	Windstream Nebraska, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22510	47-0223220
176.	Windstream Network Services of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22511	91-1772936
177.	Windstream New York, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22512	15-0306510
178.	Windstream Norlight, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22513	61-0927928
179.	Windstream North Carolina, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22514	56-0509132
180.	Windstream NorthStar, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22515	27-0297987
181.	Windstream NTI, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22516	39-1712867
182.	Windstream NuVox Arkansas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22517	43-1830185
183.	Windstream NuVox Illinois, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22518	43-1861148
184.	Windstream NuVox Indiana, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22519	43-1861150



NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
185.	Windstream NuVox Kansas, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22476	43-1830186
186.	Windstream NuVox Missouri, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22480	43-1830184
187.	Windstream NuVox Ohio, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22484	43-1861151
188.	Windstream NuVox Oklahoma, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22489	43-1850572
189.	Windstream NuVox, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22492	57-1072836
190.	Windstream of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22496	47-0803453
191.	Windstream Ohio, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22501	31-4265290
192.	Windstream Oklahoma, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22503	71-0406211
193.	Windstream Pennsylvania, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22505	25-1145739
194.	Windstream Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22400	20-0792300
195.	Windstream SHAL Networks, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22507	41-1701143
196.	Windstream SHAL, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22509	41-1858078
197.	Windstream Shared Services, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22479	51-0553722
198.	Windstream South Carolina, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22481	57-0140680
199.	Windstream Southwest Long Distance, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22485	75-2884847
200.	Windstream Standard, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22488	58-0445370
201.	Windstream Sugar Land, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22490	74-0672235
202.	Windstream Supply, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22493	31-4359937
203.	Windstream Systems of the Midwest, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22495	47-0650357
204.	Windstream Western Reserve, LLC	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22497	34-0614000

NO.	DEBTOR	ADDRESS	CASE NO.	EIN #
205.	Xeta Technologies, Inc.	4001 North Rodney Parham Road, Little Rock, Arkansas 72212	19-22499	73-1130045

<b>All other names used in the last 8 years:</b>	<u>See Rider 1.</u>		
<b>Address:</b>	See chart above.		
<b>Debtors' attorneys:</b>	<div style="text-align: center; margin-bottom: 20px;"> <b>Stephen E. Hessler, P.C.                      Marc Kieselstein, P.C.                      Cristine Pirro Schwarzman                      Kirkland &amp; Ellis LLP                      Kirkland &amp; Ellis International LLP                      601 Lexington Avenue                      New York, New York 10022                      Telephone number: (212) 446-4800</b> </div> <div style="text-align: center; margin-bottom: 20px;">                     - and -                 </div> <div style="text-align: center;"> <b>James H.M. Sprayregen, P.C.                      Ross M. Kwasteniet, P.C.                      Brad Weiland                      John R. Luze                      Kirkland &amp; Ellis LLP                      Kirkland &amp; Ellis International LLP                      300 North LaSalle Street                      Chicago, Illinois 60654                      Telephone number: (312) 862-2000</b> </div>		
<b>Bankruptcy Clerk's Office</b> Documents in this case may be filed at this address.  You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.gov">www.pacer.gov</a>	<div style="text-align: center;"> <b>US Bankruptcy Court                      Southern District of New York                      300 Quarropas Street                      Room 248                      White Plains, NY 10601</b> </div> <div style="text-align: center; margin-top: 10px;">                     All documents in this case are available free of charge on the website of the Debtors' notice and claims agent at <a href="http://www.kccllc.net/windstream">http://www.kccllc.net/windstream</a> </div> <div style="float: right; text-align: right; margin-top: 10px;"> <b>Hours Open: Monday - Friday                      8:30 AM - 5:00 PM                      Contact phone: (914) 467-7088</b> </div>		
<b>Meeting of Creditors</b>	<b>Time and Date to be Determined</b>	<b>Location:</b>	

<p>The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.</p>	<p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>	<p>[ _____ ] [ _____ ]</p>
<p><b>Proof of claim deadline:</b></p>	<p><b>Deadline for filing proof of claim:</b> Not yet set. If a deadline is set, notice will be sent at a later time.</p>	
<p>A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at <a href="http://www.uscourts.gov">www.uscourts.gov</a> or any bankruptcy clerk's office.</p>		
<p>Your claim will be allowed in the amount scheduled unless:</p>		
<ul style="list-style-type: none"> <li>• Your claim is designated as disputed, contingent or unliquidated;</li> <li>• You file a proof of claim in a different amount; or</li> <li>• You receive another notice</li> </ul>		
<p>If your claim is not scheduled or if your claim is designated as disputed, contingent, or unliquidated, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled.</p>		
<p>You may review the schedules at the bankruptcy clerk's office or online at <a href="http://www.pacer.gov">www.pacer.gov</a></p>		
<p>Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.</p>		
<p><b>Exception to discharge deadline</b></p>	<p>You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 1141(d)(6)(A).</p>	
<p>The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.</p>	<p><b>Deadline for filing the complaint: To be Determined</b></p>	
<p><b>Creditors with a foreign address</b></p>	<p>If you are a creditor receiving notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult</p>	

	an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.
<b>Filing a Chapter 11 bankruptcy case</b>	Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate its business.
<b>Discharge of debts</b>	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge under 11 U.S.C. § 1141(d)(6)(A), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.

**Rider 1**  
**Other Names Used in the Last 8 Years**

<b>Current Entity Name</b>	<b>Former Names</b>
Windstream Business Holdings, LLC	Earthlink, LLC
Windstream Holdings, Inc.	N/A
A.R.C. Networks, Inc.	N/A
Allworx Corp.	N/A
American Telephone Company LLC	N/A
ARC Networks, Inc.	N/A
ATX Communications, Inc.	N/A
ATX Licensing, Inc.	N/A
ATX Telecommunications Services of Virginia, LLC	N/A
Birmingham Data Link, LLC	N/A
BOB, LLC	BOB Merger Sub, LLC; Business Only Broadband; Windstream Fixed Wireless, LLC.
Boston Retail Partners, LLC	N/A
BridgeCom Holdings, Inc.	N/A
BridgeCom International, Inc.	N/A
BridgeCom Solutions Group, Inc.	N/A
Broadview Networks of Massachusetts, Inc.	N/A
Broadview Networks of Virginia, Inc.	N/A
Broadview Networks, Inc.	N/A
Broadview NP Acquisition Corp.	N/A
Buffalo Valley Management Services, Inc.	N/A
Business Telecom of Virginia, Inc.	N/A
Business Telecom, LLC	N/A
BV-BC Acquisition Corporation	N/A
Cavalier IP TV, LLC	N/A

Current Entity Name	Former Names
Cavalier Services, LLC	N/A
Cavalier Telephone Mid-Atlantic, L.L.C.	N/A
Cavalier Telephone, L.L.C.	N/A
CCL Historical, Inc.	N/A
Choice One Communications of Connecticut, Inc.	EarthLink Business; One Communications; One Communications Corp.
Choice One Communications of Maine, Inc.	EarthLink Business; EarthLink Business II; One Communications.
Choice One Communications of Massachusetts, Inc.	EarthLink Business; One Communications.
Choice One Communications of New York, Inc.	EarthLink Business; One Communications.
Choice One Communications of Ohio, Inc.	EarthLink Business; One Communications.
Choice One Communications of Pennsylvania, Inc.	EarthLink Business; One Communications.
Choice One Communications of Rhode Island, Inc.	EarthLink Business; One Communications.
Choice One Communications of Vermont, Inc.	EarthLink Business; EarthLink Business IV; One Communications.
Choice One Communications Resale, L.L.C.	EarthLink Business; One Communications.
Choice One of New Hampshire, Inc.	EarthLink Business; One Communications.
Cinergy Communications Company of Virginia, LLC	Cinergy Communications Company of Virginia
Conestoga Enterprises, Inc.	N/A
Conestoga Management Services, Inc.	N/A
Conestoga Wireless Company	N/A
Connecticut Broadband, LLC	EarthLink Business; One Communications.
Connecticut Telephone & Communication Systems, Inc.	EarthLink Business; One Communications.
Conversent Communications Long Distance, LLC	EarthLink Business; One Communications Long Distance of New Hampshire.
Conversent Communications of Connecticut, LLC	EarthLink Business; One Communications; One Communications Corp.

Current Entity Name	Former Names
Conversent Communications of Maine, LLC	EarthLink Business IV; One Communications IV.
Conversent Communications of Massachusetts, Inc.	EarthLink Business; One Communications.
Conversent Communications of New Hampshire, LLC	EarthLink Business; One Communications of New Hampshire.
Conversent Communications of New Jersey, LLC	EarthLink Business.
Conversent Communications of New York, LLC	EarthLink Business; One Communications.
Conversent Communications of Pennsylvania, LLC	EarthLink Business; One Communications.
Conversent Communications of Rhode Island, LLC	EarthLink Business IV; One Communications IV.
Conversent Communications of Vermont, LLC	EarthLink Business; EarthLink Business IV; One Communications.
Conversent Communications Resale, L.L.C.	EarthLink Business; EarthLink Business III; EarthLink Business IV; One Communications.
CoreComm Communications, LLC	N/A
CoreComm-ATX, Inc.	N/A
CTC Communications Corporation	EarthLink Business; EarthLink Business I; EarthLink Business IV; EarthLink Business Inc.; One Communications; One Communications Corp.
CTC Communications of Virginia, Inc.	N/A
D&E Communications, LLC	D&E Communications, Inc.
D&E Management Services, Inc.	N/A
D&E Networks, Inc.	N/A
D&E Wireless, Inc.	N/A
DeltaCom, LLC	DeltaCom, Inc.; EarthLink Business; EarthLink Business I; EarthLink Business IV; EarthLink Business Solutions.
EarthLink Business, LLC	EarthLink Business.
EarthLink Carrier, LLC	N/A

Current Entity Name	Former Names
Equity Leasing, Inc.	Equity Leasing of Illinois (Illinois only).
Eureka Broadband Corporation	N/A
Eureka Holdings, LLC	N/A
Eureka Networks, LLC	N/A
Eureka Telecom of VA, Inc.	N/A
Eureka Telecom, Inc.	N/A
Georgia Windstream, LLC	N/A
Heart of the Lakes Cable Systems, Inc.	N/A
Infocore, Inc.	N/A
InfoHighway Communications Corporation	N/A
Info-Highway International, Inc.	N/A
InfoHighway of Virginia, Inc.	N/A
Intellifiber Networks, LLC	Intellifiber Networks, Inc.
Iowa Telecom Data Services, L.C.	N/A
Iowa Telecom Technologies, LLC	N/A
IWA Services, LLC	N/A
KDL Holdings, LLC	N/A
LDMI Telecommunications, LLC	LDMI Telecommunications, Inc.; LDMI Telecommunications.
Lightship Telecom, LLC	EarthLink Business; EarthLink Business I; EarthLink Business IV; One Communications.
MASSCOMM, LLC	N/A
McLeodUSA Information Services LLC	N/A
McLeodUSA Purchasing, L.L.C.	N/A
McLeodUSA Telecommunications Services, L.L.C.	PaeTec Business Services.
MPX, Inc.	N/A
Nashville Data Link, LLC	N/A



Current Entity Name	Former Names
Network Telephone, LLC	Cavalier Telephone; Cavalier Telephone and TV; Cavalier Business Communications;
Norlight Telecommunications of Virginia, LLC	Norlight Telecommunications of Virginia, Inc.
Oklahoma Windstream, LLC	N/A
Open Support Systems, LLC	N/A
PaeTec Communications of Virginia, LLC	N/A
PaeTec Communications, LLC	PaeTec Communications, Inc.
PAETEC Holding, LLC	PAETEC Holding Corp.
PAETEC iTel, L.L.C.	N/A
PAETEC Realty LLC	N/A
PAETEC, LLC	PAETEC Corp.
PCS Licenses, Inc.	N/A
Progress Place Realty Holding Company, LLC	N/A
RevChain Solutions, LLC	N/A
SM Holdings, LLC	N/A
Southwest Enhanced Network Services, LLC	Southwest Enhanced Network Services, LP
Talk America of Virginia, LLC	Talk America of Virginia, Inc.; Cavalier Telephone.
Talk America, LLC	Talk America, Inc.; Cavalier Telephone; Cavalier Business Communications.
Televue, LLC	N/A
Texas Windstream, LLC	Texas Windstream, Inc.
The Other Phone Company, LLC	Cavalier Business Communications; The Phone Company.
Trinet, LLC	N/A
TruCom Corporation	N/A
US LEC Communications LLC	PaeTec Business Services.
US LEC of Alabama LLC	N/A

Current Entity Name	Former Names
US LEC of Florida LLC	N/A
US LEC of Georgia LLC	PAETEC Business Services.
US LEC of Maryland LLC	N/A
US LEC of North Carolina LLC	N/A
US LEC of Pennsylvania LLC	N/A
US LEC of South Carolina LLC	N/A
US LEC of Tennessee LLC	N/A
US LEC of Virginia LLC	PAETEC Business Services.
US Xchange of Illinois, L.L.C.	EarthLink Business; One Communications.
US Xchange of Indiana, L.L.C.	EarthLink Business; One Communications.
US Xchange of Michigan, L.L.C.	EarthLink Business; One Communications.
US Xchange of Wisconsin, L.L.C.	EarthLink Business; One Communications.
US Xchange, Inc.	EarthLink Business; One Communications; Choice One; Choice One Communications.
Valor Telecommunications of Texas, LLC	Windstream Communications Southwest.
WaveTel NC License Corporation	N/A
WIN Sales & Leasing, Inc.	Communications Sales and Leasing, Inc.
Windstream Accucomm Networks, LLC	N/A
Windstream Accucomm Telecommunications, LLC	N/A
Windstream Alabama, LLC	N/A
Windstream Arkansas, LLC	N/A
Windstream Buffalo Valley, Inc.	N/A
Windstream BV Holdings, LLC	Windstream BV Holdings, Inc.; Broadview Network Holdings, Inc.
Windstream Cavalier, LLC	N/A
Windstream Communications Kerrville, LLC	N/A
Windstream Communications Telecom, LLC	N/A

Current Entity Name	Former Names
Windstream Communications, LLC	Windstream Communications, Inc.
Windstream Concord Telephone, LLC	Windstream Concord Telephone, Inc.
Windstream Conestoga, Inc.	N/A
Windstream CTC Internet Services, Inc.	N/A
Windstream D&E Systems, LLC	Windstream D&E Systems, Inc.
Windstream D&E, Inc.	N/A
Windstream Direct, LLC	N/A
Windstream Eagle Holdings, LLC	Earthlink Holdings, LLC; EarthLink Holdings Corp.
Windstream Eagle Services, LLC	Earthlink Services, LLC
Windstream EN-TEL, LLC	N/A
Windstream Finance Corp.	N/A
Windstream Florida, LLC	Windstream Florida, Inc.
Windstream Georgia Communications, LLC	N/A
Windstream Georgia Telephone, LLC	N/A
Windstream Georgia, LLC	N/A
Windstream Holding of the Midwest, Inc.	N/A
Windstream Iowa Communications, LLC	Windstream Iowa Communications, Inc.
Windstream Iowa-Comm, LLC	Windstream Iowa-Comm, Inc.
Windstream IT-Comm, LLC	N/A
Windstream KDL, LLC	N/A
Windstream KDL-VA, LLC	N/A
Windstream Kentucky East, LLC	N/A
Windstream Kentucky West, LLC	N/A
Windstream Kerrville Long Distance, LLC	N/A
Windstream Lakedale Link, Inc.	N/A

Current Entity Name	Former Names
Windstream Lakedale, Inc.	N/A
Windstream Leasing, LLC	N/A
Windstream Lexcom Communications, LLC	Windstream Lexcom Communications, Inc.
Windstream Lexcom Entertainment, LLC	N/A
Windstream Lexcom Long Distance, LLC	N/A
Windstream Lexcom Wireless, LLC	N/A
Windstream Mississippi, LLC	N/A
Windstream Missouri, LLC	Windstream Missouri, Inc.
Windstream Montezuma, LLC	Windstream Montezuma, Inc.
Windstream Nebraska, Inc.	N/A
Windstream Network Services of the Midwest, Inc.	N/A
Windstream New York, Inc.	N/A
Windstream Norlight, LLC	Windstream Norlight, Inc.
Windstream North Carolina, LLC	N/A
Windstream NorthStar, LLC	N/A
Windstream NTI, LLC	Windstream NTI, Inc.
Windstream NuVox Arkansas, LLC	Windstream NuVox Arkansas, Inc.
Windstream NuVox Illinois, LLC	Windstream NuVox Illinois, Inc.
Windstream NuVox Indiana, LLC	Windstream NuVox Indiana, Inc.
Windstream NuVox Kansas, LLC	Windstream NuVox Kansas, Inc.
Windstream NuVox Missouri, LLC	Windstream NuVox Missouri, Inc.
Windstream NuVox Ohio, LLC	Windstream NuVox Ohio, Inc.
Windstream NuVox Oklahoma, LLC	Windstream NuVox Oklahoma, Inc.
Windstream NuVox, LLC	Windstream Nuvox, Inc.
Windstream of the Midwest, Inc.	N/A

Current Entity Name	Former Names
Windstream Ohio, LLC	N/A
Windstream Oklahoma, LLC	N/A
Windstream Pennsylvania, LLC	N/A
Windstream Services, LLC	Windstream Corporation
Windstream SHAL Networks, Inc.	N/A
Windstream SHAL, LLC	N/A
Windstream Shared Services, LLC	Earthlink Shared Services, LLC
Windstream South Carolina, LLC	N/A
Windstream Southwest Long Distance, LLC	N/A
Windstream Standard, LLC	N/A
Windstream Sugar Land, LLC	N/A
Windstream Supply, LLC	N/A
Windstream Systems of the Midwest, Inc.	N/A
Windstream Western Reserve, LLC	N/A
XETA Technologies, Inc.	N/A