

**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)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered under
	)	Lead Case: Windstream Holdings, Inc.,
_____	)	Case No. 19-22312)
)	
WINDSTREAM KDL, LLC)	
)	
Plaintiff,	)	Adversary Proceeding
)	
v.	)	Case No. 21-07095 (RDD)
)	
CMN-RUS, INC.)	
)	
Defendant.)	
_____)	

**NOTICE OF MOTION TO COMPEL ARBITRATION AND DISMISS OR STAY THIS
 PROCEEDING OR TO ABSTAIN FROM EXERCISING JURISDICTION,
AND IN THE ALTERNATIVE TO DISMISS**

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, dated November 23, 2021, declaration of Aaron E. Zerykier on behalf of Defendant CMN-RUS, Inc. (“Defendant”) dated November 23, 2021 and the exhibits thereto, Defendant will move this Court, before the Honorable Judge Robert D. Drain, at The Honorable Charles L. Bricant Jr. Federal Building and Courthouse, 300 Quarropoas Street, White Plains, New York 10601, on a date and time to be determined by the Court, for an order compelling arbitration for all claims asserted in the Adversary Complaint and the Proofs of Claim, or in the alternative, stay this action pending arbitration, or in the alternative dismiss Plaintiff’s facially deficient and time barred claims, with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6), and for such other and further relief as this Court may deem just and proper.



192231221112300000000002

Dated: New York, New York
November 23, 2021

POLSINELLI PC



By: _____

Aaron Zerykier (4095832)
600 3rd Avenue, 42nd Floor
New York, New York 10016
Telephone: 646-289-6512
Facsimile: 212-684-0197
azerykier@polsinelli.com

-and-

Andrew J. Nazar (pro hac vice pending)
Benton Keatley (pro hac vice pending)
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Telephone: 816-395-0641
Facsimile: 816-753-1536
anazar@polsinelli.com
ebkeatley@polsinelli.com

Attorneys for Defendant CMN-RUS, Inc.

**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)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered under
	)	Lead Case: Windstream Holdings, Inc.,
_____	)	Case No. 19-22312)
)	
WINDSTREAM KDL, LLC)	
)	
Plaintiff,	)	Adversary Proceeding
)	
v.	)	Case No. 21-07095 (RDD)
)	
CMN-RUS, INC.)	
)	
Defendant.)	
_____)	

DECLARATION OF AARON E. ZERYKIER

AARON E. ZERYKIER, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Shareholder with the law firm of Polsinelli PC, attorneys for Defendant CMN-RUS, Inc.. (“Defendant”) in the above captioned matter. I am licensed to practice law in the State of New York and am a member of the bar of this Court. I am familiar with the facts and circumstances in this action.

2. I hereby submit this declaration, along with the exhibits annexed hereto, in support of Defendant’s Motion to Compel Arbitration and Dismiss or Stay this Proceeding or to Abstain from Exercising Jurisdiction, and in the Alternative to Dismiss filed on November 23, 2021, pursuant to Federal Rule of Civil Procedure 12(b)(6).

3. Annexed hereto as Exhibit 1 is a copy of the Collocation and Maintenance Agreement dated February 7, 2005, as amended by Amendment to Collocation and Maintenance

Agreement dated November 7, 2010, and as further amended by Amendment # 2 to Collocation and Maintenance Agreement dated June 2, 2012 (collectively, the “Collocation Agreement,” which is attached to Plaintiff’s complaint as Exhibit 1). *See* Adversary Complaint¹ ¶ 13(a); Proof of Claim # 5161 pages 26 to 38; Proof of Claim # 8713 attached thereto as Exhibit A.

4. Annexed hereto as Exhibit 2 is a copy of the Rack Space Swap Agreement dated January 1, 2008 (the “Rack Swap Agreement,” attached to Plaintiff’s Complaint as Exhibit 2). *See* Adversary Complaint ¶ 13(b); Proof of Claim # 5161 pages 39 to 46; Proof of Claim # 8713 attached thereto as Exhibit A.

5. Annexed hereto as Exhibit 3 is a copy of the Fiber Transport Services/Dark Fiber Rights Exchange Agreement dated August 15, 2010 (the “Dark Fiber Agreement,” attached as Exhibit 3 to Plaintiff’s Complaint). *See* Adversary Complaint ¶ 13(d); Proof of Claim # 8710 attached thereto as Exhibit A.

6. Annexed hereto as Exhibit 4 is a copy of the Pole Attachment Rights/Dark Fiber Rights Exchange Agreement, without the attached exhibits (with amendments, the “Duke Power Agreement”). *See* Adversary Complaint ¶ 13(c).

7. Annexed hereto as Exhibit 5 is a copy of Proof of Claim No. 5161 filed by Defendant against Plaintiff which is a pre-petition claim in the amount of \$432,439.00 regarding amounts unpaid under the Collocation Agreement and Rack Swap Agreement for power utilized or for rack space, (*see* Proof of Claim # 5161 pages 26 to 46); *see* Adversary Complaint ¶ 330.

8. Annexed hereto as Exhibit 6 is a copy of Proof of Claim No. 8710 filed by Defendant against Plaintiff which is a rejection claim in an unliquidated amount for the Plaintiff’s

¹ The “Adversary Complaint” or “Adv. Compl.” refers to Docket No. 1 in the above-captioned adversary proceeding. All other citations herein to docket entries are to numbers on the docket in Case No. 19-22397.

rejection of the Dark Fiber Agreement (see Proof of Claim # 8710 attached thereto as Exhibit A); *see* Adversary Complaint ¶ 30.

9. Annexed hereto as Exhibit 7 is a copy of Proof of Claim No. 8713 filed by Defendant against Plaintiff which is a post-petition claim in the amount of \$100,933.36 regarding the same facts and circumstances as Claim 5161, under the Collocation Agreement and Rack Swap Agreement, just for the post-petition period (*see* Proof of Claim # 8713 attached thereto as Exhibit A); *see* Adversary Complaint ¶ 30.

10. Annexed hereto as Exhibit 8 is a copy of the Plaintiff's Sixth Omnibus Objection to Amended Claims, Cross-Debtor Duplicate Claims, Equity Interest Claims, and No Liability Claims (the "Sixth Omnibus Objection") [Dkt. 2317] objecting to Claim # 5161, among others. *See* Adversary Complaint ¶ 31.

11. Annexed hereto as Exhibit 9 is a copy of the Defendant's Response to the Plaintiff's Sixth Omnibus Objection to Amended Claims, Cross-Debtor Duplicate Claims, Equity Interest Claims, and No Liability Claims [Dkt. 2379], objecting to the Sixth Omnibus Objection.² *See* Adversary Complaint ¶ 32.

12. Annexed hereto as Exhibit 10 is a copy of the Plaintiff's Twentieth Omnibus Objection to the No Liability Claims, Substantively Duplicative Claims, and Claims to Be Modified (the "Twentieth Omnibus Objection") [Docket No. 184], objecting to Claims 8710 and 8713 among others. *See* Adversary Complaint ¶ 33.

² Note that the title to the Defendant's Response incorrectly stated it was a response to the First Omnibus Motion, but the body of the Response correctly identifies it was a response to the Sixth Omnibus Objection.

13. Annexed hereto as Exhibit 11 is a copy of the Defendant's Response to Plaintiff's Twentieth Omnibus Objection [Docket No. 189], objecting to the Twentieth Omnibus Objection. See Adversary Complaint ¶ 34.

14. Annexed hereto as Exhibit 12 is a copy of the Plaintiffs Original Complaint in the above captioned Adversary proceeding (without exhibits).

15. Annexed hereto as a combined Exhibit 13 are copies of the December 16, 2010, Articles of Amendment filed with the Commonwealth of Kentucky as Document Number 0271651.09, changing the name of Kentucky Data Link, Inc. to Windstream KDL, Inc. Also attached, is a copy of the Articles of Organization of Windstream KDL, LLC filed with the Commonwealth of Kentucky as Document Number 0271651.06 converting Windstream KDL, Inc., into Windstream KDL, LLC effective as of January 1, 2015.

16. Annexed hereto as Exhibit 14 is a copy of the State of Indiana Office of the Secretary of State Certificate of Amendment of Cinergy Metronet, Inc., amending its name to CMN-RUS, Inc.

I declare under the pains and penalties of perjury that the foregoing is true and correct.
Executed in New York, New York on this 23rd day of November 2021.



By: _____
Aaron Zerykier (4095832)
600 3rd Avenue, 42nd Floor
New York, New York 10016
Telephone: 646-289-6512
Facsimile: 212-684-0197
azerykier@polsinelli.com

**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)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered under
	)	Lead Case: Windstream Holdings, Inc.,
_____	)	Case No. 19-22312)
)	
WINDSTREAM KDL, LLC)	
)	
Plaintiff,	)	Adversary Proceeding
)	
v.	)	Case No. 21-07095 (RDD)
)	
CMN-RUS, INC.)	
)	
Defendant.)	
_____)	

**OMNIBUS MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT CMN-RUS,
INC.'S MOTION TO COMPEL ARBITRATION AND DISMISS OR STAY THIS
PROCEEDING OR TO ABSTAIN FROM EXERCISING JURISDICTION, AND IN THE
ALTERNATIVE TO DISMISS**

TABLE OF CONTENTS

PRELIMINARY STATEMENT	1
STATEMENT OF FACTS	2
A. The Relevant Parties.....	2
1. Plaintiff – KDL Windstream, LLC	2
2. Defendant - CMN	2
B. The Contracts Between CMN and Plaintiff.....	3
C. The Claims Being Litigated	3
1. CMN’s Claims Against Plaintiff.....	3
2. Plaintiff’s Adversary Claims Against CMN.....	4
D. The Arbitration Provisions in Each of The Contracts	5
E. The Confirmed Bankruptcy Plan.....	6
ARGUMENT	7
POINT I - The Court Should Compel Arbitration of This Adversary Proceeding.....	7
1. This Court Should Compel Arbitration	7
2. All Elements of The Bankruptcy Court’s Four-Part Test for Compelling Arbitration Are Satisfied.....	9
(a) The Parties Agreed to Arbitrate.....	10
(b) The Disputes Fall Within the Arbitration Agreement.....	11
(c) This Contract Dispute Is Procedurally Core, And Enforcing Arbitration Would Not Jeopardize the Objectives of the Bankruptcy Code	14
3. The Court Should Abstain From Exercising Jurisdiction Over the Claims and the Adversary Complaint For Purposes of Arbitration.....	17

4. If the Court Determines That Some But Not All of the Claims are Arbitrable, the Court Should Stay the Balance of the Claims	21
--	----

POINT II - The Court Should Dismiss Plaintiff's Complaint In Part For Failure To State A Claim Upon Which Relief Can Be Granted.....	23
--	----

1. Plaintiff's Claim for Unjust Enrichment Fails Because It is Based Upon Issues That Are Governed By The Parties' Contracts (Count II)	24
---	----

2. The Court Should Dismiss Plaintiff's Claims for Declaratory Relief Because They Serve No Useful Purpose (Counts III and V)	25
---	----

3. Plaintiff's Breach of Contract And Unjust Enrichment Claims Are At Least Partially Barred By The Applicable Statutes Of Limitation (Counts I, II, and IV)	26
--	----

(a) New York Choice-of-Law Principles Require Application of Arkansas's Statutes of Limitation.....	27
---	----

(b) Under New York's Borrowing Statute, Plaintiff's Claims Accrued In Arkansas.....	27
---	----

(c) Indiana Law Does Not Apply to the Statute of Limitations Analysis	29
---	----

(d) Plaintiff's Claims Are Partially Time-Barred	30
--	----

CONCLUSION.....	31
-----------------	----

TABLE OF AUTHORITIES

	Page(s)
Cases	
<u>2138747 Ontario, Inc. v. Samsung C & T Corp.</u> , 103 N.E.3d 774 (N.Y. 2018).....	27, 28
<u>Am. Univ. of Antigua-College of Med. v. Leeward Constr. Co., Ltd.</u> , 653 F. App'x. 48 (2d Cir. 2016), 2015 WL 1958971 (S.D.N.Y. May 1, 2015)	13
<u>Ashcroft v. Iqbal</u> , 556 U.S. 662 (2009).....	23
<u>Banque de Paris et des Pays-Bas v. Amoco Oil Co.</u> , 573 F. Supp. 1464 (S.D.N.Y. 1983).....	11
<u>In re Bethlehem Steel Corp.</u> , 390 B.R. 784 (Bankr. S.D.N.Y. 2008).....	15
<u>Bianco v. Erkins (In re Gaston & Snow)</u> , 243 F.3d 599 (2d Cir. 2001).....	27
<u>Brownstone Inv. Group v. Levey</u> , 514 F. Supp. 2d 536 (S.D.N.Y. 2007).....	8
<u>C&C Int'l Trading Co. v. Buckhead Meat Co.</u> , 527 F. Supp. 3d 1016 (E.D. Ark. 2021).....	24
<u>Cardali v. Gentile (In re Cardali)</u> , 2010 WL 4791801 (Bankr. S.D.N.Y. Nov. 18, 2010)	9, 14, 17, 22
<u>In re Cardali</u> , 2010 WL 4781801	9
<u>Cibro Petroleum Prods. v. City of Albany (In re Winimo Realty Corp.)</u> , 270 B.R. 108 (S.D.N.Y. 2001).....	10, 16, 17
<u>In re CIT Group Inc.</u> , 2012 WL 831095 (Bankr. S.D.N.Y. March 9, 2012).....	16, 18, 20
<u>Collins & Aikman Prods. Co. v. Bldg. Sys., Inc.</u> , 58 F.3d 16(2d Cir. 2000).....	12, 13
<u>Com. Lubricants, LLC v. Safety-Kleen Sys., Inc.</u> , No. 14-CV-7483 (MKB), 2017 WL 3432073 (E.D.N.Y. Aug. 8, 2017).....	25

<u>CoMentis, Inc. v. Purdue Research Found.,</u> 765 F. Supp. 2d 1092 (N.D. Ind. 2011)	24
<u>Cont'l Casualty Co. v. Pfizer, Inc. (In re Quigley Co.),</u> 361 B.R. 723 (Bankr. S.D.N.Y. 2007)	13, 22
<u>Contact Chiropractic, P.C. v. New York City Transit Auth.,</u> 99 N.E.3d 867 (N.Y. 2018)	30
<u>Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.),</u> 226 F.3d 160 (2d Cir. 2000)	9
<u>Cummings v Unifund CCR Partners,</u> 4:14CV00540 JLH, 2015 WL 4638501 (E.D. Ark. Aug. 3, 2015)	29
<u>In re Durr Mechanical Constr., Inc.,</u> 2021 WL 2460976 (Bankr. S.D.N.Y. June 16, 2021)	9
<u>In re Elec. Mach. Enters., Inc.,</u> 479 F.3d 791 (11th Cir. 2007)	18
<u>Epic Sys. Corp. v. Lewis,</u> 138 S. Ct. 1612 (2018)	9
<u>First Options of Chicago, Inc. v. Kaplan,</u> 514 U.S. 938 (1995)	10
<u>Ghartey v. St. John's Queens Hosp.,</u> 869 F.2d 160 (2d Cir. 1989)	26
<u>Global Fin. Corp. v. Triarc Corp.,</u> 715 N.E.2d 482 (N.Y. 1999)	28
<u>Gordon & Co. v. Ross,</u> 63 F. Supp. 2d 405 (S.D.N.Y. 1999)	28
<u>H&H Env'tl. Sys., Inc. v. Evanston Ins. Co.,</u> 6:18-CV-06315 EAW, 2019 WL 1129434 (W.D.N.Y. Mar. 12, 2019)	25
<u>Handmaker v. CertusBank, N.A.,</u> 3:15-CV-129-TBR, 2015 WL 6043930 (W.D. Ky. Oct. 15, 2015)	24
<u>HBC Sols., Inc. v. Harris Corp.,</u> No. 13-CV-6327, 2014 WL 6982921 (S.D.N.Y. Dec. 10, 2014)	21
<u>Holliday v. Credit Suisse Sec. (USA) LLC,</u> 20 CIV. 5404 (GBD), 2021 WL 4150523 (S.D.N.Y. Sept. 13, 2021)	29

<u>Holliday v. K Road Power Management, LLC (In re Boston Generating, LLC),</u> 617 B.R. 442 (Bankr. S.D.N.Y. 2020).....	29
<u>In re Hostess Brands, Inc.,</u> 2013 WL 82914 (Bankr. S.D.N.Y. Jan. 7, 2013).....	15, 16
<u>Howsam v. Dean Witter Reynolds, Inc.,</u> 537 U.S. 79 (2002).....	10
<u>IDT Corp. v. Morgan Stanley Dean Witter & Co.,</u> 907 N.E.2d 268 (N.Y. 2009).....	24
<u>Julian v. Metro. Life Ins. Co.,</u> 17CV00957AJNBCM, 2021 WL 4237047 (S.D.N.Y. Sept. 1, 2021), <i>report</i> <i>and recommendation adopted sub nom.</i> , 2021 WL 4710775 (S.D.N.Y. Oct. 7, 2021)	26
<u>King Portfolio Recovery Assocs., LLC v. King,</u> 927 N.E.2d 1059 (N.Y. 2010).....	30
<u>Kittay v. Landegger (In re Hagerstown Fiber L.P.),</u> 277 B.R. 181 (Bankr. S.D.N.Y. 2008).....	<i>passim</i>
<u>In re Laitasalo,</u> 196 B.R. 913 (Bankr. S.D.N.Y. 1996).....	11
<u>In re Lehman Bros. Inc.,</u> 617 B.R. 231 (Bankr. S.D.N.Y. 2020).....	26
<u>In re Lehman Brothers Holdings, Inc.,</u> 2015 WL 5729645 (S.D.N.Y. Sept. 30, 2015).....	10
<u>Lia v. Saporito,</u> 909 F. Supp. 2d 149 (E.D.N.Y. 2012)	29
<u>Louis Dreyfus Negoce S.A. v. Blystad Shipping & Trading Inc.,</u> 252 F.3d 218 (2d Cir. 2001).....	13
<u>MBNA Am. Bank, N.A. v. Hill,</u> 436 F.3d (2d Cir. 2006).....	8, 9, 21
<u>McDonnell Douglas Fin. Corp. v. Penn. Power & Light Co.,</u> 858 F.2d 825 (2d Cir. 1988).....	12
<u>In re MF Glob. Holdings Ltd.,</u> 296 F. Supp. 3d 662 (S.D.N.Y. 2017).....	18

<u>In re MF Global Holdings Ltd.,</u> 571 B.R. 80 (Bankr. S.D.N.Y. 2017)	9
<u>Miller v. Javitch, Block & Rathbone, LLP,</u> 397 F. Supp. 2d 991 (N.D. Ind. 2005)	27, 30
<u>Mitsubishi Motors Corp. v. Soler Chrysler–Plymouth, Inc.,</u> 473 U.S. 614 (1985)	10
<u>Moore v. Interacciones Global, Inc.,</u> 1995 WL 33650 (S.D.N.Y. Jan. 27, 1995)	23
<u>Moses H. Cone Mem’l. Hosp. v. Mercury Constr. Corp.,</u> 460 U.S. 1 (1983)	8, 12, 18
<u>In re Motors Liquidation Co.,</u> 457 B.R. 276 (Bankr. S.D.N.Y. 2011)	19
<u>Murray v. UBS Sec., LLC,</u> 12 CIV. 5914 KPF, 2014 WL 285093 (S.D.N.Y. Jan. 27, 2014)	2
<u>O’Connor v. DL-DW Holdings, L.L.C. (In re Extended Stay, Inc.),</u> 09-13764-JLG, 2020 WL 10762310 (Bankr. S.D.N.Y. Aug. 8, 2020)	27
<u>Optanix, Inc. v. Alorica Inc.,</u> 1:20-CV-09660-GHW, 2021 WL 2810060 (S.D.N.Y. July 6, 2021)	23, 25, 26
<u>Pardo v. Akai Elec. Co. (In re Singer Co., N.V.),</u> 2001 WL 984678 (S.D.N.Y. Aug. 27, 2001)	16, 17, 23
<u>In re Portrait Corp. of Am.,</u> 406 B.R. 637 (Bankr. S.D.N.Y. 2009)	19
<u>Prima Paint Corp. v. Flood & Conklin Mfg. Co.,</u> 388 U.S. 395 (1967)	12
<u>In re Residential Capital, LLC,</u> 563 B.R. 756	<i>passim</i>
<u>In re Residential Capital, LLC,</u> 524 B.R. 563	28, 30
<u>In re Resorts Int’l, Inc.,</u> 372 F.3d 154 (3d Cir. 2004)	19
<u>Robb Evans & Assocs. LLC v. Sun Am. Life Ins.,</u> 10 CIV. 5999 GBD, 2012 WL 488257 (S.D.N.Y. Feb. 14, 2012)	28

<u>Servewell Plumbing, LLC v. Summit Contractors, Inc.,</u> 210 S.W.3d 101 (Ark. 2005).....	24
<u>Smither v. Asset Acceptance, LLC,</u> 919 N.E.2d 1153 (Ind. Ct. App. 2010).....	30
<u>Statek Corp. v. Dev. Specialists, Inc. (In re Coudert Bros. LLP),</u> 673 F.3d 180 (2d Cir .2012).....	28
<u>Stevenson v. Tyco Int’l (US) Inc.,</u> 2006 WL 2827635 (S.D.N.Y. 2006).....	8, 9
<u>In re TexStyle, LLC,</u> 2012 WL 1345646 (Bankr. S.D.N.Y. April 17, 2012).....	14
<u>Togut v. RBC Dain Correspondent Servs. (In re S.W. Bach & Co.),</u> 425 B.R. 78 (S.D.N.Y. 2010).....	11, 13, 17
<u>Town of New Ross v. Ferretti,</u> 815 N.E.2d 162 (Ind. Ct. App. 2004).....	24
<u>In re Try the World, Inc.,</u> 2021 WL 3502607 (Bankr. S.D.N.Y. Aug. 9, 2021)	13, 15, 17
<u>United States Lines, Inc. v. American S.S. Owners Mut. Protection & Indem. Ass’n (In re United States Lines, Inc.),</u> 197 F.3d 631 (2d Cir. 1999), cert. denied, 529 U.S. 1038 (2000)	14
<u>Wellness Int’l Network, Ltd. v. Sharif,</u> 135 S. Ct. 1932 (2015).....	1
<u>Willis v. Nationwide Mut. Ins. Co.,</u> 4:14–CV–04024, 2014 WL 4904100, (W.D. Ark. Sept. 30, 2014)	29
<u>Woori Bank v. Merrill Lynch,</u> 923 F. Supp. 2d 491 (S.D.N.Y.), <u>aff’d</u> , 542 F. App’x 81 (2d Cir. 2013).....	28
Statutes	
9 U.S.C. § 1.....	8
18 U.S.C. § 157(A), (B) and (C).....	15
28 U.S.C. § 157.....	15, 19
28 U.S.C. § 1334.....	19
Ark. Code. Ann. § 16-56-105	29

Ark. Code Ann. § 16-56-111	29
Bankruptcy Code Chapter 11	6
Federal Arbitration Act	1, 8, 9, 15, 21
Fed. R. Bankr. P. 7008 and 7012(b)	1
Fed. R. Bankr. P. 7012	1, 23
Federal Rules of Civil Procedure, Rule 12	23, 26
N.Y. C.P.L.R. § 202	27
N.Y. C.P.L.R. § 213	29
N.Y. C.P.L.R. § 214(3)	29

Defendant CMS-RUS, Inc. (“CMN”) respectfully submits this memorandum of law in support of its motion to compel arbitration (and with respect to any claims not to be arbitrated to stay such claims), or alternatively to dismiss certain claims asserted by Plaintiff Windstream KDL, LLC (“Plaintiff” or “Debtor”).¹

PRELIMINARY STATEMENT

This adversary proceeding arises from basic breach of contract claims. Plaintiff claims it is owed money from CMN, predicated on four separate contracts between the parties. CMN claims that not only does it not owe Plaintiff any money but that it is Plaintiff who is indebted to CMN.

For purposes of this motion the operative facts demonstrate that: (i) the parties agreed in each of the contract to arbitrate any disputes; (ii) certain of Plaintiff’s claims are time barred under the applicable statutes of limitations; (iii) Plaintiff’s quasi-contractual claims fail as a matter of law because Plaintiff pleads that there is an operative contract between the parties; and (iv) Plaintiff’s declaratory judgment action improperly seeks a declaration as to the parties rights regarding the same contract, which is the basis for their breach of contract claim.

However, this Court need not reach the latter issues because it should grant the motion to dismiss this litigation in favor of arbitration. This strong federal public policy was established by Congress in the Federal Arbitration Act (“FAA”), and courts, including bankruptcy courts, liberally favor such agreements. The parties agreed to arbitrate, the claims between them clearly fall within the broad arbitration provisions in their contracts, and the claims between the parties

¹ CMN-RUS, Inc. does not consent to the entry of final orders or judgment by the bankruptcy court. *See Wellness Int’l Network, Ltd. v. Sharif*, 135 S. Ct. 1932, 1948 (2015) (parties may only consent to a bankruptcy court’s constitutional jurisdiction knowingly and voluntarily); *see also* Fed. R. Bankr. P. 7008 and 7012(b).

are either non-core or are only procedurally core. There is no reason for the Court to retain jurisdiction.

If the Court denies such relief, CMN moves, in the alternative, to dismiss Plaintiff's untimely and procedurally defective claims.² The applicable statutes of limitation clearly bar Plaintiff's decades-old claims (in part), Plaintiff cannot bring quasi-contractual claims having pleaded that the parties have operative contracts applicable to their disputes, and Plaintiff's declaratory judgment claims likewise fail as a matter of law.

STATEMENT OF FACTS

A. The Relevant Parties

1. Plaintiff – KDL Windstream, LLC

Plaintiff is a limited liability company organized under the laws of the Commonwealth of Kentucky with its headquarters in the State of Arkansas. *See* Adversary Complaint ¶ 6.³ Windstream KDL is the successor in interest to Kentucky Data Link, Inc., a Kentucky corporation. *See* State of Kentucky Articles of Merger of Foreign and Domestic Liability Company attached to the Declaration of Aaron Zerykier, dated November 23, 2021 (the "Zerykier Decl.") as Exhibit 13.

2. Defendant - CMN

CMN is an Indiana corporation with its principal place of business in Indiana. *See* Adversary Complaint ¶ 7. CMN is the current name of Cinergy MetroNet, Inc., an Indiana corporation. *See* Zerykier Decl., Exhibit 14, Certificate of Amendment of Cinergy Metronet, Inc.

² CMN contemporaneously moves to dismiss Plaintiff's claims to avoid any potential waiver of its rights, although CMN does not concede that there could be such a waiver. *See, e.g., Murray v. UBS Sec., LLC*, 12 CIV. 5914 KPF, 2014 WL 285093, at *6 (S.D.N.Y. Jan. 27, 2014) (collecting cases for proposition that litigating a motion to dismiss does not waive right to arbitrate).

³ The "Adversary Complaint" or "Adv. Compl." refers to Docket No. 1 in the above-captioned adversary proceeding. All other citations herein to docket entries are to numbers on the docket in Case No. 19-22397.

B. The Contracts Between CMN and Plaintiff

CMN and Plaintiff are in the same industry – providing voice and data network communications, and managed services, to businesses in the United States. Throughout the tenure of their relationship, the parties have executed multiple agreements related to the provision of computer server “rack” space, power for those servers, and other shared network infrastructure. Relevant here are the following agreements:

- the Collocation and Maintenance Agreement dated February 7, 2005, as amended the Amendment to Collocation and Maintenance Agreement dated November 7, 2010, and as further amended by Amendment # 2 to Collocation and Maintenance Agreement dated June 2, 2012 (collectively, the “Collocation Agreement,” attached to Plaintiff’s Complaint as Exhibit 1). *See* Adversary Complaint ¶ 13(a). *See* also Zerykier Decl., Exhibit 1, Proof of Claim # 5161 pages 26 to 46; Proof of Claim # 8713.
- the Rack Space Swap Agreement dated January 1, 2008 (the “Rack Swap Agreement,”⁴ attached to Plaintiff’s Complaint as Exhibit 2). *See* Adversary Complaint ¶ 13(b).). *See* also Zerykier Decl., Exhibit 2, Proof of Claim # 5161 pages 39 to 46; Proof of Claim # 8713.
- the Fiber Transport Services/Dark Fiber Rights Exchange Agreement dated August 15, 2010 (the “Dark Fiber Agreement,” attached as Exhibit 3 to Plaintiff’s Complaint). *See* Adversary Complaint ¶ 13(d). *See* also Zerykier Decl., Exhibit 3, Proof of Claim # 8710 attached thereto as Exhibit A.
- the Pole Attachment Rights/Dark Fiber Rights Exchange Agreement (Zerykier Decl., Exhibit 4, the “Duke Power Agreement”). *See* Adversary Complaint ¶ 13(c).

(CMN collectively refers herein to the Collocation Agreement, Rack Swap Agreement, Dark Fiber Agreement, and Duke Power Agreement as the “Contracts”).

C. The Claims Being Litigated

1. CMN’s Claims Against Plaintiff

CMN filed three claims (the “Claims”) against the Plaintiff:

⁴ Plaintiff’s Complaint refers to this as both the Rack Swap Agreement and the Rack Space Agreement in different instances in the Adversary Complaint, but it is the same agreement.

- Claim No. 5161 – a pre-petition claim in the amount of \$432,439.00 regarding amounts unpaid under the Collocation Agreement and Rack Swap Agreement for power utilized or for rack space, (*see* Zerykier Decl., Exhibit 5, Proof of Claim # 5161 pages 26 to 46); *see* also Adversary Complaint ¶ 33;
- Claim No. 8710 - a rejection claim in an unliquidated amount for the Plaintiff's rejection of the Dark Fiber Agreement (*see* Zerykier Decl., Exhibit 6, Proof of Claim # 8710 attached thereto as Exhibit A); *see* also Adversary Complaint ¶ 33.; and
- Claim No. 8713 - a post-petition claim in the amount of \$100,933.36 regarding the same facts and circumstances as Claim 5161, under the Collocation Agreement and Rack Swap Agreement, just for the post-petition period (*see* Zerykier Decl., Exhibit 7, Proof of Claim # 8713 attached thereto as Exhibit A); *see* Adversary Complaint ¶ 33.

Collectively, the above proofs of claim are referred to herein as the “Claims.”

On July 17, 2020, the Plaintiff objected to Claim 5161 in the *Sixth Omnibus Objection to Amended Claims, Cross-Debtor Duplicate Claims, Equity Interest Claims, and No Liability Claims* (the “Sixth Omnibus Objection”) [Dkt. 2317]. *See* Zerykier Decl., Exhibit 8. On August 7, 2020, CMN filed its response to the Sixth Omnibus Objection [Dkt. 2379], objecting to the Sixth Omnibus Objection. *See* Zerykier Decl., Exhibit 9.

On August 31, 2021, the Plaintiff objected to CMN's remaining claims in its *Twentieth Omnibus Objection to the No Liability Claims, Substantively Duplicative Claims, and Claims to Be Modified* (the “Twentieth Omnibus Objection”) [Docket No. 184]. *See* Zerykier Decl., Exhibit 10. On September 22, 2021, CMN filed its response to the Twentieth Omnibus Objection [Docket No. 189], objecting to the Twentieth Omnibus Objection. *See* Zerykier Decl., Exhibit 11.

2. Plaintiff's Adversary Claims Against CMN

On October 22, 2021, Plaintiff filed this adversary proceeding containing the following causes of action against CMN:

- Count I – Breach of contract under the Collocation Agreement and Rack Swap Agreement

- Count II – Unjust Enrichment, based on the parties’ actions under and relating to the Collocation Agreement and Rack Swap Agreement, including services and payments thereunder
- Count III – Declaratory Judgment under the Collocation and Rack Space Swap Agreement
- Count IV – Breach of contract Rack Swap Agreement
- Count V – Declaratory Judgment for the Rack Swap Agreement
- Count VI – Breach of contract for the Duke Power Agreement

See Zerykier Decl., Exhibit 12.

All of the Claims and all Counts in the Adversary Complaint arise out of or relate to the four Contracts. There are no other claims or causes of action that do not.

D. The Arbitration Provisions in Each of The Contracts

Each of the Contracts contains the same broad, mandatory arbitration provision:

Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts to work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. **Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort (“Dispute”), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved (“Demand”).**

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time. and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be

before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on all Parties.

. . .

(emphasis added). Collocation Agreement ¶ 18; Rack Swap Agreement ¶ 14; Dark Fiber Agreement ¶ 25; Duke Power Agreement ¶ 25.

Each of the Contracts is governed by Indiana law as each provides that it “shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.”⁵ Accordingly, CMN maintains that the arbitration provisions and the Contracts themselves are governed by Indiana law, and reserves all of its rights in that respect.

E. The Confirmed Bankruptcy Plan

On June 26, 2020, this Court confirmed the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc. et al, Pursuant to Chapter 11 of the Bankruptcy Code (the “Plan”) [Dkt. 2201]. The Effective Date under the Plan occurred on September 21, 2020. [Dkt. 2527].

⁵ Collocation Agreement ¶ 20; Rack Swap Agreement ¶ 14; Dark Fiber Agreement ¶ 25; Duke Power Agreement ¶ 26.

ARGUMENT

As a threshold issue, this Court should dismiss the action, and compel Plaintiff to arbitrate its claims against CMN and CMN's Claims against Plaintiff. Should the Court disagree and deny arbitration of any claims, those claims should be dismissed for failure to state a claim or stayed.

POINT I

The Court Should Compel Arbitration of This Adversary Proceeding

The parties agreed that all disputes arising under the Contracts would be decided by arbitration. Federal policy strongly favors the enforcement of arbitration agreements, and numerous courts have compelled arbitration under similar facts as such matters are routed in pre-petition contracts and state law claims and are thus only procedurally core. In determining whether to compel arbitration, bankruptcy courts employ a four-part test. As demonstrated below, CMN satisfies each of those elements necessary for compelling arbitration.

1. This Court Should Compel Arbitration

The Contracts contain identical, broadly-phrased arbitration clauses that encompass all of Plaintiff's claims here. Moreover, arbitration of the Claims and the causes of action in the Adversary Complaint will not jeopardize core bankruptcy functions, because (i) the Plan has been confirmed, has gone effective and resolution of the claim issues will not alter or delay payout to any other creditors or parties in interest; (ii) the Claims and the causes of action in the Adversary Complaint are a two-party dispute; and (iii) interpretation and enforcement of the terms of the Contracts and any damages are purely state law contract issues, which are not issues the bankruptcy court is uniquely qualified to adjudicate.

Numerous courts in this District have held that litigating proofs of claim and debtor counter-claims is only procedurally core, and only in the rarest circumstances would justify denial of arbitration. Those rare circumstances are not present where, as here, the dispute is between two

parties to a contract and would not alter the rights of any other creditors or parties in interest to the bankruptcy.

The Contracts containing the arbitration clauses all fall within and deal with ‘commerce’ within the meaning of the FAA, and thus require arbitration. “[C]ommerce’, as herein defined, means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation” 9 U.S.C. § 1. CMN is an Indiana corporation with its principal place of business in Indiana, and Windstream KDL is a Kentucky limited liability company with its headquarters in Arkansas; the Contracts thus “involv[e] commerce” as that term is defined in Section 1 of the FAA, such that each Contract’s agreement to arbitrate is enforceable under Section 2 of the FAA. 9 U.S.C. § 2.

It is well-settled that the FAA establishes a “liberal” and “strong” federal policy in favor of enforcing arbitration agreements. *See In re Residential Capital, LLC*, 563 B.R. 756, 766 (S.D.N.Y. Bankr. 2016) (“ResCap”); *MBNA Am. Bank, N.A. v. Hill*, 436 F.3d at 107 (2d Cir. 2006) (citing *Moses H. Cone Mem’l. Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 24 (1983)); *Brownstone Inv. Group v. Levey*, 514 F. Supp. 2d 536, 549 (S.D.N.Y. 2007) (“Through the [FAA], Congress has declared a strong federal policy favoring arbitration as a means of dispute resolution.”); *Stevenson v. Tyco Int.’l (U.S.) Inc.*, 2006 WL 2827635 at *5 (S.D.N.Y. Sept. 29, 2006) (“There is a strong federal policy favoring arbitration.”); *Kittay v. Landegger (In re Hagerstown Fiber L.P.)*, 277 B.R. 181, 197 (Bankr. S.D.N.Y. 2008) (same).

Under the FAA, written agreements to arbitrate “shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.”

Hill, 436 F.3d at 107-08 (quoting 9 U.S.C. § 2). As such, the Supreme Court mandates that district courts shall compel arbitration under the FAA—even if arbitration would create separate proceedings in different forums. *See Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612, 1621, (2018) (“The FAA requires courts to rigorously enforce arbitration agreements according to their terms.”); *In re Durr Mechanical Constr., Inc.*, 2021 WL 2460976, at *7 (Bankr. S.D.N.Y. June 16, 2021); *Cardali v. Gentile (In re Cardali)*, 2010 WL 4791801 at *4 (Bankr. S.D.N.Y. Nov. 18, 2010) (citing *Stevenson v. Tyco Int’l (US) Inc.*, 2006 WL 2827635, at *5 (S.D.N.Y. 2006)).

The strong federal policy in favor of arbitration agreements generally trumps a bankruptcy court’s interest in adjudicating non-core proceedings that fall within the scope of an arbitration agreement. *See ResCap*, 563 at 767 (citing *Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.)*, 226 F.3d 160, 166 (2d Cir. 2000)); *Durr Mechanical*, 2021 WL 2460976 at *7. The FAA represents a “congressional declaration of a liberal federal policy favoring arbitration agreements,” and “any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration.” *In re MF Global Holdings Ltd.*, 571 B.R. 80, 89 (Bankr. S.D.N.Y. 2017).

2. All Elements of The Bankruptcy Court’s Four-Part Test for Compelling Arbitration Are Satisfied

Bankruptcy courts apply a four-part test to determine whether they have the discretion to refuse arbitration:

(1) did the parties agree to arbitrate; (2) does the dispute fall within the arbitration clause; (3) if federal statutory claims are raised, did Congress intend those claims to be arbitrable; and (4) if the court concludes that some but not all of the claims are arbitrable, should it stay the non-arbitrable claims pending the conclusion of the arbitration?

ResCap, 563 B.R. at 767 (quoting *In re Cardali*, 2010 WL 4781801 at *5) (additional citations omitted). As demonstrated below, applying this four-part test, this Court must compel arbitration.

Several courts in this district have formulated the test as a two-prong inquiry: (i) if the proceeding at issue is non-core, the bankruptcy court does not generally have discretion to refuse to compel arbitration; (ii) if the proceeding is core, the bankruptcy court does have discretion if the underlying purpose of the Bankruptcy Code would be effected. *See ResCap*, 563 B.R. at 768 n. 12 (citing Cibro Petroleum Prods. v. City of Albany (In re Winimo Realty Corp.), 270 B.R. 108, 118 (S.D.N.Y. 2001)); In re Lehman Brothers Holdings, Inc., 2015 WL 5729645, at *5 (S.D.N.Y. Sept. 30, 2015).

Judge Glenn in *ResCap* characterized the two-prong test and the four-factor test as “essentially the same.” *ResCap*, 563 B.R. at 768 n. 12. Under the two-prong test, if the proceeding is core, courts must still examine if the proceedings is merely procedurally core, like a claim objection and counterclaim, in which case it would rarely conflict with any policy of the Bankruptcy Code unless the resolution of the dispute fundamentally and directly affects a core bankruptcy function. *See Hagerstown*, 277 B.R. at 203. Regardless of whether it applies the four-factor or the two-prong test, the Court should reach the same result and determine that Plaintiff’s claims here must be arbitrated.

(a) The Parties Agreed to Arbitrate

The threshold question is whether there was an agreement to arbitrate the claims asserted by the Plaintiff in the Complaint. *See, e.g., Mitsubishi Motors Corp. v. Soler Chrysler–Plymouth, Inc.*, 473 U.S. 614, 626, (1985). The Court may determine as a matter of law that the parties agreed to arbitrate. *See, ResCap*, 563 B.R. at 768. To determine whether the parties agreed to arbitrate, courts apply state law contract principles. *Id.* (citing Howsam v. Dean Witter Reynolds, Inc., 537 U.S. 79, 83 (2002)); First Options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 944 (1995) (same).

Here, the parties agreed to arbitrate. The Contracts each contain the same broadly phrased agreement to arbitrate disputes between the parties, stating in relevant part:

Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort (“Dispute”), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved (“Demand”). After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana.⁶

Moreover, Plaintiff is bound by its agreement to arbitrate, as the pre-petition successor by merger to the original entity, because an agreement to arbitrate is enforceable as against a successor to or assignee of a contract. *See ResCap*, 563 B.R. at 768 (as assignees, the plaintiffs “are bound by the remedial provisions bargained for between the original parties to the contract”) (quoting Banque de Paris et des Pays-Bas v. Amoco Oil Co., 573 F. Supp. 1464, 1469 (S.D.N.Y. 1983)); In re Laitasalo, 196 B.R. 913, 917-18 (Bankr. S.D.N.Y. 1996) (adopting in bankruptcy court the principles for binding non-signatories to arbitration clauses enunciated by the Second Circuit).

Based on the terms of the Contracts and well-established law, Plaintiff agreed to arbitrate all disputes that in any way relate to or arise out of the Contracts, and assignees of those Contracts are likewise bound by the parties’ agreements to arbitrate therein.

(b) The Disputes Fall Within the Arbitration Agreement

It is well-settled that in “determining whether the arbitration clause covers the dispute at issue, courts look to the language in the arbitration clause to determine whether it is ‘narrow’ or ‘broad’ in light of the allegations of the complaint.” *ResCap*, 563 B.R. at 769; accord Togut v. RBC Dain Correspondent Servs. (In re S.W. Bach & Co.), 425 B.R. 78, 88 (S.D.N.Y. 2010);

⁶ See Collocation Agreement ¶ 18; Rack Swap Agreement ¶ 14; Dark Fiber Agreement ¶ 25; Duke Power Agreement ¶ 25.

Hagerstown, 277 B.R. at 198. Any doubts as to whether the claims fall within the scope of the arbitration agreement should be “resolved in favor of arbitrability.” ResCap, 563 B.R. at 769; *see also* Moses H. Cone Mem’l. Hosp., 460 U.S. at 24-25.

Arbitration provisions requiring that “any and all disputes arising under or relating to” an agreement, are routinely found to be broad and all encompassing. *See, e.g., ResCap*, 563 B.R. at 769 (provision mandating arbitration of “any dispute, controversy or claim arising out of or relating to” the insurance policies found “exceedingly broad” and to encompass claims for declaratory relief and breach of contract); McDonnell Douglas Fin. Corp. v. Penn. Power & Light Co., 858 F.2d 825, 832 (2d Cir. 1988) (“‘broad’ [arbitration] clauses [are those that] refer all disputes arising out of a contract to arbitration”); Prima Paint Corp. v. Flood & Conklin Mfg. Co., 388 U.S. 395, 398 (1967) (characterizing as “broad” a clause that required arbitration of “[a]ny controversy or claim arising out of or relating to this Agreement”) (emphasis added). The arbitration clauses in the Contracts requires arbitrating “[a]ny claim or controversy related to or arising out of this Agreement,” and is therefore “broad.” Accordingly, arbitration is required where, as here, the allegations in the complaint “touch matters covered by the parties’ . . . agreements.” *See Collins & Aikman Prods. Co. v. Bldg. Sys., Inc.*, 58 F.3d 16, 20-21(2d Cir. 2000) (internal quotations and citations omitted).

The claims and causes of action in the Adversary Complaint not only touch, but fall well within the Parties’ broadly phrased agreement to arbitrate, as each claim arises from and/or relates to one of the Contracts. All but one of Plaintiff’s claims expressly invokes a Contract, either by claiming breach of a Contract or by requesting a declaration of the parties’ rights and obligations under one of the Contracts. These claims plainly arise from or relate to the Contracts. *See In re Hagerstown*, 277 B.R. at 205 (parties breach of contract for rights and remedies thereunder ‘arise

under’ the agreement and were subject to arbitration); Cont’l Casualty Co. v. Pfizer, Inc. (In re Quigley Co.), 361 B.R. 723, 741 (Bankr. S.D.N.Y. 2007) (noting arbitrability the declaratory judgment claim would be presumed because it “implicates issues of contract construction or the parties’ rights and obligations under it”) (quoting Louis Dreyfus Negoce S.A. v. Blystad Shipping & Trading Inc., 252 F.3d 218, 224 (2d Cir. 2001)).

Plaintiff’s remaining claim, for “unjust enrichment,” seeks to recoup payments made pursuant to the Contracts for performance that is governed by the Contracts and thus also arises from and/or relates to the Contracts. “[U]nder broad arbitration clauses, claims of unjust enrichment predicated on parties’ obligations under a contract are presumptively arbitrable.” Am. Univ. of Antigua Coll. of Med. v. Leeward Cost. Co., Ltd., 2015 WL 1958971, at *5 (S.D.N.Y. May 1, 2015), *aff’d sub. nom.* Am. Univ. of Antigua–College of Med. v. Leeward Constr. Co., Ltd., 653 F. App’x. 48 (2d Cir. 2016) (collecting cases).

A clause . . . that “submit[s] to arbitration ‘any claim or controversy arising out of or relating to the agreement’ is the paradigm of a broad clause,” and AUA’s claim—that Leeward **improperly invoiced and collected money it was not legally owed**—is clearly predicated on Leeward’s obligations under the contract. The unjust enrichment claim was properly subject to arbitration.

Id. (quoting Collins & Aikman Prods. Co., 58 F.3d at 20) (emphasis added). Further, bankruptcy courts have held that unjust enrichment claims were subject to arbitration clauses when they were non-core or only procedurally core. In In re S.W. Bach & Co., the court found an unjust enrichment claim was non-core as it was derivative of the debtor’s pre-petition rights and could have been pursued outside of bankruptcy, and was thus subject to arbitration. *See* 425 B.R. 97-98. “Courts generally find that state law claims for unjust enrichment that arise pre-petition . . . are non-core,” and are subject to arbitration regardless where (as here) the claim “involve[s] disputes arising from the parties’ pre-petition contractual relationship.” In re Try the World, Inc.,

2021 WL 3502607, at *13 (Bankr. S.D.N.Y. Aug. 9, 2021) (noting such claims could be core “solely for procedural reasons”).

**(c) This Contract Dispute Is Procedurally Core,
And Enforcing Arbitration Would Not
Jeopardize the Objectives of the Bankruptcy Code**

To determine whether to compel arbitration, bankruptcy courts weigh federal policy in favor of arbitration against federal interests established in the Bankruptcy Code. *See In re Cardali*, 2010 WL 4791801 at *7. Courts routinely hold that arbitration agreements are enforceable in a bankruptcy case “unless [doing so] would seriously jeopardize the objectives of the [Bankruptcy] Code.” United States Lines, Inc. v. American S.S. Owners Mut. Protection & Indem. Ass’n (In re United States Lines, Inc.), 197 F.3d 631, 640 (2d Cir. 1999), cert. denied, 529 U.S. 1038 (2000).

Plaintiffs bear the burden of demonstrating that arbitration of the claims in dispute would present a conflict with the Bankruptcy Code. *See, e.g., In re TexStyle, LLC*, 2012 WL 1345646, at *9 (Bankr. S.D.N.Y. April 17, 2012) (granting motion to compel arbitration and finding party objecting to arbitration failed to meet its burden of showing that the arbitration will seriously jeopardize the objectives of the Bankruptcy Code, because the bankruptcy plan had been confirmed and the arbitration would not interfere with the administration of the case).

To determine whether claims arising under a contract are “core,” courts consider whether “(1) the contract is antecedent to the reorganization petition; and (2) the degree to which the proceeding is independent of the reorganization of the proceeding.” ResCap, 563 B.R. at 770 (relying on district court finding that insurance claims are non-core to bankruptcy proceeding because they were entered pre-petition, and stating that participation in the bankruptcy process is not enough to render the matter core).

Plaintiff alleges this Court has “core jurisdiction over this dispute” under 18 U.S.C. § 157(A), (B) and (C). *See* Adversary Complaint ¶ 10. Although claims allowance and counter-claims filed by debtors are listed as ‘core’ matters under 28 U.S.C. §157(b)(2)(B) and (C), that is not the end of the inquiry. *See In re Try the World Inc.*, 2021 WL 3502607, at * 10 (“Core claims are not automatically excepted from the reach of otherwise enforceable arbitration clauses.”)

“The second step asks whether the underlying dispute concerns rights created under the Bankruptcy Code or non-Bankruptcy Code issues derivative of the debtor’s pre-petition business activities. In the former situation, the bankruptcy court has discretion to refuse arbitration, **but in the latter it does not.**” *See Hagerstown*, 277 B.R. at 203 (emphasis added); As this Court has stated, to have discretion to refuse to compel arbitration: “The type of matter must be unique to or uniquely affected by bankruptcy proceedings, and the proceedings are a core bankruptcy function that invokes substantial substantive rights that are created by the Code and in severe conflict with arbitration under the Federal Arbitration Act.” *In re Hostess Brands, Inc.*, 2013 WL 82914, *4 (Bankr. S.D.N.Y. Jan. 7, 2013); accord *In re Bethlehem Steel Corp.*, 390 B.R. 784, 794 (Bankr. S.D.N.Y. 2008) (same). Determining whether a sufficiently severe conflict exists between the Bankruptcy Code and the Federal Arbitration Act to deny arbitration “requires a particularized inquiry into the nature of the claim and the facts of the specific bankruptcy.” 390 B.R. at 794. Bankruptcy Courts have characterized those proceeding which involve substantial rights created under the Bankruptcy Code and are uniquely affected by the bankruptcy proceedings as “substantively core” and those that do not deal with rights created under the Bankruptcy Code but are listed as core, as “procedurally core.”

As this Court has stated, the mere fact that a proceeding may be procedurally core, does not mean it is substantially core. *See In re Hostess Brands, Inc.*, 2013 WL 82914, at *3.

If the matter is core, the bankruptcy court must still examine the nature and reason for its “coreness.” Many proceedings are procedurally core; they are garden variety pre-petition contract disputes dubbed core because of how the dispute arises or gets resolved. **Objections to proofs of claim and counterclaims asserted by the estate, the types of core proceedings involved in Singer and Winimo, exemplify this type of matter.** The arbitration of a procedurally core dispute rarely conflicts with any policy of the Bankruptcy Code unless the resolution of the dispute fundamentally and directly affects a core bankruptcy function.

Hagerstown, 277 B.R. at 203 (emphasis added).

Two-party disputes on issues of pre-petition contract plainly do not invoke rights unique to the Bankruptcy Code, particularly where, as here, such disputes would not alter the rights of other parties to the bankruptcy. Nor is the dispute here uniquely affected by the bankruptcy proceedings. The Plan was confirmed and is effective, and the claims alleged in the Complaint do not require consideration of any issues unique to bankruptcy law. This is precisely the type of lawsuit that does not directly and fundamentally affect a core bankruptcy function. *See In re CIT Group Inc.*, 2012 WL 831095, at *3 (Bankr. S.D.N.Y. March 9, 2012) (arbitration of rejection claim would not necessarily jeopardize the goals of Bankruptcy Code, as plan was already effective and arbitration would not involve bankruptcy issues). The allowance or disallowance of CMN’s Claims, and the causes of action in the Adversary Complaint, do not impact payment to other creditors, but are limited to amounts owed and the performance between the parties to this lawsuit. Procedurally for analysis purposes, these are the ‘garden variety’ contract disputes between two parties that bankruptcy courts routinely compel arbitration for. This is not a multi-party proceeding or one that could have a broad effect on parties to the bankruptcy. Compare *In re Hostess Brands, Inc.*, 2013 WL 82914, at *4. Thus, resolution of these issues will not have a significant impact on the broader administration of the bankruptcy estate.

Numerous courts in this district, including this one, have stated that contract disputes are only procedurally core, as they are derivative of the pre-petition debtor’s rights. *See In re Hostess*

Brands, Inc., 2013 WL 82914, at *5 (comparing the use of cash collateral as substantively core, which would not be subject to arbitration, to “a true contract dispute, which certainly would be subject to arbitration”); Pardo v. Akai Elec. Co. (In re Singer Co., N.V.), 2001 WL 984678, at *6 (S.D.N.Y. Aug. 27, 2001) (reversing denial of arbitration because the issues were rooted in the parties’ pre-petition contractual relationship and, standing alone, did not present an inherent conflict with the Bankruptcy Code); In re Winimo Realty Corp. 270 B.R. at 124-25 (holding that filing of claims by creditor did not give court discretion to deny arbitration of pre-petition contractual claims); In re Try the World, Inc., 2021 WL 3502607, at *10 (“Objections to proofs of claim and counterclaims asserted by the estate are representative of procedurally core claims.”).

The fact that CMN filed proofs of claim in the bankruptcy does not change this analysis. *See In re Cardali* at 9 (“Issues involving the filing and validity of a proof of claim are often denominated as ‘procedurally core.’ As discussed above, procedurally core claims may still be subject to mandatory arbitration.”) (citation omitted); In re Singer, 2001 WL 984678, at *6 n.11 (filing proof of claim did not affect whether the underlying dispute was procedurally or substantively core); In re S.W. Bach & Co., 425 B.R. at 90 (noting that proofs of claim and trustee counterclaims “are often denominated as ‘procedurally core,” and “may still be subject to mandatory arbitration”).

Thus, it is clear that the parties’ procedurally core Contract claims must be arbitrated; they are not substantively core and do not severely impact the rights under the Bankruptcy Code.

3. The Court Should Abstain From Exercising Jurisdiction Over the Claims and the Adversary Complaint For Purposes of Arbitration

Plaintiff will likely assert that the confirmed plan reserves exclusive jurisdiction to this Court for claim objections and counterclaims. *See Plan*, Article XI, §§ 1, 3, and 6 (Dkt. 2243-1). However, the Confirmation Order in this case expressly clarifies that the Court’s jurisdiction is

“non-exclusive . . . to the fullest extent legally permissible” “[t]o the extent it is not legally permissible for the Court to have exclusive jurisdiction over any of the foregoing matters.” *See Confirmation Order*, § 135 (Dkt. 2243). To the extent there is a discrepancy between the Plan and the Confirmation Order, the Confirmation Order governs. *See Confirmation Order*, Section 120. (Docket # 2243). Thus, the grant of exclusive jurisdiction is limited by the Confirmation Order.

In similar contexts, bankruptcy courts have held that arbitrable disputes fall outside the scope of exclusive jurisdiction provisions. *See CIT Group, Inc.*, 2012 WL 831095, at *2 (“The short resolution of this apparent conflict is that the reservation of exclusive jurisdiction in this Court, ‘to the fullest extent permitted by law,’ should not be construed in a manner that is fundamentally at odds not only with another provision of the Plan but also with the strong ‘federal policy favoring arbitration agreements.’”) (quoting *Moses H. Cone Mem’l Hosp.*, 460 U.S. at 24); *In re MF Glob. Holdings Ltd.*, 296 F. Supp. 3d 662, 664 (S.D.N.Y. 2017) (denying motion for leave to appeal order compelling arbitration in which bankruptcy court had explained “if the Debtors in this case wanted to attempt to modify pre-petition contract rights to arbitrate disputes that had not resulted in a pre-confirmation adversary proceeding, at a minimum they should have said so explicitly.”); *In re Elec. Mach. Enters., Inc.*, 479 F.3d 791, 796 (11th Cir. 2007) (“[W]hether or not the bankruptcy court has jurisdiction, even exclusive jurisdiction, over a matter is a separate question from whether enforcing a valid arbitration agreement would pose an inherent conflict with the underlying purposes of the Bankruptcy Code.”). That is, courts have acknowledged that a court’s exclusive jurisdiction is not so broad as to negate the parties’ rights to compel arbitration—the “fullest extent permitted by law” does not extend so far. Rather, the strong federal policy and law embodied in the FAA mandates arbitration, pursuant to the tests and factors described above.

Further, applicable law and the language of the confirmation order, restricts this grant of exclusive jurisdiction, as “jurisdictional retention plans cannot confer jurisdiction greater than that granted under 28 U.S.C. § 1334 or 28 U.S.C. § 157.” In re Resorts Int’l, Inc., 372 F.3d 154, 169 (3d Cir. 2004). Under Section 1334, the bankruptcy court has “original **but not exclusive jurisdiction** of all civil proceedings arising under title 11, or arising in or related to cases under title 11.” 28 U.S.C. § 1334(b) (emphasis added).

As a result, to the extent the Court has non-exclusive post-confirmation jurisdiction over the non-core or solely procedurally core claims, the Plan's language alone cannot render that jurisdiction exclusive; nor can it keep arbitrable non-core claims out of arbitration.

Even if the Court’s jurisdiction were exclusive, the Judicial Code authorizes discretionary abstention by a bankruptcy court, *inter alia*, “in the interest of justice.” 28 U.S.C. § 1334(c)(1) and courts have exercised abstention to allow arbitration. There are a number of factors when deciding if discretionary abstention is “in the interest of justice,” including:

(1) the effect or lack thereof on the efficient administration of the estate if a [bankruptcy] court recommends abstention, (2) the extent to which [non-bankruptcy] law issues predominate over bankruptcy issues, (3) the difficulty or unsettled nature of the applicable [non-bankruptcy] law, (4) the presence of a related proceeding commenced in state court or other non-bankruptcy court, (5) the jurisdictional basis, if any, other than 28 U.S.C. § 1334, (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case, (7) the substance rather than form of an asserted “core” proceeding, (8) the feasibility of severing [non-bankruptcy] law claims from core bankruptcy matters to allow judgments to be entered in [non-bankruptcy] court with enforcement left to the bankruptcy court, (9) the burden of [the bankruptcy court’s] docket, (10) the likelihood that the commencement of the proceeding in a bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a jury trial, and (12) the presence in the proceeding of non-debtor parties.

In re Motors Liquidation Co., 457 B.R. 276, 289 (Bankr. S.D.N.Y. 2011) (quoting In re Portrait Corp. of Am., 406 B.R. 637, 641-42 (Bankr. S.D.N.Y. 2009)).

Here the bankruptcy case is a year past the Effective Date. State law and two-party breach of contract issues predominate over any bankruptcy-related issues in this Adversary. There are no unique bankruptcy issues present in the Claims or in the Adversary Complaint. There is currently no arbitration pending, but these claims exist wholly outside of the bankruptcy and are only “procedurally core” at most. This proceeding will have no larger effect on other parties outside CMN and Plaintiff. It will not decrease or increase distributions, or affect other parties in interest. All of the Claims are arbitrable. There are no non-debtor parties to this Adversary other than Defendant CMN. To the extent exclusive jurisdiction of these matters was retained in the Confirmation Order, abstention is proper in these circumstances.

Judge Gropper addressed abstention issues in a similar two-party, post-effective date dispute where there was an argument over exclusive jurisdiction in a plan versus arbitration:

In this case, abstention would have no adverse effect on the administration of the estate, as the Plan became effective years ago; non-bankruptcy issues not only predominate, but are exclusively involved; the issues are wholly remote from the main bankruptcy case; and, most significantly, the policy in favor of enforcing arbitration clauses counsels in favor of abstention. Thus, even if the Plan preserved exclusive jurisdiction in this Court to resolve the dispute, and recognizing that such action should not be taken lightly, the Court has discretion to remit the claim to arbitration and does so.

CIT Group, 2012 WL 831095, at *4 (collecting cases).

In sum, the Claims and causes of action in the Adversary Complaint should proceed in arbitration, as each Claim and cause of action arises from or relates to the Contracts, and thus falls within the broad, mandatory arbitration provisions therein. The objections to the Claims and the causes of action in the Adversary Complaint are at most only “procedurally core,” and the Court is thus limited in its discretion to deny arbitration of them. Finally, even if the Confirmation Order could be read to confer exclusive jurisdiction over these matters, ample authority shows why abstention is proper.

4. If the Court Determines That Some But Not All of the Claims are Arbitrable, the Court Should Stay the Balance of the Claims

The fourth prong of the test applies where a court determines that some, but not all, of the relevant claims are arbitrable. Here, all the claims are procedurally ‘garden variety’ breach of contract, declaratory judgment, and unjust enrichment claims, which clearly arise in or regard the Contracts and thus are all subject to arbitration.

To the extent that the Court determines that any claim is not subject to arbitration, “the court must determine whether to stay the balance of claims.” Hagerstown, 277 B.R. at 199. In such cases, Section 3 of the Federal Arbitration Act “requires a district court to stay proceedings where an issue before it requires arbitration.” HBC Sols., Inc. v. Harris Corp., No. 13-CV-6327, 2014 WL 6982921, at *9 (S.D.N.Y. Dec. 10, 2014) (staying action pending arbitration because dispute was subject to arbitration clause); accord Hill, 436 F.3d at 108 (court has a duty to stay arbitrable proceedings).

Under Section 3 of the FAA:

If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, ***shall on application of one of the parties stay the trial of the action*** until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration.

(emphasis added). Under Section 3 of the FAA, the Court must stay the arbitrable claims between the parties. *See Hagerstown*, 277 B.R. at 199 n. 18. Here again, all the claims between the parties are arbitrable. To the extent they are not, a stay is appropriate in this case, because all the claims involve common questions of law and fact and will dispose of factual disputes between the parties,

and will eliminate the possibility of inconsistent results between the arbitration and this action. As stated in Hagerstown:

Broad stay orders are particularly appropriate if the arbitrable claims predominate the lawsuit and the non-arbitrable claims are of questionable merit,” [citation omitted], or the stay will “promote judicial economy, avoidance of confusion and possible inconsistent results” without working an undue hardship or prejudice against the plaintiff. [citation omitted] (a stay is appropriate when the non-arbitrable and arbitrable claims involve common questions of law and fact or when the arbitration is likely to dispose of issues common to the claims of the arbitrating and non-arbitrating defendants).

Id. at 199. Here, all the disputes between the parties center on the Contracts between them. CMN filed proofs of claim arising from pre-petition breaches of three of the Contracts by Plaintiff. It also filed a post-petition administrative claim, which arises out of the same facts and allegations as its pre-petition proof of claim, only covering the post-petition time period. Plaintiff raised its claims as offsets to CMN’s Claims, and seeks affirmative relief to the extent the amounts it alleges it is owed exceed CMN’s Claims. Thus, all factual issues between the Parties will be determined in the arbitration, whether or not the Court compels only some but not all of Plaintiff’s claims. As the issues here are legally and factually intertwined, there is no basis for bifurcating or severing proceedings and allowing them to proceed on dual track. Doing so would merely increase expense and increase the risk of inconsistent results.

If the Court stays any claim not arbitrated (or dismissed), the Court could later rely on the factual findings made in the arbitration and decide any remaining legal issues the Court determines to be specific to bankruptcy law, without requiring unnecessary re-litigation of facts and evidence.

Bankruptcy Courts have stayed proceedings pending the outcome of the arbitration for proofs of claims and adversary counter-claims. In re Cardali, 2010 WL 4791801, at 13 (Bankr. S.D.N.Y. Nov. 18, 2010). *See In re Quigley Co.*, 361 B.R. at 742 (“Courts have the inherent

power to grant a discretionary stay of a proceeding pending arbitration, where there are issues common to the arbitration and the court proceeding, and those issues may be determined by the arbitration.”). *See also Singer*, 2001 WL 984678, at *3 (“Congress did not envision all bankruptcy related matters being adjudicated in a single bankruptcy court.”); *Moore v. Interacciones Global, Inc.*, 1995 WL 33650, at *7 (S.D.N.Y. Jan. 27, 1995) (“It is well-settled that claims are appropriately stayed when they involve common issues of fact and law with those subject to arbitration or when the arbitration is likely to dispose of issues common to claims against both arbitrating and non-arbitrating defendants.”).

POINT II

The Court Should Dismiss Plaintiff’s Complaint In Part For Failure To State A Claim Upon Which Relief Can Be Granted

In the event that the Court does not dismiss this entire proceeding in favor of arbitration (or stay any claims not subject to arbitration), Rule 12 governs in this adversary proceeding, and accordingly, the well-settled plausibility pleading standard governs the Court’s granting of the instant Motion to Dismiss. *See Fed. R. Bankr. P. 7012.*

Plaintiff must allege facts to render its claims plausible on their face, that is, that the factual content alleged, if true, allows the court to draw a reasonable inference of liability on the claim. *See Optanix, Inc. v. Alorica Inc.*, 1:20-CV-09660-GHW, 2021 WL 2810060, at *3 (S.D.N.Y. July 6, 2021) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

Plaintiff has failed to meet this burden.

**1. Plaintiff's Claim for Unjust Enrichment Fails Because
It is Based Upon Issues That Are Governed By The Parties' Contracts
(Count II)**

The substantive law of any state that could govern Plaintiff's claims for unjust enrichment bars those claims,⁷ because Plaintiff cannot maintain a claim for unjust enrichment where, as here, a valid contract governs the rights and obligations at issue. *See CoMentis, Inc. v. Purdue Research Found.*, 765 F. Supp. 2d 1092, 1102 (N.D. Ind. 2011) (dismissing claim under Indiana rule that "[w]here an express contract governs the parties' behavior, a claim for unjust enrichment is not cognizable.") (citing *Town of New Ross v. Ferretti*, 815 N.E.2d 162, 168 (Ind. Ct. App. 2004)); *IDT Corp. v. Morgan Stanley Dean Witter & Co.*, 907 N.E.2d 268, 274 (N.Y. 2009) (reversing denial of motion to dismiss unjust enrichment claim and explaining that "[w]here the parties executed a valid and enforceable written contract governing a particular subject matter, recovery on a theory of unjust enrichment for events arising out of that subject matter is ordinarily precluded"); *C&C Int'l Trading Co. v. Buckhead Meat Co.*, 527 F. Supp. 3d 1016, 1027 (E.D. Ark. 2021) (dismissing claim where valid contract governed the issues alleged in unjust enrichment claim) (citing *Servewell Plumbing, LLC v. Summit Contractors, Inc.*, 210 S.W.3d 101, 112 (Ark. 2005)); *Handmaker v. CertusBank, N.A.*, 3:15-CV-129-TBR, 2015 WL 6043930, at *3 (W.D. Ky. Oct. 15, 2015) ("Courts routinely dismiss claims for unjust enrichment when they are grounded on a breach of contract claim.") (collecting cases).

Plaintiff seeks the same recoveries under its breach of contract and unjust enrichment theories, and alleges the same facts concerning the provision and payment of services specified in the Contracts. Compare Adv. Compl. ¶ 37 (contract count, alleging overcharges and improper

⁷ The Court need not decide which substantive law governs the claims in Count II, as there is no conflict between the laws of: (i) Indiana, selected by the parties to govern the Contracts and the place of performance of the same; (ii) New York; (iii) Arkansas, Plaintiff's principal place of business; or (iv) Kentucky, in which Plaintiff was organized as a limited liability company.

denial of refunds of \$1,008,687.32 and \$896,703.32, respectively), with id. ¶ 45 (unjust enrichment count, alleging identical amounts).

The Court should therefore wholly dismiss Plaintiff’s unjust enrichment claim, its Second Count in its Complaint.

**2. The Court Should Dismiss Plaintiff’s
Claims for Declaratory Relief Because
They Serve No Useful Purpose (Counts III and V)**

Regurgitating and repackaging its claims for breach of contract, Plaintiff seeks declarations that CMN breached the Contracts, asking that the Court declare that CMN is required to pay, and/or forbidden to collect, certain amounts under the Contracts. These claims for declaratory relief are entirely duplicative of Plaintiff’s claims for breach of contract, and should be dismissed accordingly. *See* Adv. Compl. ¶¶ 52-54; 61-63; Optanix, 2021 WL 2810060, at *3 (S.D.N.Y. July 6, 2021) (“[C]ourts in this Circuit routinely dismiss requests for declaratory judgment when the parties’ rights will be adjudicated through a breach of contract claim in the same action.”) (quoting Com. Lubricants, LLC v. Safety-Kleen Sys., Inc., No. 14-CV-7483 (MKB), 2017 WL 3432073, at *17 (E.D.N.Y. Aug. 8, 2017) (collecting cases)); H&H Envtl. Sys., Inc. v. Evanston Ins. Co., 6:18-CV-06315 EAW, 2019 WL 1129434, at *5 (W.D.N.Y. Mar. 12, 2019) (collecting cases).

In Count III, Plaintiff seeks a declaration that CMN breached the Collocation Agreement, echoing its claim for breach of that Agreement in Count I—it asks the Court to declare that CMN “invalidly charged” the exact amount it claims was charged in breach of contract, and for a declaration that “such amount is not due and owing to CMN” as a result. Compare Adv. Compl. ¶ 54, with Adv. Compl. ¶¶ 37, 41. And in Count V, Plaintiff seeks a declaration that CMN used excess racks in Windstream’s Indianapolis facility and is therefore “responsible for license fees and power overages” for such purported use and overages under the Rack Swap Agreement, repackaging its claim in Count III for breach of that Agreement.

Whatever rights Plaintiff has under the Contracts will be adjudicated through Plaintiff's respective claims for breach of those Contracts, such that its claims for declaratory relief (Counts III and V of its Complaint) serve no useful purpose and should be dismissed. *See, e.g., Optanix*, 2021 WL 2810060, at *3-4 (S.D.N.Y. July 6, 2021).

**3. Plaintiff's Breach of Contract And Unjust Enrichment
Claims Are At Least Partially Barred By The Applicable
Statutes Of Limitation (Counts I, II, and IV)**

A complaint should be dismissed under Rule 12(b)(6) as time-barred where, as here, the dates alleged in the complaint show that a claim, or portions of a claim, are time-barred. *See, e.g., In re Lehman Bros. Inc.*, 617 B.R. 231, 239 (Bankr. S.D.N.Y. 2020) (citing *Ghartey v. St. John's Queens Hosp.*, 869 F.2d 160, 162 (2d Cir. 1989)) *aff'd sub nom. In re Lehman Bros. Holdings Inc.*, 19-3245, 2021 WL 4127075 (2d Cir. Sept. 10, 2021); *Julian v. Metro. Life Ins. Co.*, 17CV00957AJNBCM, 2021 WL 4237047, at *4 (S.D.N.Y. Sept. 1, 2021) ("Where, as here, defendant seeks a partial dismissal on statute of limitations grounds (which would, in effect, cut off the plaintiff's ability to collect damages for earlier periods), the Court may proceed under Rule 12(b)(6)."), *report and recommendation adopted sub nom.*, 2021 WL 4710775 (S.D.N.Y. Oct. 7, 2021).

Plaintiff sued CMN on October 22, 2021, alleging breaches of the Rack Swap Agreement for payments allegedly due beginning in 2008 and under Collocation Agreement for payments allegedly due beginning in 2012. These same "facts" are the underpinning for Plaintiff's unjust enrichment claim.

Under New York's borrowing statute, Arkansas's five-year statute of limitations applies to Plaintiff's breach of contract claims, thus Plaintiff cannot seek relief for any monies allegedly owed prior to October 21, 2016. Similarly, if the Court does not dismiss Plaintiff's unjust

enrichment claim in its entirety, Arkansas's three-year statute of limitations applies, and Plaintiff cannot seek relief for monies owed prior to October 21, 2018.

The Court should dismiss all of Plaintiff's claims that arose prior to those dates.

**(a) New York Choice-of-Law Principles
Require Application of Arkansas's Statutes of Limitation**

Plaintiff has sued in a New York forum, alleging causes of action based on state law. None of Plaintiff's claims implicates any significant interest of federal policy, and it is thus well-settled that the Court should apply New York's borrowing statute—"an abiding part of New York's procedural law"⁸—to determine which state's law governs the limitations issue." See O'Connor v. DL-DW Holdings, L.L.C. (In re Extended Stay, Inc.), 09-13764-JLG, 2020 WL 10762310, at *84 (Bankr. S.D.N.Y. Aug. 8, 2020) ("[B]ankruptcy courts confronting state law claims that do not implicate important federal policy concerns should apply the choice of law rules of the forum state.") (quoting Bianco v. Erkins (In re Gaston & Snow), 243 F.3d 599, 607 (2d Cir. 2001)); Miller, 397 F. Supp. 2d at 1002-03 ("[U]nder Indiana law, statutes of limitation are procedural, rather than substantive, and are not subject to parties' choice of law disputes.").

**(b) Under New York's Borrowing Statute,
Plaintiff's Claims Accrued In Arkansas**

New York's borrowing statute provides:

An action based upon a cause of action accruing without the state cannot be commenced after the expiration of the time limited by the laws of either the state or the place without the state where the cause of action accrued, except that where the cause of action accrued in favor of a resident of the state the time limited by the laws of the state shall apply.

N.Y. C.P.L.R. § 202.

⁸ 2138747 Ontario, Inc. v. Samsung C & T Corp., 103 N.E.3d 774, 777 (N.Y. 2018).

That is, the statute requires that courts apply the shorter limitations period between the forum state or the state where the claim accrued, and thus prevents forum shopping and provides the certainty of application of limitations rules to litigants in New York courts. *See Statek Corp. v. Dev. Specialists, Inc. (In re Coudert Bros. LLP)*, 673 F.3d 180, 190 (2d Cir. 2012); 2138747 Ontario, Inc., 103 N.E.3d at 780 (2018).

A cause of action accrues when and where injury occurs. *See, e.g., Gordon & Co. v. Ross*, 63 F. Supp. 2d 405, 408 (S.D.N.Y. 1999) (citing Global Fin. Corp. v. Triarc Corp., 715 N.E.2d 482, 485 (N.Y. 1999)). “When an alleged injury is purely economic, the place of injury is usually where plaintiff resides and sustains the economic impact of the loss.” Robb Evans & Assocs. LLC v. Sun Am. Life Ins., 10 CIV. 5999 GBD, 2012 WL 488257, at *4 (S.D.N.Y. Feb. 14, 2012) (quoting Ross, 63 F. Supp. 2d at 408)).

Plaintiff was organized as a limited liability company in Kentucky, and its principal place of business is in Arkansas. *See Adv. Compl.* ¶ 6 (noting Arkansas headquarters). For purposes of New York’s borrowing statute, Plaintiff resides in Arkansas because “[c]ourts within the Second Circuit have consistently held that a business entity’s residence is determined by its principal place of business.” Robb Evans, 2012 WL 4882577, at *3 (collecting cases); accord ResCap, 524 B.R. at 586-87 (collecting cases for proposition that “a business’s principal place of business constitutes the sole residency of that business entity” and therefore applying statute of limitations of Plaintiff’s principal place of business rather than its place of incorporation).

In sum, because Plaintiff alleges purely economic injuries, those alleged injuries were sustained at Plaintiff’s principal place of business in Arkansas. *See also Woori Bank v. Merrill Lynch*, 923 F. Supp. 2d 491, 495 (S.D.N.Y.), *aff’d*, 542 F. App’x 81 (2d Cir. 2013). The Court

therefore should compare the applicable statutes of limitations of Arkansas and New York, and apply the shorter statute.

As to Plaintiff's claims for breach of contract, the Arkansas statute governs because it applies a five-year limitations period, while New York applies a six-year period. Compare Ark. Code Ann. § 16-56-111, with N.Y. C.P.L.R. § 213.

If Plaintiff's unjust enrichment claims survive dismissal, they would be governed by a three-year limitations period whether under Arkansas or New York law. *See* Ark. Code. Ann. § 16-56-105 (governing "all actions founded on any contract or liability, expressed or implied"); Cummings v Unifund CCR Partners, 4:14CV00540 JLH, 2015 WL 4638501, at *3 (E.D. Ark. Aug. 3, 2015) ("Unjust enrichment carries a three-year statute of limitations." (quoting Willis v. Nationwide Mut. Ins. Co., Case No. 4:14-CV-04024, 2014 WL 4904100, at *6 (W.D. Ark. Sept. 30, 2014) (citing Ark. Code. Ann. § 16-56-105))); Lia v. Saporito, 909 F. Supp. 2d 149, 167 (E.D.N.Y. 2012) ("[U]njust enrichment claims seeking monetary damages are governed by the three (3)-year statute of limitations under Section 214(3) of the New York Civil Practice Law and Rules.") (citing N.Y. C.P.L.R. § 214(3)); Holliday v. K Road Power Management, LLC (In re Boston Generating, LLC), 617 B.R. 442, 469 (Bankr. S.D.N.Y. 2020) (similar), aff'd sub nom. Holliday v. Credit Suisse Sec. (USA) LLC, 20 CIV. 5404 (GBD), 2021 WL 4150523 (S.D.N.Y. Sept. 13, 2021).

**(c) Indiana Law Does Not Apply to the
Statute of Limitations Analysis**

While the Contracts at issue each provide that Indiana law governs disputes regarding the Contracts "without reference to its choice of law principles," they do not select a forum. Collocation Agreement ¶ 20; Rack Space Agreement ¶ 16.

Contractual choice-of-law provisions like these govern the substantive law of a contract dispute, rather than procedural questions like which state's statutes of limitation apply. *See ResCap*, 524 B.R. at 586 ("Choice of law provisions typically apply only to substantive issues, and statutes of limitations are considered procedural because they are deemed as pertaining to the remedy rather than the right.") (quoting *King Portfolio Recovery Assocs., LLC v. King*, 927 N.E.2d 1059, 1061 (N.Y. 2010)); *Contact Chiropractic, P.C. v. New York City Transit Auth.*, 99 N.E.3d 867, 872 (N.Y. 2018) (same).⁹ Thus, New York's borrowing statute governs the selection of the applicable statute of limitations.

(d) Plaintiff's Claims Are Partially Time-Barred

Plaintiff alleges that CMN breached the Rack Space Agreement and Collocation Agreement "since December 2012," by billing charges for rack space without accounting for racks to be provided for free under those Contracts. Adv. Compl. ¶ 20. Plaintiff seeks to recover the "inadvertently" paid "excess" amounts accordingly. *See id.* ¶¶ 20-21.

Plaintiff also sues CMN for CMN's purported excess rack usage and power overages incurred in Windstream's Indianapolis facility, allegedly in violation of the Rack Swap Agreement. *See id.* ¶¶ 22-23. Plaintiff claims that those breaches have occurred "since 2008." *Id.* ¶ 22; accord *id.* ¶ 57. That is, Plaintiff alleges that CMN breached the Contracts in 2008 and/or in December 2012, that is, between eight and thirteen years before Plaintiff sued.

Under Arkansas's five-year statute of limitations for breach of contract claims, Plaintiff's breach of contract claims - Counts I and IV - are barred to the extent they seek damages prior to October 21, 2016. Under Arkansas's three-year statute of limitations for unjust enrichment,

⁹ Indiana law is in accord. *See Smither v. Asset Acceptance, LLC*, 919 N.E.2d 1153, 1158 (Ind. Ct. App. 2010); *Miller v. Javitch, Block & Rathbone, LLP*, 397 F. Supp. 2d 991, 1002-03 (N.D. Ind. 2005).

Plaintiff Count II, is barred to the extent that it seeks damages prior to October 21, 2018 (should it survive dismissal in whole, on the independent basis that is foreclosed by the Contracts).

CONCLUSION

For the foregoing reasons, CMN respectfully requests that the Court compel arbitration for all claims asserted in the Adversary Complaint and the Proofs of Claim, or in the alternative, stay this action pending arbitration, or in the alternative dismiss Plaintiff's facially deficient and time barred claims, and grant such other and further relief as the Court deems just and proper.

Dated: New York, New York
November 23, 2021

POLSINELLI PC



By: _____
Aaron Zerykier (4095832)
600 3rd Avenue, 42nd Floor
New York, New York 10016
Telephone: 646-289-6512
Facsimile: 212-684-0197
azerykier@polsinelli.com

-and-

Andrew J. Nazar (pro hac vice pending)
Benton Keatley (pro hac vice pending)
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Telephone: 816-395-0641
Facsimile: 816-753-1536
anazar@polsinelli.com
ebkeatley@polsinelli.com

Attorneys for Defendant CMN-RUS, Inc.

**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)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered under
	)	Lead Case: Windstream Holdings, Inc.,
	)	Case No. 19-22312)
<hr/>		
WINDSTREAM KDL, LLC)	
)	
Plaintiff,	)	Adversary Proceeding
)	
v.	)	Case No. 21-07095 (RDD)
)	
CMN-RUS, INC.)	
)	
Defendant.)	

**DEFENDANT CMN-RUS, INC.'S
CORPORATE OWNERSHIP STATEMENT**

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, Rule 7007.1 of the Federal Rules of Bankruptcy Procedure, and Local Rule 7007.1 of the Local Rules of the Southern District of New York Bankruptcy Court, Defendant CMN-RUS, Inc., an Indiana corporation and through its undersigned counsel, states that:

1. CMN-RUS, Inc., is the direct subsidiary of Q-Comm Corporation, a Nevada corporation, which in turn is a wholly-owned subsidiary of MetroNet Systems Holdings, LLC, a Delaware limited liability company, which in turn is a wholly owned subsidiary of Metronet Holdings, LLC, a Delaware limited liability company.
2. The ownership structure of Metronet Holdings, LLC is extremely complex and confidential, but the only publicly held entity that directly or indirectly owns 10%

or more of MetroNet Holdings, LLC is KKR& Co, Inc. a Delaware corporation,
which is attributed with a 10% or greater indirect interest in Metronet Holdings,
LLC.

3. If the Court determines it needs further information concerning its ownership,
CMN-RUS, Inc., asks that such filing be made under seal and that CMN-RUS, Inc.
be provided to make any such motion as the Court deems necessary.

Dated: November 23, 2021
New York, New York

POLSINELLI PC



By: _____
Aaron Zerykier (4095832)
600 3rd Avenue, 42nd Floor
New York, New York 10016
Telephone: 646-289-6512
Facsimile: 212-684-0197
azerykier@polsinelli.com

-and-

Andrew J. Nazar (*pro hac vice* pending)
Benton Keatley (*pro hac vice* pending)
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Telephone: 816-395-0641
Facsimile: 816-753-1536
anazar@polsinelli.com
ebkeatley@polsinelli.com

Attorneys for Defendant CMN-RUS, Inc.

Exhibit 1

EXHIBIT 1

COLLOCATION AND MAINTENANCE AGREEMENT

This COLLOCATION AND MAINTENANCE AGREEMENT ("Agreement") is effective as of the 7th day of February, 2005 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cjenergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN owns network transmission facilities (each individually a "Facility" collectively the "Facilities") at various locations throughout its fiber network. KDL has the expertise and ability to maintain the Facility sites. KDL and CMN wish to enter into an exchange of the right to use CMN Facilities for the performance of maintenance services as more particularly set forth below.

2. KDL Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL Site" collectively the "KDL Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.

3. Collocation License. For each of the KDL Sites, CMN grants KDL a license to occupy, use and maintain rack spaces for purposes of installing, operating and maintaining KDL's equipment ("Licensed Space"). The Licensed Space for each of the KDL Sites is set forth in Exhibit A. As part of this license, at its sole cost, CMN shall provide thirty (30) amps of power to the Licensed Space ("KDL's Power Allocation") and heat, ventilation and air conditioning service to the Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

4. Additional Services. KDL may request that CMN provide additional AC or DC power, backup power, space or racks at any KDL Site. Subject to its own operational needs, CMN shall use commercially reasonable efforts to accommodate any KDL request for additional services. CMN shall charge KDL Five Hundred Dollars (\$500.00) a month for any additional racks. For any power utilized by KDL beyond KDL's Power Allocation at a KDL Site, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("KDL's Portion"): $[(A) \text{ divided by } (B)] \text{ times } (C) \text{ equals KDL's Portion}$, where (A) is the total number of additional breakered amps of power delivered to KDL's racks in excess of KDL's Power Allocation at the KDL Site; (B) is the total breakered amps of power delivered to all racks at the KDL Site (including KDL's racks); and (C) is the total power costs CMN incurs in connection with the KDL Site including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that KDL has 2 racks at the KDL and has exceeded the KDL Power Allocation by 100 breakered amps of power. Further assume that at the KDL Site there are a total of 10 racks (including KDL's 2 racks) using a total of 1000 breakered amps of power (including KDL's 100 additional amps of power). Finally, assume that the total power costs incurred by CMN associated with the Evansville Facility in the example month is \$5,000. KDL's Portion for such month would be \$500 ($100 \text{ divided by } 1000 = .01 \times \$5,000$).

5. Installation. KDL shall be solely responsible for the installation and maintenance of any KDL equipment in a Licensed Space. KDL shall not install any equipment in a Licensed Space that overloads any electrical circuits or associated hardware. All KDL equipment located in a Licensed Space shall be maintained and operated by KDL in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

6. Access. Subject to reasonable rules and regulations as may be promulgated by CMN from time to time, KDL shall have unescorted access to each KDL Site twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the Licensed Space and performing KDL's obligations under this Agreement. CMN hereby grants KDL an easement of ingress and egress to extend KDL's network and equipment from the public rights of way into the Licensed Space.

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL Site, as may be amended from time to time. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL Site; (iv) monitoring the climate temperature of each KDL Site; and (v) providing escorted access to any third parties requiring access to a KDL Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL in performing the maintenance activities set forth in this Section 7.

8. Billing and Payment. A Party providing or performing a service (referred to in this Section 8 as a "Provider") to the other Party (referred to in this Section 8 as a "Recipient") shall invoice the Recipient for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by the Recipient. Should the Recipient dispute any of the charges on an invoice, it shall notify the Provider in writing within sixty (60) days after the Recipient's receipt of invoice of the disputed charges and the Recipient's reason for disputing the same. If the Recipient does not deliver a challenge or dispute to any invoice within sixty (60) days after the Recipient's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by the Recipient.

9. Term. The initial term of this Agreement shall be forty (40) years. After the expiration of the initial term the Agreement shall continue on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

10. Termination. Notwithstanding anything to the contrary in Section 9 above, either Party may terminate this Agreement during the initial term by delivering notice to the non terminating Party at least twenty-four (24) months in advance of the proposed termination date.

11. Representations and Warranties. Except as expressly set forth herein, each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, or creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SPACE OR THE EQUIPMENT OR MAINTENANCE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ALL LICENSED SPACE IS EXPRESSLY ACCEPTED BY KDL ON AN "AS" "IS" "WHERE IS" BASIS.

12. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

13. Remedies. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder. Additionally, if KDL fails to perform any of its obligations under Section 7 of this Agreement in a timely manner, with reasonable prior notice to KDL under the circumstances, CMN may perform such obligation and invoice KDL for any out of pocket expenses incurred by CMN in performing such obligation. The Parties intend for the remedies set forth in this Section 13 to be the sole remedies available to either Party for a breach of this Agreement.

14. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

15. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

16. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may be similar notice given change the address to which future notices or other communications shall be sent.

17. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively; "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 17 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

18. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts to work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision.

However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

19. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with third parties to the extent that such agreements or arrangement do not violate the terms of this Agreement.

20. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

21. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the wavier thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

22. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

23. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

24. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 24 and shall be entitled to enforce the obligations of this Section 24.

25. Relationship of the Parties. The relationship between CMN and KDL shall not be that of partners, agents, or joint venture.

26. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

27. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

28. Entire Agreement. This Agreement and Exhibit A sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.

Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.

Signature

John Cinelli
Name

as its president
Title

8/15/10
Date

EXHIBIT A

KDL SITES

Address	City, State	Racks
112 W Washington Ave	Greencastle, IN	2
3701 Communications Way	Evansville, IN	5
600 E Avenue	Seymour, IN	2
287 N 15 th St	Vincennes, IN	2
1113 Clifty Drive	Madison, IN	1
219 N Jennings Rd	North Vernon	1
146 W Market St	Wabash IN	1
703 Thorn St	North Manchester	1
317 E State St	Huntington IN	1
3765 S US 231	Wolcott IN	2
1558 W 16 th St	Marion IN	2

Amendment to Collocation and Maintenance Agreement

This Amendment modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link ("KDL"), a Kentucky corporation, and CInergy MetroNet, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

Section 2 of the Agreement and all corresponding references to "KDL Site" in the Agreement are hereby modified as follows:

2. KDL/CMN Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL/CMN Site" collectively the "KDL/CMN Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.

Section 7 of the Agreement shall be modified to the following:

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL/CMN Site, as may be amended from time to time by mutual agreement of the parties. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL/CMN Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL/CMN Site; (iv) monitoring the climate temperature of each KDL site; and (v) providing escorted access to any third parties requiring access to a KDL/CMN Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL related to the replacement of any equipment owned by CMN or used exclusively by CMN or the performance of any repair services by a third party on equipment owned by CMN or used exclusively by CMN. For avoidance of doubt, KDL shall perform all other maintenance activities set forth in this Section 7 at KDL's sole cost. In the event CMN expands or modifies a KDL/CMN Site at any time after August 15, 2010, to add floor space that requires additional monitoring capabilities, unless otherwise agreed to by the parties, KDL shall not be required to monitor or otherwise perform any maintenance activities for the additional space.

Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each.

This Amendment shall be effective as of the last date entered below and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Kentucky Data Link, Inc:

By: 

Printed Name: John Greenbank

Title: as President

Date: 11/7/10

Cinergy MetroNet, Inc:

By: 

Printed Name: John Cinelli

Title: as President

Date: 11/05/10

Amendment # 2 to Collocation and Maintenance Agreement

This Amendment # 2 is effective as of 2nd day of June, 2012 ("Effective Date"), and modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link n/k/a Windstream Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Clnergy MetroNet, Inc. n/k/a CMN-RUS, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

The Agreement shall be deemed amended as follows:

1. **Purpose.** Pursuant to Section 4 of the Agreement, KDL wishes to obtain additional rack space in CMN's data center located at 3701 Communications Way, Evansville, IN ("Data Center"). CMN is willing to grant KDL such rack space in the Data Center in accordance with the terms of the Agreement and this Amendment.
2. **License.** CMN hereby grants KDL a non-exclusive year to year license to occupy those racks and portions of racks that are located in the Data Center and identified in Schedule 1 to this Amendment (each a "KDL Rack").
3. **Termination Rights.** With written notice at least thirty (30) days prior to the end of the then current license term, KDL may terminate that portion of the license applicable to any KDL Rack. If CMN wishes to terminate KDL's license to use a KDL Rack, CMN shall provide KDL with written notice at least ninety (90) days prior to the end of the then current license term. Prior to the date of termination, KDL shall remove all of its equipment from any KDL Rack vacated pursuant to this Section 3.
4. **License Fee.** The license fee for the licenses granted in Section 2 is set forth in Schedule 1 to this Amendment ("Cumulative License Fee"). With written notice at least thirty (30) days prior to the effective date of the increase, CMN may increase the Cumulative License Fee based upon the greater of: (a) any actual increases in the cost to operate and maintain the Data Center including, but not limited to, increases in the price of electricity; or (2) any increase in the CPI-U consumer price index from the previous year. Payment of the Cumulative License Fee and KDL's Portion of the any additional power charges for the KDL Racks shall be paid in accordance with Section 8 of the Agreement.
5. **Adjustments to the License Fee.** Upon the termination of a KDL Rack in accordance with Section 3 above, provided KDL's equipment has been removed from the vacated KDL Rack, the Cumulative License Fee shall be reduced by an amount equal to the monthly license fee for the vacated KDL Rack set forth in Schedule 1 to this Amendment.
6. **Miscellaneous.** Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each. In cases of conflict between the terms in this Amendment and those in the Agreement, the terms of this Amendment shall prevail. This Amendment shall be effective on the Effective Date and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Windstream Kentucky Data Link, Inc.

By: [Signature]

Printed Name: Anthony Walsh

Title: VP Transport Engineer

CMN-RUS, Inc.

By: [Signature]

Printed Name: John P. Cinelli

Title: as President

Reviewed JMC Legal

SCHEDULE 1

KDL Racks 1/3 Dedicated to KDL

Rack Number	Monthly License Fee
105.01 1B	\$166.00
108.03C	\$166.00

KDL Racks 1/2 dedicated to KDL

Rack Number	Monthly License Fee
102.10	\$250.00
103.07	\$250.00
110.02	\$250.00
112.04	No charge
114.04	\$250.00
114.08	\$250.00
101.07	\$250.00

KDL Racks 100% dedicated to KDL

Rack Number	Monthly License Fee
103.05	\$500.00
103.06	\$500.00
104.05	\$500.00
104.06	\$500.00
104.07	\$500.00
104.08	\$500.00
109.11	\$500.00
110.01	\$500.00
112.05	\$500.00
112.07	\$500.00
113.01	\$500.00
114.01	\$500.00
114.03	\$500.00
114.07	\$500.00
114.10	\$500.00

Exhibit 2

EXHIBIT 2

RACK SPACE SWAP AGREEMENT

This RACK SPACE SWAP AGREEMENT ("Agreement") is effective as of the 1st day of January, 2008 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN operates a network facility located at 3701 Communications Way, Evansville, Indiana (the "Evansville Facility"). KDL operates a network facility located at 701 Henry Street, Indianapolis, Indiana (the "Indianapolis Facility"). KDL and CMN wish to enter into an agreement for the exchange of rack space and associated rights in the Evansville Facility for rack space and associated rights in the Indianapolis Facility as more particularly set forth below.

2. Licenses.

- (a) In consideration for the license set forth in Section 2(b) below, CMN hereby grants to KDL a license to occupy, use and maintain ten (10) rack spaces for purposes of installing, operating and maintaining KDL's equipment in the Evansville Facility ("KDL Licensed Space"). As part of this license, at its sole cost, CMN shall provide thirty (30) amps of power to each of the racks in the KDL Licensed Space ("KDL's Power Allocation") and heat, ventilation and air conditioning service to the KDL Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

For any power utilized by KDL beyond KDL's Power Allocation, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("KDL's Portion"): [(A) divided by (B)] times (C) equals KDL's Portion, where (A) is the total number of additional breakered amps of power delivered to KDL's racks in excess of KDL's Power Allocation in the Evansville Facility; (B) is the total breakered amps of power delivered to all racks in the Evansville Facility (including KDL's racks); and (C) is the total power costs CMN incurs in connection with the Evansville Facility including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that KDL has 10 racks in the Evansville Facility and has exceeded the KDL Power Allocation by 100 breakered amps of power. Further assume that in the Evansville Facility there are a total of 45 racks (including KDL's 10 racks) using a total of 1300 breakered amps of power (including KDL's 100 additional amps of power). Finally, assume that the total power costs incurred by CMN associated with the Evansville Facility in the example month is \$12,000. KDL's Portion for such month would be \$840 (100 divided by 1300 = .07 x \$12,000).

- (b) In consideration for the license set forth in Section 2(a) above, KDL hereby grants to CMN or any affiliate of CMN a license to occupy, use and maintain ten (10) rack spaces for purposes of installing, operating and maintaining the equipment of CMN or any affiliate of CMN in the Indianapolis Facility ("CMN Licensed Space"). As part of this license, at its sole cost, KDL shall provide thirty (30) amps of power to each of the racks ("CMN Power Allocation") in the CMN Licensed Space and heat, ventilation and air conditioning service to the CMN Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

For any power utilized by CMN beyond CMN's Power Allocation, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("CMN's Portion"): $[(A) \text{ divided by } (B)] \text{ times } (C) \text{ equals CMN's Portion}$, where (A) is the total number of additional breakered amps of power delivered to CMN's racks in excess of CMN's Power Allocation in the Indianapolis Facility; (B) is the total breakered amps of power delivered to all racks in the Indianapolis Facility (including CMN's racks); and (C) is the total power costs KDL incurs in connection with the Indianapolis Facility including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that CMN has 10 racks in the Indianapolis Facility and exceeds the CMN Power Allocation by 100 breakered amps of power. Further assume that in the Indianapolis Facility there are a total of 45 racks (including CMN's 10 racks) using a total of 1300 breakered amps of power (including CMN's 100 additional amps of power). Finally, assume that the total power costs incurred by KDL associated with the Indianapolis Facility in the example month is \$12,000. CMN's Portion for such month would be \$840 (100 divided by 1300 = .07 x \$12,000).

3. Installation.

- (a) KDL shall be solely responsible for the installation and maintenance of any KDL equipment in the KDL Licensed Space. KDL shall not install any equipment in the KDL Licensed Space that overloads any electrical circuits or associated hardware. All KDL equipment located in the KDL Licensed Space shall be maintained and operated by KDL in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

- (b) CMN shall be solely responsible for the installation and maintenance of any CMN equipment in the CMN Licensed Space. CMN shall not install any equipment in the CMN Licensed Space that overloads any electrical circuits or associated hardware. All CMN equipment located in the CMN Licensed Space shall be maintained and operated by CMN in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

4. Access.

- (a) Subject to reasonable rules and regulations as may be promulgated by CMN from time to time, KDL shall have unescorted access to the Evansville Facility twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the KDL Licensed Space. CMN hereby grants KDL an easement of ingress and egress to extend KDL's network and equipment from the public rights of way into the KDL Licensed Space.
- (b) Subject to reasonable rules and regulations as may be promulgated by KDL from time to time, CMN shall have unescorted access to the Indianapolis Facility twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the CMN Licensed Space. KDL hereby grants CMN an easement of ingress and egress to extend CMN's network and equipment from the public rights of way into the CMN Licensed Space.

5. Billing and Payment. A Party providing additional power (referred to in this Section 5 as a "Provider") to the other Party (referred to in this Section 5 as a "Recipient") shall invoice the Recipient for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by the Recipient. Should the Recipient dispute any of the charges on an invoice, it shall notify the Provider in writing within sixty (60) days after the Recipient's receipt of invoice of the disputed charges and the Recipient's reason for disputing the same. If the Recipient does not deliver a challenge or dispute to any invoice within sixty (60) days after the Recipient's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by the Recipient.

6. Term. The initial term of this Agreement shall be twenty (20) years. After the expiration of the initial term the Agreement shall continue on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

7. Representations and Warranties. Except as expressly set forth herein, each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, and creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SPACE TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ALL LICENSED SPACE IS EXPRESSLY ACCEPTED BY EACH PARTY ON AN "AS" "IS" "WHERE IS" BASIS.

8. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

9. Specific Performance. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder, as its sole remedy.

10. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

11. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

12. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may by similar notice given change the address to which future notices or other communications shall be sent.

13. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively, "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 13 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

14. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts and work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

15. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with third parties to the extent that such agreements or arrangement do not violate the terms of this Agreement.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

17. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

18. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

19. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

20. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 20 and shall be entitled to enforce the obligations of this Section 20.

21. Relationship of the Parties. The relationship between CMN and KDL shall be that of independent contractors and not be that of partners, agents, or joint venture.

22. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

23. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

24. Entire Agreement. This Agreement sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.


Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.


Signature

John Cinelli
Name

as its President
Title

8/15/10
Date

Exhibit 3

EXHIBIT 3

FIBER TRANSPORT SERVICES/DARK FIBER RIGHTS EXCHANGE AGREEMENT

This FIBER TRANSPORT SERVICES/DARK FIBER RIGHTS EXCHANGE AGREEMENT ("Agreement") is made as of this 15th day of August, 2010 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN constructs and operates fiber-to-the-premises ("FTTP") network systems in communities to provide broadband services to end users. KDL provides long haul fiber transport services to other communications providers. CMN wishes to obtain fiber transport services from KDL between certain FTTP network systems and certain network hub sites. KDL wishes to obtain dark fiber rights from CMN throughout certain FTTP network systems. The Parties, therefore, wish to enter into this Agreement whereby CMN shall provide dark fiber rights to KDL in exchange for fiber transport services as more particularly set forth below.

2. Eligible FTTP Network Systems. A CMN FTTP network system that satisfies the following criteria shall be considered an "Eligible System" under this Agreement: (i) the FTTP network system must span at least sixty (60) fiber miles upon completion of construction by CMN; and (ii) KDL must have the network capacity and equipment to provide two (2) diverse 10 Gb optical wavelengths (collectively a "Transport Service") from the proposed origination or "a" location and the proposed termination or "z" location for the transport service.

3. Request for Transport Service. At any time during the Term of this Agreement, CMN may request that KDL provide a Transport Service from an Eligible System to an Authorized Location, as that term is defined below, by sending KDL written notice. Subject to Section 4 below, the "a" location for a Transport Service must be a site where the KDL fiber network intersects with the Eligible System (e.g. a Central Office). The "z" location for a Transport Service must be a CMN network hub site located in Evansville (the "Authorized Location"). Each notice shall contain a minimum of the following information: (i) the addresses of the proposed "a" and "z" locations; and (ii) the requested delivery date for the Transport Service. Upon receipt of notice, KDL shall promptly review and verify that it has the network capacity and equipment in place to provide the requested Transport Service. KDL shall promptly notify CMN if it cannot provide the requested Transport Service and shall specify to CMN the reason the request was rejected.

4. Fiber Segments. If CMN proposes an "a" location for a Transport Service where KDL is not currently located, CMN shall construct and maintain (including securing any necessary building entrance rights) a fiber segment from a mutually agreed point on the KDL System to the proposed CMN "a" location ("Fiber Segment"). In addition to those fibers being provided to KDL pursuant to Section 10, CMN shall provide KDL with two (2) fibers in each Fiber Segment for purposes of providing the Transport Services to CMN.

5. Service Acknowledgement. Upon verification by KDL that it is feasible for KDL to provide a Transport Service requested by CMN; the Parties shall execute a service acknowledgement in substantially the same form as is attached hereto as Exhibit A ("Service Acknowledgment"). When fully executed each Service Acknowledgement shall become a part of this Agreement.
6. Approved Eligible Systems. Schedule A sets forth a list of Eligible Systems that are approved by KDL as of the date of this Agreement. If CMN requests a Transport Service from an Eligible System listed in Schedule A to an Authorized Location, the Parties shall promptly enter into a Service Acknowledgment for that Transport Service.
7. Incremental Costs. CMN shall reimburse KDL for all out of pocket Costs associated with provisioning a Transport Service. For purposes of this Agreement the term "Costs" shall be the sum of: (a) all actual costs paid or payable by KDL including, without limitation, pass through costs paid to third parties and network card costs and (b) an overhead allocation equal to fifteen percent (15%) of the sum of the costs set forth in (a).
8. License. For each Transport Service set forth in a fully executed Service Acknowledgment, KDL hereby grants CMN an exclusive, non transferable, fully paid-up (with no periodic payments), license to utilize such Transport Service solely for the purpose of transporting CMN's communications services and end user traffic and for no other purpose. For avoidance of doubt, CMN may not use the Transport Services to either directly or indirectly, whether in whole or in part, provide a transport service (e.g. T1s, DS3s, etc.) to a Carrier. A "Carrier" is a person or entity, who sells or otherwise provides voice, video, data hosting or data services to third parties (e.g., local or long distance telephone service, fiber or fiber transport service, Internet service or cable television service). Carriers include, without limitation, LECs, CLECs, ISPs, IXC's, CAPs, CATV providers, Wireless providers or other persons or entities, which provide similar services.
9. Interconnection. CMN hereby grants KDL, a license to use however much space (power included) at each "a" and "z" location listed in a Service Acknowledgment, that KDL reasonably requires in order to provide the Transport Service to CMN ("CMN Locations"). Such arrangement shall be governed by the Terms and Conditions attached as Exhibit B hereto, as well as the terms of this Agreement. It shall be the responsibility of CMN to obtain interconnection from KDL's equipment at the CMN Locations described in each Service Acknowledgment.
10. Grant of IRU. For any Eligible System covered by a fully executed Service Acknowledgment, CMN hereby conveys to KDL a fully paid-up (with no periodic lease payments), fully transferable, indefeasible right to use four (4) dark fiber strands throughout the Eligible System and in any Fiber Segments (collectively the "IRU Fibers"). CMN shall specifically identify the IRU Fibers in each Eligible System and shall use reasonable efforts to ensure such fiber assignment will be consecutive in count. For avoidance of doubt, fiber drops to customer locations are not a part of an Eligible System.

11. Use of Fibers. KDL and CMN shall use their respective fibers in an Eligible System covered by this Agreement in a manner that does not cause material technical interference with the other Party's network, fiber, or any equipment or element thereof. Each Party shall be responsible for the operation and maintenance of any equipment it attaches or uses in conjunction with the fibers granted or used by such Party in an Eligible System. Neither KDL, nor any affiliate of KDL, shall use any of the IRU Fibers to directly provide voice, video and/or Internet services to residential or small business consumers in competition with voice, video and/or Internet services provided by CMN. Notwithstanding the foregoing, KDL or any KDL affiliate, may use the IRU Fibers: (i) to provide wholesale transport services to any carrier including, without limitation, carriers providing voice, video and data services to residential and business consumers; (ii) to provide services to any school or post secondary school; or (iii) for any other purpose not prohibited under this Agreement.

12. Access. CMN shall provide KDL with access to the IRU Fibers at any splice point, handhole, manhole or slack loop in the Eligible System by cable stub taken by CMN from the Eligible System and delivered to KDL at any splice points in the KDL System, as reasonably requested by KDL from time-to-time, (the "Connecting Points"). All connections described in this paragraph shall be performed by CMN, without cost to KDL and in accordance with CMN's applicable specifications and operating procedures. Subject to any underlying rights or third party restrictions, CMN shall provide KDL with reasonable access to Connecting Points at all times on a 24 hour / 7 days per week basis. KDL shall provide its own cable from the Connecting Points to KDL's equipment.

13. Testing. The Parties shall establish a mutually agreed upon commencement date under each Service Acknowledgment at which time the IRU Fibers and Transport Service will be available for use by the other Party, as applicable ("Commencement Date"). Each Party shall make the IRU Fibers and Transport Service available to the other Party, as applicable, for testing, thirty (30) days prior to the Commencement Date. The testing Party shall immediately notify the non-testing Party of any defects in the IRU Fibers or Transport Service, as applicable. Upon receipt of such notice, the non-testing Party shall immediately commence repairing the IRU Fibers or Transport Service, as applicable. If the defects are not corrected to the reasonable satisfaction of the testing Party by the Commencement Date, with notice to the non-testing Party, the testing Party may terminate the affected Service Acknowledgment.

14. Maintenance.

(a) KDL shall use commercially reasonable efforts to ensure that the fibers and equipment used to provide any Transport Service covered by a fully executed Service Acknowledgment are maintained in good working order, condition and repair, ordinary wear and tear excepted. KDL shall, at its cost, perform, or oversee the performance of, all maintenance, splicing and relocation activities involving the Transport Service fibers and equipment.

(b) CMN shall use commercially reasonable efforts to ensure that all IRU Fibers are maintained in good working order, condition and repair, ordinary wear and tear excepted. CMN shall, at its cost, perform, or oversee the performance of, all maintenance, splicing and relocation activities involving the IRU Fibers.

15. Term - Agreement. The term of this Agreement shall be forty (40) years, commencing on the date first written above. Thereafter, this Agreement shall be automatically renewed from year to year, unless and until terminated at the end of the initial term or the end of the then current renewal term, as applicable, which either Party may do by providing written notice of termination to the other Party not less than thirty (30) days prior to the expiration of the then current term. Notwithstanding such termination, this Agreement shall remain in full force and effect, and shall continue to govern, with respect to any then-existing Service Order for so long as such Service Acknowledgment is in effect.

16. Term – Service Acknowledgment. Each Service Acknowledgment shall have its own initial term of forty (40) years. Upon the expiration of the initial term applicable to that Service Acknowledgment, the term of such Service Acknowledgment shall automatically renew from year to year under the same terms and conditions as stated herein, unless either Party gives the other Party written notice of termination at least one hundred eighty (180) days prior to the end of the initial term or renewal term.

17. Taxes. It is understood and agreed as between the Parties that for accounting and federal and all applicable state and local tax purposes, KDL shall be treated as the owner of the IRU Fibers.

18. Representations and Warranties. Each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, or creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE IRU FIBERS OR ANY TRANSPORT SERVICE TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

19. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

20. Specific Performance. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder, as its sole remedy of a breach of this Agreement.

21. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an

arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to that Loan and Security Agreement dated November 14, 2005 between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is held to be invalid or unenforceable under the Loan Agreement by the RUS, this Agreement shall be immediately terminated, and neither Party shall have any further obligation to the other Party hereunder.

22. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

23. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way

Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may be similar notice given change the address to which future notices or other communications shall be sent.

24. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively; "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 24 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

25. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts and work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they

deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

26. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

27. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

28. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

29. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

30. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 30 and shall be entitled to enforce the obligations of this Section 30.

31. Relationship of the Parties. The relationship between CMN and KDL shall not be that of partners, agents, or joint venture.

32. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this

Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

33. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

34. Entire Agreement. This Agreement and Exhibit A, Schedule A and Exhibit B sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.

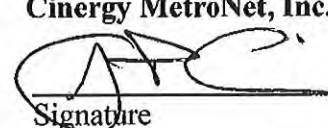

Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.


Signature

John Cinelli
Name

as its President
Title

8/15/10
Date

EXHIBIT A

SERVICE ACKNOWLEDGEMENT

This Service Acknowledgment is made and entered into as of this ____ day of ____, by and between Cinergy MetroNet, Inc. ("CMN") and Kentucky Data Link, Inc. ("KDL"), pursuant and subject to that certain Fiber Transport Services/Dark Fiber Exchange Agreement dated ____, by and between the parties hereto ("Agreement"). All capitalized terms not defined herein shall have the same meaning as ascribed in the Agreement.

1. Transport Service Location Information. KDL shall provide the Transport Service between the "A" and "Z" locations listed below.

"A" Location Address: _____

"B" Location Address: _____

2. Eligible System. KDL shall receive four (4) IRU Fibers throughout the Eligible System illustrated on the map attached hereto as Schedule A. Upon request, CMN shall provide KDL with "as built" drawings of the Eligible System.

3. Commencement Date. The Commencement Date of this Service Acknowledgment is _____.

4. Term. The initial term of this Service Acknowledgment shall be forty (40) years commencing on the Commencement Date. Upon the expiration of the initial term this Service Acknowledgment shall automatically renew on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

5. Miscellaneous. In case of any conflict between the terms of this Service Acknowledgment and the terms of the Agreement, the terms of this Service Acknowledgment shall prevail.

IN WITNESS WHEREOF, the Parties have executed this Service Acknowledgment the day and year written above.

Kentucky Data Link, Inc.

Cinergy MetroNet, Inc.

Signature

Signature

Title

Title

Date

Date

SCHEDULE A

ELIGIBLE SYSTEMS

INDIANA

Chesterton
Crown Point
Dyer
Franklin
Greenfield
Hobart
Huntingburg/Jasper
Jeffersonville
Lafayette
W Lafayette
Lebanon
Merrillville
New Whiteland
Portage
Saint Johns
Schereville
Valparaiso
Whiteland

KENTUCKY

Florence
Georgetown
Independence
Richmond

OHIO

Hamilton
Lebanon
Mason
Springboro
Xenia

TENNESSEE

Gallatin

Goodletsville

Hendersonville

Lebanon

Mount Juliet

Springfield

EXHIBIT B

COLLOCATION

1. GRANT OF LICENSE ("License"): For good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, CMN hereby grants to KDL, an irrevocable and indefeasible right to occupy, use and maintain however much space and power at each CMN Location as KDL reasonably requires in order to provide the Transport Service to CMN (the "Licensed Space"), for the term of this Agreement or any then-existing Service Acknowledgment as long as such Service Acknowledgment is in effect. From and after the date efforts to ready the Licensed Space for KDL's occupancy are commenced, CMN may not relocate, or cause KDL to relocate, any of KDL's equipment or facilities from any CMN Location during the term. As a part of this License, CMN shall provide heat, ventilation and air conditioning ("HVAC") to the Licensed Space sufficient to maintain an ambient temperature of the Licensed Space between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity in the Licensed Space between five percent (5%) and ninety-five percent (95%). KDL shall have 24 hour / 7 day per week unescorted access to such space and shall have an easement of ingress and egress for its personnel and its facilities to access such space, including any necessary easement and building entrance rights to extend KDL's network from the public rights of way into the CMN Location. No fees or charges shall be imposed on KDL in connection with, or related to, the License. CMN agrees that its failure to provide the space and services described in this Section 1 of Exhibit B may adversely impact the Transport Service, and KDL shall not be responsible for any such adverse impact.
2. TITLE TO EQUIPMENT: Title to KDL's equipment and other facilities located in or at each CMN Location shall remain with KDL and its subtenants, sublicensees, successors and assigns, as applicable. From time to time throughout the term, KDL may remove, or cause to be removed, from any CMN Location, any or all of KDL's equipment or other facilities. Upon expiration or termination of the License, KDL shall remove, or cause to be removed, from each CMN Location, any and all of KDL's equipment and other facilities. CMN hereby acknowledges and agrees that only KDL authorized personnel shall be allowed to access the KDL equipment and other facilities.

EXHIBIT A-1

Service Acknowledgment

This Service Acknowledgment is made and entered into as of this _____ day of _____, 2011 by and between Cinergy MetroNet, Inc. ("CMN") and Windstream KDL, Inc., formerly Kentucky Data Link, Inc. ("KDL"), pursuant and subject to the Fiber Transport Services/Dark Fiber Exchange Agreement dated August 15, 2010 by and between the parties hereto ("Agreement"). All capitalized terms not defined herein shall have the same meaning as ascribed in the Agreement.

1. Transport Services Location Information. KDL shall provide the Transport Service between the "A" and "Z" locations listed below:

A Location:	Z Location:
IPL WIN75 701 W. Henry Street Indianapolis IN 46225	LBNNINAA Location at or near 302 W. Washington Street Lebanon IN 46052
Z Location:	A Location:
LBNNINAA Location at or near 302 W. Washington Street Lebanon IN 46052	IPL WIN75 701 W. Henry Street Indianapolis IN 46225 (via Lafayette IN for diversity)

2. Eligible System. KDL shall receive four IRU Fibers throughout the Lebanon, Indiana System ("Eligible System") illustrated on the map attached hereto as Schedule A-1, and including any additions thereto that utilize the Transport Service set forth in this Service Acknowledgment. Upon request, CMN shall provide KDL with "as built" drawings of the Eligible System.
3. Commencement Date. The Commencement Date of this Service Acknowledgment is July 16, 2011.
4. Term. The initial term of this Service Acknowledgment shall be 40 years commencing on the Commencement Date. Upon the expiration of the initial term, this Service Acknowledgment shall automatically renew on a year-to-year basis until terminated by either Party with 180 days prior written notice.

5. Miscellaneous. In case of any conflict between the terms of this Service Acknowledgment and the term of the Agreement, the terms of this Service Acknowledgment shall prevail.

IN WITNESS WHEREOF, the Parties have executed this Service Acknowledgment on the day and year written above.

Windstream KDL, Inc.

Cinergy MetroNet, Inc.

By: 

By: 

Its: SVP Fiber Transport Sec S.

Its: as President



Schedule A-1
Lebanon, Indiana System

LEGEND

Blue line = Available fiber and distribution line
 Red line = Fiber to be installed by Cinergy
 Green line = Fiber to be installed by other providers
 Yellow line = Fiber to be installed by other providers
 Orange line = Fiber to be installed by other providers
 Purple line = Fiber to be installed by other providers
 Black line = Fiber to be installed by other providers
 Gray line = Fiber to be installed by other providers
 White line = Fiber to be installed by other providers
 Blue line = Fiber to be installed by Cinergy
 Red line = Fiber to be installed by Cinergy
 Green line = Fiber to be installed by Cinergy
 Yellow line = Fiber to be installed by Cinergy
 Orange line = Fiber to be installed by Cinergy
 Purple line = Fiber to be installed by Cinergy
 Black line = Fiber to be installed by Cinergy
 Gray line = Fiber to be installed by Cinergy
 White line = Fiber to be installed by Cinergy



LEBANON WINDSTREAM PROJECT ROUTE: LBNON PROJECT: FTTP Project LOCATION: Lebanon, Boone County, Indiana Fiber Map				<table border="1"> <tr> <th>REV</th> <th>DATE</th> <th>DESCRIPTION</th> <th>ENG</th> <th>DRAWN</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	REV	DATE	DESCRIPTION	ENG	DRAWN																<p>THIS PRINT AND DESIGN ARE THE SOLE PROPERTY OF CINERGY METRONET, INC. AND SHALL BE CONSIDERED CONFIDENTIAL. THIS PRINT MAY NOT BE REPRODUCED IN ANY WAY WITHOUT THE WRITTEN PERMISSION OF CINERGY METRONET, INC. AND SHALL BE RETURNED UPON REQUEST.</p> <p>CINERGY METRONET CINERGY METRONET, INC. 701 COMMUNICATION WAY EVANSVILLE, IN 47715</p>	
REV	DATE	DESCRIPTION	ENG	DRAWN																						

Exhibit 4

POLE ATTACHMENT RIGHTS/DARK FIBER RIGHTS EXCHANGE AGREEMENT

This POLE ATTACHMENT RIGHTS/DARK FIBER RIGHTS EXCHANGE AGREEMENT ("Agreement") is effective as of the 7th day of February, 2005 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. Pursuant to that certain Fiber Agreement dated October 1, 2000, by and between KDL and certain of Duke Energy Corporation's affiliate companies (collectively "Duke") which is attached hereto as Exhibit A ("Fiber Agreement"), KDL has secured the right to locate fiber optic cable on utility poles owned or controlled by Duke. CMN wishes to install and use fiber optic cable along certain Duke utility pole routes (collectively the "Duke Routes" each individually a "Duke Route"). KDL wishes to obtain rights to, and use of, dark fiber along the Duke Routes. The Parties, therefore, wish to enter into this Agreement, the terms of which will govern the exchange of dark fiber rights for pole attachment rights and maintenance services as more particularly set forth below.

2. Request for Duke Routes. At any time during the term of this Agreement, CMN may request the right to locate fiber optic cable along a Duke Route by sending KDL written notice. Upon receipt of such notice, KDL shall promptly review CMN's request and shall notify CMN in a timely manner if KDL does not have the rights under the Fiber Agreement to satisfy CMN's request. If KDL is able to accommodate CMN's request under the terms of the Fiber Agreement, the Parties shall promptly start working on a Project Description as more particularly described in Section 3 below for the requested Duke Route. Upon completion, KDL shall promptly submit the Project Description to Duke for approval and shall use commercially reasonable efforts to secure such approval in a reasonable time frame.

3. Incorporation of Duke Routes. Each Duke Route covered by this Agreement shall be identified and described in an Exhibit B Project Description that incorporates itself into this Agreement by reference and that is signed by both Parties. Each such Exhibit B shall set forth the following information for each Duke Route: (i) a description of the utility pole route; (ii) the total number of fiber strands to be located along the utility pole route; (iii) the number of fiber strands being retained for use by KDL along the utility pole route pursuant to the terms of this Agreement; and (iv) the number of fiber strands to be utilized by CMN along the utility pole route. Unless otherwise agreed to by the Parties, each Exhibit B Project Description shall be in the form of Exhibit B attached hereto.

4. Make Ready and Installation Work. KDL shall perform, or oversee the performance of, all make ready and installation work associated with the location of CMN fiber optic cable on each Duke Route set forth in an Exhibit B Project Description that is approved by Duke. All such work shall be performed by KDL in accordance with telecommunications industry standard practices. CMN shall pay all Costs of make ready and installation work. For purposes of this Agreement, the term "Costs" shall be the sum of: (a) all actual costs paid or payable by KDL including, without limitation, labor costs, pass through costs paid to third parties, and materials costs and (b) an overhead allocation equal to fifteen percent (15%) of the sum of the costs set forth in (a).

5. Cost Estimate. Prior to the commencement of any make ready and installation work, KDL shall provide CMN with a reasonable estimate of the Costs associated with such work ("Cost Estimate"). If CMN approves the Cost Estimate, KDL shall then diligently perform, or oversee the performance of, the make ready and installation work. Notwithstanding the foregoing, KDL may require CMN to pay all or any portion of the Cost Estimate in advance as a condition of commencing with the make ready and installation work. In such case, when the make ready and installation work has been completed, KDL shall provide CMN with documentation of the actual Costs associated with such work. If the actual Costs are less than the Cost Estimate, KDL shall issue CMN a credit equal to the difference. If the actual Costs are greater than the Cost Estimate, KDL shall invoice CMN for the difference.

6. Billing and Payment. KDL shall invoice CMN for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by CMN. KDL reserves the right to apply a late charge equal to one and half percent (1.5%) per month (or the maximum legal rate, if less) on any unpaid balance. CMN shall reimburse KDL for all fees KDL incurs collecting any past due undisputed charges from CMN including, but not limited to, attorneys fees and collection fees. Should CMN dispute any of the charges on an invoice, it shall notify KDL in writing within sixty (60) days after CMN's receipt of invoice of the disputed charges and CMN's reason for disputing the same. If CMN does not deliver a challenge or dispute to any invoice within sixty (60) days after CMN's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by CMN.

7. Transfer of Title. Pursuant to the terms of the Fiber Agreement, Duke is required to retain title to all fiber optic cable, including the cable sheath, installed by KDL along each Duke Route. Therefore, automatically, without further action, CMN hereby conveys to KDL title and ownership in all of the CMN fiber optic cable, including the cable sheath, installed along each Duke Route covered by this Agreement now and in the future (collectively the "Installed Fibers"). As a condition of such transfer, KDL agrees to convey to Duke, title and ownership to the Installed Fibers located on each Duke Route covered by this Agreement.

8. Grant of IRU. KDL shall retain the greater of: (i) eight (8) fibers; or (ii) ten percent (10%) of the Installed Fibers (rounded up to the nearest even number) for its use and Duke's use. In return, KDL hereby grants CMN a fully paid-up (with no periodic lease payments), fully transferable indefeasible right of use ("IRU") in the remaining ninety percent (90%) of the Installed Fibers. Such IRU shall be an exclusive and irrevocable right, for the duration of this Agreement.

9. Gaps in Duke Routes. CMN may request that KDL obtain rights to install fiber optic cable along a route that commences on Duke utility poles but has segments that are not covered by Duke utility poles (e.g. segments that go underground, across bridges or on utility poles owned by third parties) before again being connected to Duke utility poles ("Gap Segments"). It is understood by the Parties that without having rights in fiber optic cable located along the Gap Segments such routes would be incomplete and of little value to KDL. Therefore, CMN agrees to secure and maintain the underlying rights necessary to install fiber optic cable along the Gap Segments and hereby grants KDL an IRU in the greater of: (i) eight (8) fibers; or (ii) ten percent (10%) of the CMN fibers (rounded to the nearest even number) located along the Gap Segments. KDL shall be responsible for installing and maintaining the CMN fiber optic cable along the Gap

Segments in accordance with the terms set forth in Sections 4 and 11 of this Agreement. For avoidance of doubt, CMN shall own the fiber optic cable along the Gap Segments.

10. Use. Each Party shall use the fibers granted or used by such Party pursuant to this Agreement in a manner that does not cause material technical interference with the other Party's network, fiber, or any equipment or element thereof. Each Party shall be responsible for the operation and maintenance of any equipment it attaches or uses in conjunction with the fibers granted or used by such Party pursuant to this Agreement. Neither KDL, nor any affiliate of KDL, shall use any of the IRU fibers to directly provide voice, video and/or Internet services to residential or small business consumers in competition with voice, video and/or Internet services provided by CMN. Notwithstanding the foregoing, KDL or any KDL affiliate may use the IRU fibers: (i) to provide wholesale transport services to any carrier including, without limitation, carriers providing voice, video and data services to residential and business consumers; (ii) to provide services to any school or post secondary school; or (iii) for any other purpose not prohibited under this Agreement.

11. Maintenance of the Installed Fibers. As additional consideration for the rights granted to KDL under this Agreement, throughout the useful life of the Installed Fibers, KDL shall use commercially reasonable efforts to ensure that the Installed Fibers are maintained in good working order, condition and repair, ordinary wear and tear excepted. KDL shall also perform, or oversee the performance of, all relocation activities involving the Installed Fibers. CMN shall reimburse KDL for all Costs associated with the maintenance and relocation of the Installed Fibers.

12. Term. The term of this Agreement shall be coterminous with the term of the Fiber Agreement.

13. Taxes. Notwithstanding who has legal title to the Installed Fibers in any of the Duke Routes or the fibers located along the Gap Segments, it is understood and agreed as between the Parties that for accounting and federal and all applicable state and local tax purposes, each Party shall be treated as the owner of that portion of the fibers it controls.

14. Representations and Warranties. Each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, and creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE INSTALLED FIBERS OR ANY OF THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

15. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

16. Specific Performance. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance as its sole remedy for a breach under this Agreement.

17. Limitation of Rights. All rights, duties and obligations set forth in this Agreement are expressly subject and subordinate to the terms and conditions of the Fiber Agreement and KDL's rights and obligations thereunder. KDL shall have no liability whatsoever to CMN if KDL fails to perform any duty or obligation under this Agreement as a result of (i) losing any of its rights under the Fiber Agreement for any reason; (ii) the terms and conditions of the Fiber Agreement; or (iii) any act or omission of Duke.

18. Post Termination Obligations. If the Fiber Agreement is terminated, so long as KDL has the ability, KDL shall exercise its rights under Section 18(c) of the Fiber Agreement to purchase the Installed Fibers. In such event, with the exception of the Installed Fibers that will be retained by KDL, KDL shall immediately pass title to CMN in all of the remaining Installed Fibers including the cable sheath. CMN, in turn, shall pass title to KDL in the greater of: (i) eight (8) fibers; or (ii) ten percent (10%) of the CMN fibers (rounded to the nearest even number) located along the Gap Segments. Thereafter, unless otherwise agreed to by the Parties, CMN shall be responsible for obtaining and paying all amounts associated with any third party underlying rights required to keep in place the Installed Fibers located along the Duke Routes and the CMN fiber optic cable located along the Gap Segments. KDL shall reimburse CMN for ten percent (10%) of the amounts paid to any third parties to secure and maintain such underlying rights. This Section 18 shall survive termination of the Agreement unless the Agreement is terminated pursuant to Section 20 below in which case it shall be of no further force or effect.

19. Abandonment. Each Party reserves the right to abandon its portion of the Installed Fibers or fibers located along the Gap Segments by delivering written notice to the other Party. Upon receipt of such notice, the non terminating Party shall have the option of taking title to the terminating Party's abandoned fibers in which case the Parties shall sign any documents necessary to consummate such transfer. For avoidance of doubt, once a Party has abandoned any Fibers and/or Gap Segment fibers pursuant to this Section 19, it shall have no further liability to the other Party under this Agreement for such abandoned Fibers and/or Gap Segment fibers.

20. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and among KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004, as amended ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be in violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement

shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

21. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

22. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may change the address to which future notices or other communications shall be sent by sending the other Party notice.

23. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively; "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 23 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

24. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with Duke or any other third party regarding pole attachment rights or dark fiber rights involving the Duke Routes or Gap Segments.

25. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts and work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved 30 days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than 60 days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such 60 day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within 60 days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an

impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

26. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

27. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the wavier thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

28. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

29. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

30. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 30 and shall be entitled to enforce the obligations of this Section 30.

31. Relationship of the Parties. The relationship between CMN and KDL shall not be that of partners, agents, or joint venture.

32. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

33. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

34. Entire Agreement. This Agreement, along with Exhibit A and Exhibit B sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.



Signature

John Greenbank

Name

Pres

Title

8/15/10

Date

Cinergy MetroNet, Inc.



Signature

John Cinelli

Name

as its president

Title

8/15/10

Date

Amendment to Pole Attachment Rights/Dark Fiber Rights Exchange Agreement

This Amendment modifies the Pole Attachment Rights/Dark Fiber Rights Exchange Agreement entered between Kentucky Data Link ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation, effective February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

Section 10 of the Agreement shall be modified to the following:

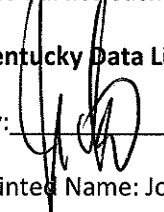
10. Use of Fibers. KDL and CMN shall use their respective fibers in an Eligible System covered by this Agreement in a manner that does not cause material technical interference with the other Party's network, fiber, or any equipment of element thereof. Each Party shall be responsible for the operation and maintenance of any equipment it attaches or uses in conjunction with the fibers granted or used by such Party in an Eligible System. Neither KDL, nor any affiliate of KDL, shall use any of the IRU fibers to directly (or indirectly via rights to dark fiber as set forth below) provide voice, video and/or Internet services to residential consumers in competition with the voice, video and/or Internet services provided by CMN. Notwithstanding the foregoing, KDL or any KDL affiliate, may use the IRU fibers: (i) to provide wholesale transport services to any carrier, provided that, for avoidance of doubt, KDL may not license, sell or otherwise grant a third party any rights to the dark fibers that comprise the IRU fibers to provide voice, video and/or Internet services to residential consumers; or (ii) to provide services to any school or post secondary school; or (iii) for any other purpose not prohibited by this Agreement.

Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each.

This Amendment shall be effective as of the last date entered below and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Kentucky Data Link, Inc:

By:  _____

Printed Name: John Greenbank

Title: as President

Date: 11/7/10

Cinergy MetroNet, Inc:

By:  _____

Printed Name: John Cinelli

Title: as President

Date: 11/05/10

**AMENDMENT TO POLE ATTACHMENT RIGHTS/ DARK FIBER RIGHTS
EXCHANGE AGREEMENT
(EXHIBIT B, BLOOMINGTON TO SEYMOUR)**

This Amendment to Pole Attachment Rights/Dark Fiber Rights Exchange Agreement (the "Amendment") is made as of the 25th day of October, 2011 ("Amendment Date") by and between Cinergy MetroNet, Inc. ("CMN") and Windstream KDL, Inc. f/k/a Kentucky Data Link, Inc. ("KDL").

Whereas, CMN and KDL are parties to that Pole Attachment Rights/Dark Fiber Rights Exchange Agreement effective February 7, 2005 (the "Agreement"); and,

Whereas, pursuant to the terms of the Agreement, CMN and KDL each have rights to use a specified number of fibers along the Duke Route described in Exhibit B, Bloomington-Seymour, on page 45 of the Agreement (for the purposes of this Amendment, "Exhibit B"); and,

Whereas, a Duke Operating Company, as such term is defined in the Fiber Agreement, desires to acquire additional fiber along a segment of the Duke Route described in Exhibit B, more specifically, the segment from Bedford, IN to Bloomington, IN (the "Bedford to Bloomington Segment"); and,

Whereas, CMN wishes to provide additional fiber to KDL along the Bedford to Bloomington Segment for use by the Duke Operating Company; and,

Now therefore, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

As of the Amendment Date, Sections (iii) and (iv) of Exhibit B shall be deleted in their entirety and shall be replaced with the following:

"(iii) KDL Fiber Count: 8 fibers, except along the portion of the Route between Bedford, IN and Bloomington, IN where the KDL fiber count shall be 10 fibers.

(iv) CMN Fiber Count: 40 fibers, except along the portion of the Route between Bedford, IN and Bloomington, IN where the CMN fiber count shall be 38 fibers."

This Amendment shall serve to expressly modify Exhibit B of the Agreement. Except as expressly revised, modified, altered or amended hereby, the Agreement shall remain in full force and effect in accordance with its terms and constitutes the legal and binding obligations of the parties.

Agreed to as of the date first above written.

Windstream KDL, Inc.

By: [Signature]
Name: John C. Greenbank
Title: SVP, Fiber Transport Services
Date: 10-11-2011

Cinergy MetroNet, Inc.

By: [Signature]
Name: Lohn H. Weber
Title: Treasurer
Date: 10/25/11

Exhibit 5

Fill in this information to identify the case:

Debtor Windstream KDL, LLC

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

Case number 19-22449

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>CMN-RUS, Inc.</u> <small>Name of the current creditor (the person or entity to be paid for this claim)</small> Other names the creditor used with the debtor <u>Cinergy Metronet, Cinergy Metronet, Inc. and Metronet</u>	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Anita Larson</u> <small>Name</small> <u>8837 Bond Street</u> <small>Number Street</small> <u>Overland Park KS 66214</u> <small>City State ZIP Code</small> Contact phone <u>812.213.1095</u> Contact email <u>anita.larson@metronetinc.com</u>	Where should payments to the creditor be sent? (if different) <small>Name</small> _____ <small>Number Street</small> _____ <small>City State ZIP Code</small> _____ Contact phone _____ Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

☒ Date Stamped Copy Returned
☐ No self addressed stamped envelope
☐ No copy to return



KURTZMAN CARSON CONSULTANTS

RECEIVED

JUL 10 2019

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 432,439.00. Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

See Attached Exhibit A.

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____

Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

RECEIVED

JUL 10 2019

KURTZMAN CARSON CONSULTANTS

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____%

☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☐ No
☒ Yes. Identify the property: See attached Exhibit A.

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

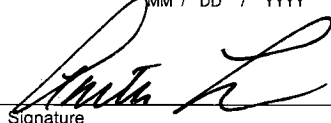
I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* 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 date

07/09/2019
MM / DD / YYYY


Signature

Print the name of the person who is completing and signing this claim:

Name Anita Larson
First name Middle name Last name

Title Vice President and Senior Counsel

Company CMN-RUS, Inc.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 8837 Bond Street
Number Street

Overland Park KS 66214
City State ZIP Code

Contact phone 812.213.1095 Email anita.larson@metronetinc.com

RECEIVED

JUL 10 2019

KURTZMAN CARSON CONSULTANTS

METRONET

THE POWER OF FIBER

Anita Larson
Vice President
and Senior Counsel
Direct: 812.213.1095
anita.larson@metronetinc.com

July 9, 2019

VIA FEDERAL EXPRESS
STANDARD OVERNIGHT DELIVERY

Windstream Holdings, Inc. Claims Processing Center
c/o Kurtzman Carson Consultants LLC
222 N. Pacific Coast Highway
Suite 300
El Segundo, CA 90245

Re: Proof of Claim
CMN-RUS, Inc.

Dear Sir or Madam:

Please find enclosed the following:

- Original Proof of Claim of CMN-RUS, Inc.
- Copy of Proof of Claim for proof of receipt
- Federal Express Envelop and Shipping Label for proof of receipt

Please provide proof of receipt in the enclosed Federal Express Envelop using the enclosed shipping label.

Thank you for your time and consideration.

Sincerely,



Anita Larson
Vice President
and Senior Counsel

Encls

Metronet
8837 Bond Street
Overland Park, KS 66214

Exhibit A
To Proof of Claim filed by CMN-RUS, Inc.
(f/k/a Cinergy Metronet, Cinergy Metronet, Inc. and d/b/a Metronet)

Invoice #	Invoice Date	Payee	Description	Amount (US\$) ¹	
666	8/23/2017	Windstream KDL, LLC	Dec 2010 to July 2017	351,848.70	
667	9/1/2017	Windstream KDL, LLC	Sep-17	4,066.64	
668	10/1/2017	Windstream KDL, LLC	Oct-17	4,292.45	
669	11/1/2017	Windstream KDL, LLC	Nov-17	964.52	
670	12/1/2017	Windstream KDL, LLC	Dec-17	4,419.46	
671	1/1/2018	Windstream KDL, LLC	Jan-18	4,537.44	
672	2/1/2018	Windstream KDL, LLC	Feb-18	4,935.77	
673	3/1/2018	Windstream KDL, LLC	Mar-18	4,690.99	
674	4/1/2018	Windstream KDL, LLC	Apr-18	4,330.53	
675	5/1/2018	Windstream KDL, LLC	May-18	4,634.15	
676	6/1/2018	Windstream KDL, LLC	Jun-18	992.58	
677	7/1/2018	Windstream KDL, LLC	Jul-18	4,677.13	
678	8/1/2018	Windstream KDL, LLC	Aug-18	5,769.33	
679	9/1/2018	Windstream KDL, LLC	Sep-18	5,602.58	
680	10/1/2018	Windstream KDL, LLC	Oct-18	6,075.25	
681	11/1/2018	Windstream KDL, LLC	Nov-18	4,736.92	
682	12/1/2018	Windstream KDL, LLC	Dec-18	5,148.98	
683	1/1/2019	Windstream KDL, LLC	Jan-19	5,159.21	
684	2/1/2019	Windstream KDL, LLC	Feb-19	5,557.05	
Total				432,439.68	
All the above amounts owed are owed pursuant to (i) the Collocation and Maintenance Agreement between CMN-RUS, Inc. ("CMN" or "Claimant") and Windstream KDL, LLC ("WIN" or "Debtor"), dated February 7, 2005, as amended or (2) the Rack Space Swap Agreement dated January 1, 2008. (Collectively the "Agreements," a copy of each is attached) The above invoiced amounts are for power utilized by WIN in excess of the amount of WIN's Power Allocation as defined in the Agreements or for rack space (see description of charges on invoices).					
The Agreements characterize the collocation and rack space as licenses. Accordingly, CMN has responded negatively to the question in Box 10. CMN reserves all rights to claim it is a lease or executory contract under the Bankruptcy Code.					
CMN-RUS, Inc. reserves the right to set off the above amounts against charges owed, if any, by CMN-RUS, Inc. for power utilized by CMN-RUS, Inc. in excess of the amount of CMN's Power Allocation as defined in and pursuant to the terms of the Rack Space Swap Agreement dated January 1, 2008. (Copy of agreement attached)					

¹ Copies of invoices are attached.

Reservation of Rights

Claimant expressly reserves the right to amend the claim and assert any additional claims and any additional amounts, including amounts which are or may be currently contingent or unliquidated and amounts that may be entitled to administrative priority under sections 507 and 503 of title 11 of the United States Code. Claimant also expressly includes the right to any pre or post-petition interest and for any pre or post-petition legal fees.

This Proof of Claim is filed under the compulsion of the bar date established in these chapter 11 proceedings and is filed to protect the Claimant from any asserted forfeiture of claims by reason of said bar date. Claimant expressly reserves the right to amend, modify and/or supplement any of the claims set forth herein and to file, in accordance with orders of the Bankruptcy Court and/or the Federal Rules of Bankruptcy Procedure, any amended, modified and/or supplementary claims that Claimant may have against the Debtor.

Claimant expressly reserves the right to attach, produce and/or rely upon additional documentation which supports its claims and any additional documents that may become available after further investigation or discovery.

The filing of this proof of claim does not and shall not constitute a waiver or release of any of Claimant's rights or claims against: (a) any other person, entity or property; (b) to contest the jurisdiction of the Bankruptcy Court with respect to the subject matter of the claims set forth herein; and/or (c) to elect remedies or choice of law or right to contest venue or *forum non convenes*.

Claimant expressly reserves all rights with respect to claims and causes of action it may hold against the Debtor. The Claimant reserves all of its rights and defenses, whether under title 11 of the United States Code or other applicable law, as to any claims or defenses that may be asserted by the Debtors, including, without limitation, any rights of setoff, offset, and/or recoupment.

The Claimant hereby further reserves all rights accruing to it, and the filing of this Proof of Claim is not and shall not be deemed or construed as: (i) a waiver, release, or limitation of its rights against any person, entity, or property (including, without limitation, the Debtors or any other person or entity that is or may become a debtor in a case pending in this Court; (ii) a consent by the Claimant to the jurisdiction or venue of this Court or any other court with respect to proceedings, if any, commenced in any case against or otherwise involving the Claimant; (iii) a waiver, release, or limitation of the right of the Claimant to trial by jury in this Court or any other court in any proceeding as to any and all matters so triable herein, whether or not the same be designated legal or private rights or in any case, controversy, or proceeding related hereto, notwithstanding the designation or not of such matters as "core proceedings" pursuant to 28 U.S.C. § 157(b)(2), and whether or not such jury trial right is pursuant to statute or the U.S. Constitution; (iv) a consent by the Claimant to a jury trial in this Court of any other court in any proceeding as to any and all matters so triable herein or in any case, controversy, or proceeding related hereto, pursuant to 28 U.S.C. § 157(e) or otherwise; (v) a waiver, release, or limitation of the right of the Claimant to have any and all final orders in any and all non-core matters or proceedings entered only after de novo review by U.S. District Court Judge; (vi) consent to this Court hearing or deciding any matter or proceeding, to the extent this Court lacks the

constitutional authority to do so, under *Stern v. Marshall* or otherwise; (vii) a waiver of the right to move to withdraw the reference with respect to the subject matter of this Proof of Claim, any objection thereto or other proceeding which may be commenced in this case against or otherwise involving the Claimant; (viii) an election of remedies; (ix) a consent to the final determination or adjudication of any claim or right pursuant to 28 U.S.C. § 157(c); or (x) waiver of a right to enforce arbitration.

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Aug 23, 2017
INVOICE # 666

Bill To:

Windstream KDL, LLC
Attn: Shelly Sanchez
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u> Rack 0101.06: \$500/month/full rack: Service Period: 12/1/2010 – 8/31/2017	\$40,500.00
Windstream Portion of Utility Expense: 4/2012 – 7/2017	\$17,482.03
<u>Marion Hut:</u> Windstream Portion of Utility Expense: 12/2010 – 7/2017	\$11,637.94
<u>Seymour Hut:</u> Windstream Portion of Utility Expense: 12/2010 – 7/2017	\$10,899.56
<u>Evansville Data Center:</u> Windstream Portion of Utility Expense: 12/2010 - 7/2017	\$271,329.17
TOTAL:	\$351,848.70

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Sept 1, 2017
INVOICE # 667

Bill To:

Windstream KDL, LLC
Attn: Shelly Sanchez
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u> Rack 0101.06: \$500/month/full rack: Service Period: 9/1/2017-9/30/2017	\$500.00
Windstream Portion of Utility Expense: 8/25/2017 CARROLL WHITE REMC Invoice: 1698700 0817	\$136.65
<u>Marion Hut:</u> Windstream Portion of Utility Expense: 8/18/2017 INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0817	\$130.15
<u>Seymour Hut:</u> Windstream Portion of Utility Expense: 8/7/2017 DUKE ENERGY Invoice: 36003590016 0817	\$163.17
<u>Evansville Data Center:</u> Windstream Portion of Utility Expense: 8/14/2017 VECTREN ENERGY Invoice: 0130080085613084262	\$3,136.67
TOTAL	\$4,066.64

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Oct 1, 2017
INVOICE # 668

Bill To:

Windstream KDL, LLC
Attn: Shelly Sanchez
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 10/1/2017-10/31/2017	\$500.00
Windstream Portion of Utility Expense: 9/25/2017	
CARROLL WHITE REMC Invoice: 1698700 0917	\$139.28
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 9/18/2017	\$162.21
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0917	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 9/7/2017	\$170.48
DUKE ENERGY Invoice: 36003590016 0917	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 9/14/2017	\$3,320.48
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL:	\$4,292.45

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Nov 1, 2017
INVOICE # 669

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 11/1/2017-11/30/2017	\$500.00
Windstream Portion of Utility Expense: 10/25/2017	
CARROLL WHITE REMC Invoice: 1698700 1017	\$137.92
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 10/18/2017	\$172.09
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1017	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 10/7/2017	\$154.51
DUKE ENERGY Invoice: 36003590016 1017	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 10/13/2017	\$3,588.70
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,553.22

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Dec 1, 2017
INVOICE # 670

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 12/1/2017-12/31/2017	\$500.00
Windstream Portion of Utility Expense: 11/25/2017	
CARROLL WHITE REMC Invoice: 1698700 1117	\$178.79
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 11/16/2017	\$152.17
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1117	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 11/5/2017	\$152.57
DUKE ENERGY Invoice: 36003590016 1117	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 11/10/2017	\$3,435.93
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,419.46

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Jan 1, 2018
INVOICE # 671

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 1/1/2018-1/31/2018	\$500.00
Windstream Portion of Utility Expense: 12/25/2017	
CARROLL WHITE REMC Invoice: 1698700 1217	\$216.97
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 12/16/2017	\$180.19
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1217	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 12/5/2017	\$149.52
DUKE ENERGY Invoice: 36003590016 1217	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 12/12/2017	\$3,490.76
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,537.44

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Feb 1, 2018
INVOICE # 672

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 2/1/2018-2/28/2018	\$500.00
Windstream Portion of Utility Expense: 01/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0118	\$352.64
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 01/22/2018	\$226.57
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0118	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 01/10/2018	\$144.08
DUKE ENERGY Invoice: 36003590016 0118	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 01/12/2018	\$3,712.48
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,935.77

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: May 1, 2018
INVOICE # 675

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 5/1/2018-5/31/2018	\$500.00
Windstream Portion of Utility Expense: 04/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0418	\$224.36
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 04/20/2018	\$169.26
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0418	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 04/06/2018	\$143.73
DUKE ENERGY Invoice: 36003590016 0418	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 04/12/2018	\$3,596.80
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,634.15

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: June 1, 2018
INVOICE # 676

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 6/1/2018-6/30/2018	\$500.00
Windstream Portion of Utility Expense: 05/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0518	\$166.02
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 05/21/2018	\$174.32
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0518	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 05/07/2018	\$152.24
DUKE ENERGY Invoice: 36003590016 0518	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 05/11/2018	\$3,249.89
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,242.47

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: July 1, 2018
INVOICE # 677

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 7/1/2018-7/31/2018	\$500.00
Windstream Portion of Utility Expense: 06/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0618	\$164.28
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 06/20/2018	\$204.52
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0618	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 06/06/2018	\$184.69
DUKE ENERGY Invoice: 36003590016 0618	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 06/13/2018	\$3,623.64
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,677.13

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Aug 1, 2018
INVOICE # 678

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u> Rack 0101.06: \$500/month/full rack: Service Period: 8/1/2018-8/30/2018 Windstream Portion of Utility Expense: 07/25/2018 CARROLL WHITE REMC Invoice: 1698700 0718	\$500.00 \$160.35
<u>Marion Hut:</u> Windstream Portion of Utility Expense: 07/20/2018 INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0718	\$201.04
<u>Seymour Hut:</u> Windstream Portion of Utility Expense: 07/06/2018 DUKE ENERGY Invoice: 36003590016 0718	\$196.96
<u>Evansville Data Center:</u> Windstream Portion of Utility Expense: 07/13/2018 VECTREN ENERGY Invoice: 0130080085613084262	\$4,710.98
TOTAL	\$5,769.33

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Sep 1, 2018
INVOICE # 679

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 9/1/2018-9/31/2018	\$500.00
Windstream Portion of Utility Expense: 08/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0818	\$161.92
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 08/20/2018	\$192.47
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0818	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 08/08/2018	\$196.70
DUKE ENERGY Invoice: 36003590016 0818	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 08/14/2018	\$4,551.49
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,602.58

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Oct 1, 2018
INVOICE # 680

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 10/1/2018- 10/31/2018	\$500.00
Windstream Portion of Utility Expense: 09/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0918	\$160.37
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 09/19/2018	\$219.21
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0918	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 09/05/2018	\$186.15
DUKE ENERGY Invoice: 36003590016 0918	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 09/13/2018	\$5,009.52
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$6,075.25

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Nov 1, 2018
INVOICE # 681

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 11/1/2018- 11/30/2018	\$500.00
Windstream Portion of Utility Expense: 10/25/2018	
CARROLL WHITE REMC Invoice: 1698700 1018	\$153.59
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 10/18/2018	\$174.11
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1018	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 10/04/2018	\$183.46
DUKE ENERGY Invoice: 36003590016 1018	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 10/12/2018	\$3,725.76
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,736.92

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Dec 1, 2018
INVOICE # 682

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 12/1/2018- 12/31/2018	\$500.00
Windstream Portion of Utility Expense: 11/25/2018	
CARROLL WHITE REMC Invoice: 1698700 1118	\$192.45
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 11/16/2018	\$161.73
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1118	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 11/02/2018	\$180.71
DUKE ENERGY Invoice: 36003590016 1118	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 11/12/2018	\$4,114.09
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,148.98

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Jan 1, 2019
INVOICE # 683

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 01/01/2019- 01/31/201	\$500.00
Windstream Portion of Utility Expense: 12/25/2018	
CARROLL WHITE REMC Invoice: 1698700 1218	\$241.59
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 12/19/2018	\$187.77
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1218	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 12/05/2018	\$158.36
DUKE ENERGY Invoice: 36003590016 1218	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 12/13/2018	\$4,071.49
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,159.21

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Feb 1, 2019
INVOICE # 684

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 02/01/2019- 02/28/2019	\$500.00
Windstream Portion of Utility Expense: 01/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0119	\$243.06
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 01/22/2019	\$202.56
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0119	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 01/08/2019	\$163.97
DUKE ENERGY Invoice: 36003590016 0119	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 01/14/2019	\$4,447.64
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,557.05

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Mar 1, 2019
INVOICE # 685

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 03/01/2019- 03/31/2019	\$500.00
Windstream Portion of Utility Expense: 02/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0219	\$346.81
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 02/20/2019	\$206.43
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0219	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 02/06/2019	\$148.02
DUKE ENERGY Invoice: 36003590016 0219	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 02/13/2019	\$4,430.22
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,631.48

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

COLLOCATION AND MAINTENANCE AGREEMENT

This COLLOCATION AND MAINTENANCE AGREEMENT ("Agreement") is effective as of the 7th day of February, 2005 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN owns network transmission facilities (each individually a "Facility" collectively the "Facilities") at various locations throughout its fiber network. KDL has the expertise and ability to maintain the Facility sites. KDL and CMN wish to enter into an exchange of the right to use CMN Facilities for the performance of maintenance services as more particularly set forth below.

2. KDL Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL Site" collectively the "KDL Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.

3. Collocation License. For each of the KDL Sites, CMN grants KDL a license to occupy, use and maintain rack spaces for purposes of installing, operating and maintaining KDL's equipment ("Licensed Space"). The Licensed Space for each of the KDL Sites is set forth in Exhibit A. As part of this license, at its sole cost, CMN shall provide thirty (30) amps of power to the Licensed Space ("KDL's Power Allocation") and heat, ventilation and air conditioning service to the Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

4. Additional Services. KDL may request that CMN provide additional AC or DC power, backup power, space or racks at any KDL Site. Subject to its own operational needs, CMN shall use commercially reasonable efforts to accommodate any KDL request for additional services. CMN shall charge KDL Five Hundred Dollars (\$500.00) a month for any additional racks. For any power utilized by KDL beyond KDL's Power Allocation at a KDL Site, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("KDL's Portion"): [(A) divided by (B)] times (C) equals KDL's Portion, where (A) is the total number of additional breakered amps of power delivered to KDL's racks in excess of KDL's Power Allocation at the KDL Site; (B) is the total breakered amps of power delivered to all racks at the KDL Site (including KDL's racks); and (C) is the total power costs CMN incurs in connection with the KDL Site including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that KDL has 2 racks at the KDL and has exceeded the KDL Power Allocation by 100 breakered amps of power. Further assume that at the KDL Site there are a total of 10 racks (including KDL's 2 racks) using a total of 1000 breakered amps of power (including KDL's 100 additional amps of power). Finally, assume that the total power costs incurred by CMN associated with the Evansville Facility in the example month is \$5,000. KDL's Portion for such month would be \$500 (100 divided by 1000 = .01 x \$5,000).

5. Installation. KDL shall be solely responsible for the installation and maintenance of any KDL equipment in a Licensed Space. KDL shall not install any equipment in a Licensed Space that overloads any electrical circuits or associated hardware. All KDL equipment located in a Licensed Space shall be maintained and operated by KDL in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

6. Access. Subject to reasonable rules and regulations as may be promulgated by CMN from time to time, KDL shall have unescorted access to each KDL Site twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the Licensed Space and performing KDL's obligations under this Agreement. CMN hereby grants KDL an easement of ingress and egress to extend KDL's network and equipment from the public rights of way into the Licensed Space.

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL Site, as may be amended from time to time. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL Site; (iv) monitoring the climate temperature of each KDL Site; and (v) providing escorted access to any third parties requiring access to a KDL Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL in performing the maintenance activities set forth in this Section 7.

8. Billing and Payment. A Party providing or performing a service (referred to in this Section 8 as a "Provider") to the other Party (referred to in this Section 8 as a "Recipient") shall invoice the Recipient for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by the Recipient. Should the Recipient dispute any of the charges on an invoice, it shall notify the Provider in writing within sixty (60) days after the Recipient's receipt of invoice of the disputed charges and the Recipient's reason for disputing the same. If the Recipient does not deliver a challenge or dispute to any invoice within sixty (60) days after the Recipient's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by the Recipient.

9. Term. The initial term of this Agreement shall be forty (40) years. After the expiration of the initial term the Agreement shall continue on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

10. Termination. Notwithstanding anything to the contrary in Section 9 above, either Party may terminate this Agreement during the initial term by delivering notice to the non terminating Party at least twenty-four (24) months in advance of the proposed termination date.

11. Representations and Warranties. Except as expressly set forth herein, each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, or creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SPACE OR THE EQUIPMENT OR MAINTENANCE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ALL LICENSED SPACE IS EXPRESSLY ACCEPTED BY KDL ON AN "AS" "IS" "WHERE IS" BASIS.

12. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

13. Remedies. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder. Additionally, if KDL fails to perform any of its obligations under Section 7 of this Agreement in a timely manner, with reasonable prior notice to KDL under the circumstances, CMN may perform such obligation and invoice KDL for any out of pocket expenses incurred by CMN in performing such obligation. The Parties intend for the remedies set forth in this Section 13 to be the sole remedies available to either Party for a breach of this Agreement.

14. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

15. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

16. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may by similar notice given change the address to which future notices or other communications shall be sent.

17. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively, "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 17 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

18. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts to work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision.

However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

19. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with third parties to the extent that such agreements or arrangement do not violate the terms of this Agreement.

20. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

21. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the wavier thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

22. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

23. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

24. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 24 and shall be entitled to enforce the obligations of this Section 24.

25. Relationship of the Parties. The relationship between CMN and KDL shall not be that of partners, agents, or joint venture.

26. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

27. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

28. Entire Agreement. This Agreement and Exhibit A sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.


Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.


Signature

John Cinelli
Name

as its president
Title

8/15/10
Date

EXHIBIT A

KDL SITES

Address	City, State	Racks
112 W Washington Ave	Greencastle, IN	2
3701 Communications Way	Evansville, IN	5
600 E Avenue	Seymour, IN	2
287 N 15 th St	Vincennes, IN	2
1113 Clifty Drive	Madison, IN	1
219 N Jennings Rd	North Vernon	1
146 W Market St	Wabash IN	1
703 Thorn St	North Manchester	1
317 E State St	Huntington IN	1
3765 S US 231	Wolcott IN	2
1558 W 16 th St	Marion IN	2

Amendment to Collocation and Maintenance Agreement

This Amendment modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

Section 2 of the Agreement and all corresponding references to "KDL Site" in the Agreement are hereby modified as follows:

2. KDL/CMN Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL/CMN Site" collectively the "KDL/CMN Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.

Section 7 of the Agreement shall be modified to the following:

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL/CMN Site, as may be amended from time to time by mutual agreement of the parties. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL/CMN Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL/CMN Site; (iv) monitoring the climate temperature of each KDL site; and (v) providing escorted access to any third parties requiring access to a KDL/CMN Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL related to the replacement of any equipment owned by CMN or used exclusively by CMN or the performance of any repair services by a third party on equipment owned by CMN or used exclusively by CMN. For avoidance of doubt, KDL shall perform all other maintenance activities set forth in this Section 7 at KDL's sole cost. In the event CMN expands or modifies a KDL/CMN Site at any time after August 15, 2010, to add floor space that requires additional monitoring capabilities, unless otherwise agreed to by the parties, KDL shall not be required to monitor or otherwise perform any maintenance activities for the additional space.

Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each.

This Amendment shall be effective as of the last date entered below and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Kentucky Data Link, Inc:

By: 

Printed Name: John Greenbank

Title: as President

Date: 11/7/10

Cinergy MetroNet, Inc:

By: 

Printed Name: John Cinelli

Title: as President

Date: 11/05/10

Amendment # 2 to Collocation and Maintenance Agreement

This Amendment # 2 is effective as of 2nd day of June, 2012 ("Effective Date"), and modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link n/k/a Windstream Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. n/k/a CMN-RUS, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

The Agreement shall be deemed amended as follows:

1. **Purpose.** Pursuant to Section 4 of the Agreement, KDL wishes to obtain additional rack space in CMN's data center located at 3701 Communications Way, Evansville, IN ("Data Center"). CMN is willing to grant KDL such rack space in the Data Center in accordance with the terms of the Agreement and this Amendment.
2. **License.** CMN hereby grants KDL a non-exclusive year to year license to occupy those racks and portions of racks that are located in the Data Center and identified in Schedule 1 to this Amendment (each a "KDL Rack").
3. **Termination Rights.** With written notice at least thirty (30) days prior to the end of the then current license term, KDL may terminate that portion of the license applicable to any KDL Rack. If CMN wishes to terminate KDL's license to use a KDL Rack, CMN shall provide KDL with written notice at least ninety (90) days prior to the end of the then current license term. Prior to the date of termination, KDL shall remove all of its equipment from any KDL Rack vacated pursuant to this Section 3.
4. **License Fee.** The license fee for the licenses granted in Section 2 is set forth in Schedule 1 to this Amendment ("Cumulative License Fee"). With written notice at least thirty (30) days prior to the effective date of the increase, CMN may increase the Cumulative License Fee based upon the greater of: (a) any actual increases in the cost to operate and maintain the Data Center including, but not limited to, increases in the price of electricity; or (2) any increase in the CPI-U consumer price index from the previous year. Payment of the Cumulative License Fee and KDL's Portion of the any additional power charges for the KDL Racks shall be paid in accordance with Section 8 of the Agreement.
5. **Adjustments to the License Fee.** Upon the termination of a KDL Rack in accordance with Section 3 above, provided KDL's equipment has been removed from the vacated KDL Rack, the Cumulative License Fee shall be reduced by an amount equal to the monthly license fee for the vacated KDL Rack set forth in Schedule 1 to this Amendment.
6. **Miscellaneous.** Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each. In cases of conflict between the terms in this Amendment and those in the Agreement, the terms of this Amendment shall prevail. This Amendment shall be effective on the Effective Date and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Windstream Kentucky Data Link, Inc.

By: [Signature]

Printed Name: Anthony Welsh

Title: VP Transport Engineering

CMN-RUS, Inc.

By: [Signature]

Printed Name: John P. Cinelli

Title: as President

Reviewed JMC Legal

SCHEDULE 1

KDL Racks 1/3 Dedicated to KDL

Rack Number	Monthly License Fee
105.01 1B	\$166.00
108.03C	\$166.00

KDL Racks 1/2 dedicated to KDL

Rack Number	Monthly License Fee
102.10	\$250.00
103.07	\$250.00
110.02	\$250.00
112.04	No charge
114.04	\$250.00
114.08	\$250.00
101.07	\$250.00

KDL Racks 100% dedicated to KDL

Rack Number	Monthly License Fee
103.05	\$500.00
103.06	\$500.00
104.05	\$500.00
104.06	\$500.00
104.07	\$500.00
104.08	\$500.00
109.11	\$500.00
110.01	\$500.00
112.05	\$500.00
112.07	\$500.00
113.01	\$500.00
114.01	\$500.00
114.03	\$500.00
114.07	\$500.00
114.10	\$500.00

RACK SPACE SWAP AGREEMENT

This RACK SPACE SWAP AGREEMENT ("Agreement") is effective as of the 1st day of January, 2008 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN operates a network facility located at 3701 Communications Way, Evansville, Indiana (the "Evansville Facility"). KDL operates a network facility located at 701 Henry Street, Indianapolis, Indiana (the "Indianapolis Facility"). KDL and CMN wish to enter into an agreement for the exchange of rack space and associated rights in the Evansville Facility for rack space and associated rights in the Indianapolis Facility as more particularly set forth below.

2. Licenses.

- (a) In consideration for the license set forth in Section 2(b) below, CMN hereby grants to KDL a license to occupy, use and maintain ten (10) rack spaces for purposes of installing, operating and maintaining KDL's equipment in the Evansville Facility ("KDL Licensed Space"). As part of this license, at its sole cost, CMN shall provide thirty (30) amps of power to each of the racks in the KDL Licensed Space ("KDL's Power Allocation") and heat, ventilation and air conditioning service to the KDL Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

For any power utilized by KDL beyond KDL's Power Allocation, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("KDL's Portion"): [(A) divided by (B)] times (C) equals KDL's Portion, where (A) is the total number of additional breakered amps of power delivered to KDL's racks in excess of KDL's Power Allocation in the Evansville Facility; (B) is the total breakered amps of power delivered to all racks in the Evansville Facility (including KDL's racks); and (C) is the total power costs CMN incurs in connection with the Evansville Facility including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that KDL has 10 racks in the Evansville Facility and has exceeded the KDL Power Allocation by 100 breakered amps of power. Further assume that in the Evansville Facility there are a total of 45 racks (including KDL's 10 racks) using a total of 1300 breakered amps of power (including KDL's 100 additional amps of power). Finally, assume that the total power costs incurred by CMN associated with the Evansville Facility in the example month is \$12,000. KDL's Portion for such month would be \$840 (100 divided by 1300 = .07 x \$12,000).

- (b) In consideration for the license set forth in Section 2(a) above, KDL hereby grants to CMN or any affiliate of CMN a license to occupy, use and maintain ten (10) rack spaces for purposes of installing, operating and maintaining the equipment of CMN or any affiliate of CMN in the Indianapolis Facility ("CMN Licensed Space"). As part of this license, at its sole cost, KDL shall provide thirty (30) amps of power to each of the racks ("CMN Power Allocation") in the CMN Licensed Space and heat, ventilation and air conditioning service to the CMN Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

For any power utilized by CMN beyond CMN's Power Allocation, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("CMN's Portion"): $[(A) \text{ divided by } (B)] \text{ times } (C) \text{ equals CMN's Portion}$, where (A) is the total number of additional breakered amps of power delivered to CMN's racks in excess of CMN's Power Allocation in the Indianapolis Facility; (B) is the total breakered amps of power delivered to all racks in the Indianapolis Facility (including CMN's racks); and (C) is the total power costs KDL incurs in connection with the Indianapolis Facility including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that CMN has 10 racks in the Indianapolis Facility and exceeds the CMN Power Allocation by 100 breakered amps of power. Further assume that in the Indianapolis Facility there are a total of 45 racks (including CMN's 10 racks) using a total of 1300 breakered amps of power (including CMN's 100 additional amps of power). Finally, assume that the total power costs incurred by KDL associated with the Indianapolis Facility in the example month is \$12,000. CMN's Portion for such month would be \$840 (100 divided by 1300 = .07 x \$12,000).

3. Installation.

- (a) KDL shall be solely responsible for the installation and maintenance of any KDL equipment in the KDL Licensed Space. KDL shall not install any equipment in the KDL Licensed Space that overloads any electrical circuits or associated hardware. All KDL equipment located in the KDL Licensed Space shall be maintained and operated by KDL in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

- (b) CMN shall be solely responsible for the installation and maintenance of any CMN equipment in the CMN Licensed Space. CMN shall not install any equipment in the CMN Licensed Space that overloads any electrical circuits or associated hardware. All CMN equipment located in the CMN Licensed Space shall be maintained and operated by CMN in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

4. Access.

- (a) Subject to reasonable rules and regulations as may be promulgated by CMN from time to time, KDL shall have unescorted access to the Evansville Facility twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the KDL Licensed Space. CMN hereby grants KDL an easement of ingress and egress to extend KDL's network and equipment from the public rights of way into the KDL Licensed Space.
- (b) Subject to reasonable rules and regulations as may be promulgated by KDL from time to time, CMN shall have unescorted access to the Indianapolis Facility twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the CMN Licensed Space. KDL hereby grants CMN an easement of ingress and egress to extend CMN's network and equipment from the public rights of way into the CMN Licensed Space.

5. Billing and Payment. A Party providing additional power (referred to in this Section 5 as a "Provider") to the other Party (referred to in this Section 5 as a "Recipient") shall invoice the Recipient for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by the Recipient. Should the Recipient dispute any of the charges on an invoice, it shall notify the Provider in writing within sixty (60) days after the Recipient's receipt of invoice of the disputed charges and the Recipient's reason for disputing the same. If the Recipient does not deliver a challenge or dispute to any invoice within sixty (60) days after the Recipient's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by the Recipient.

6. Term. The initial term of this Agreement shall be twenty (20) years. After the expiration of the initial term the Agreement shall continue on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

7. Representations and Warranties. Except as expressly set forth herein, each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, and creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SPACE TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ALL LICENSED SPACE IS EXPRESSLY ACCEPTED BY EACH PARTY ON AN "AS" "IS" "WHERE IS" BASIS.

8. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

9. Specific Performance. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder, as its sole remedy.

10. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

11. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

12. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may by similar notice given change the address to which future notices or other communications shall be sent.

13. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively, "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 13 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

14. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts and work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

15. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with third parties to the extent that such agreements or arrangement do not violate the terms of this Agreement.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

17. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

18. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

19. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

20. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 20 and shall be entitled to enforce the obligations of this Section 20.

21. Relationship of the Parties. The relationship between CMN and KDL shall be that of independent contractors and not be that of partners, agents, or joint venture.

22. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

23. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

24. Entire Agreement. This Agreement sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.


Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.


Signature

John Cinelli
Name

as its President
Title

8/15/10
Date

Exhibit 6

Fill in this information to identify the case:

Debtor Windstream KDL, LLC

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

Case number 19-22449

Official Form 410
Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>CMN-RUS, Inc.</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor <u>Cinergy MetroNet, Inc.</u>	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? CMN-RUS, Inc. Andrew J. Nazar, Esq. Polsinelli PC 900 West 48th Place, Suite 900 Kansas City, MO 64112, USA Contact phone <u>816-753-1000</u> Contact email <u>anazar@polsinelli.com</u>	Where should payments to the creditor be sent? (if different) CMN-RUS, Inc. Anita Larson 8837 Bond Street Overland Park, KS 66214, USA Contact phone <u>812-213-1095</u> Contact email <u>anita.larson@metronetinc.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6.	Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ ____ ____ ____
7.	How much is the claim? \$ <u>Unliquidated</u>	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8.	What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Rejection Damages for Agreement</u>	
9.	Is all or part of the claim secured? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable	
10.	Is this claim based on a lease? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____	
11.	Is this claim subject to a right of setoff? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Identify the property: <u>Unknown, rights to setoff are reserved</u>	



<p>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</p> <p>A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.</p>	<div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Check all that apply: </div> <div style="text-align: right; background-color: #f2f2f2; padding: 5px;">Amount entitled to priority</div> </div> <div style="margin-top: 10px;"> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <div style="text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). <div style="text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). <div style="text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). <div style="text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). <div style="text-align: right;">\$ _____</div> </div> <div style="display: flex; justify-content: space-between; margin-bottom: 5px;"> <input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. <div style="text-align: right;">\$ _____</div> </div> </div>
<p>* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.</p>	
<p>13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?</p>	<div> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. </div> <div style="margin-top: 10px;"> \$ _____ </div>

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

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

Executed on date 10/21/2020
MM / DD / YYYY

/s/Anita Larson
Signature

Print the name of the person who is completing and signing this claim:

Name Anita Larson
First name Middle name Last name

Title Vice President and Senior Counsel

Company CMN-RUS, Inc.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 8837 Bond Street, Overland Park, KS, 66214, USA

Contact phone 812-213-1095

Email anita.larson@metronetinc.com



For phone assistance: Domestic (877) 759-8815 | International (424) 236-7262

Debtor: 19-22449 - Windstream KDL, LLC District: Southern District of New York, White Plains Division		
Creditor: CMN-RUS, Inc. Andrew J. Nazar, Esq. Polsinelli PC 900 West 48th Place, Suite 900 Kansas City, MO, 64112 USA Phone: 816-753-1000 Phone 2: Fax: Email: anazar@polsinelli.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Disbursement/Notice Parties: CMN-RUS, Inc. Anita Larson 8837 Bond Street Overland Park, KS, 66214 USA Phone: 812-213-1095 Phone 2: Fax: E-mail: anita.larson@metronetinc.com DISBURSEMENT ADDRESS		
Other Names Used with Debtor: Cinergy MetroNet, Inc.	Amends Claim: No Acquired Claim: No	
Basis of Claim: Rejection Damages for Agreement	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: Unliquidated	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: Yes, Unknown, rights to setoff are reserved	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Anita Larson on 21-Oct-2020 5:37:12 p.m. Eastern Time Title: Vice President and Senior Counsel Company: CMN-RUS, Inc.		

Optional Signature Address:

Anita Larson
8837 Bond Street

Overland Park, KS, 66214
USA

Telephone Number:

812-213-1095

Email:

anita.larson@metronetinc.com

PROOF OF CLAIM ATTACHMENT

Debtor: Windstream KDL, LLC successor to Kentucky Data Link, Inc. (“**KDL**”)

Case No.: 19-22449 – Windstream KDL, LLC

Creditor/Claimant: CMN-RUS, Inc. formerly known as Cinergy MetroNet, Inc. (“**CMN**” or “**Claimant**”)

Petition Date: February 25, 2019

Claim Amount: Unliquidated

Claim Basis: Rejection Damages for Fiber Transport Services/Dark Fiber Rights Exchange Agreement

1. On August 15, 2010, KDL and CMN entered into that certain Fiber Transport Services/Dark Fiber Rights Exchange Agreement (including any amendments, schedules, modifications and exhibits thereto, the “**Agreement**”). A true and correct copy of the Agreement (without all of its schedules, amendments, modifications and exhibits) is attached hereto as **Exhibit A**.
2. On February 25, 2019, KDL filed for Chapter 11 Bankruptcy in Case Number 19-22449 (the “**Bankruptcy**”) pending in the Southern District of New York Bankruptcy Court (the “**Court**”).
3. On May 14, 2020, KDL filed, with the other debtors, their First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc. et al. Pursuant to Chapter 11 of the Bankruptcy Code (Docket # 1812) (the “**Plan**”).
4. On June 10, 2020, the Debtors filed their First Amended Plan Supplement (Docket # 2010), which listed the Agreement as to be rejected under the Plan.
5. On June 26, 2020 the Court confirmed the Debtors Plan. (Docket # 2243)
6. On September 21, 2020, the Effective Date occurred under the Debtors’ Plan. (Docket # 2527)
7. As a result, October 21, 2020 is the date by which any rejection damages claims for the Agreement. Thus, this Claim is made under compulsion of the Bar Date within the Debtors Plan and is meant to claim and put Debtors on notice for all damages flowing from the rejection of the Agreement. Filing of this Claim is not deemed to be an election of remedies, waiver or release of any under the Agreement or applicable law.

Damages:

CMN files this unliquidated claim to claim and reserve its right to all damages allowable due to the rejection of the Agreement. Although those damages are difficult to calculate given the

30 years remaining under the Agreement, Claimant proposes calculating the damages based upon (i) the present value of the replacement cost of the Transport Service (as defined in the Agreement) that Claimant will lose as a result of the rejection multiplied by the number of months remaining in the term of the Agreement less (ii) the value of the dark fiber rights relinquished by the Debtor as a result of the rejection of the Agreement. Claimant reserves rights to increase, amend, modify and supplement this damage calculation.

Reservation of Rights

Claimant expressly reserves the right to amend the claim and assert any additional claims and any additional amounts, including amounts which are or may be currently contingent or unliquidated and amounts that may be entitled to administrative priority under sections 507 and 503 of title 11 of the United States Code. Claimant also expressly includes the right to any pre or post-petition interest and for any pre or post-petition legal fees.

This Proof of Claim is filed under the compulsion of the bar date established in these chapter 11 proceedings and is filed to protect the Claimant from any asserted forfeiture of claims by reason of said bar date. Claimant expressly reserves the right to amend, modify and/or supplement any of the claims set forth herein and to file, in accordance with orders of the Bankruptcy Court and/or the Federal Rules of Bankruptcy Procedure, any amended, modified and/or supplementary claims that Claimant may have against the Debtor. Claimant expressly reserves the right to attach, produce and/or rely upon additional documentation which supports its claims and any additional documents that may become available after further investigation or discovery.

The filing of this proof of claim does not and shall not constitute a waiver or release of any of Claimants rights or claims against: (a) any other person, entity or property; (b) to contest the jurisdiction of the Bankruptcy Court with respect to the subject matter of the claims set forth herein; (c) to elect remedies or choice of law or right to contest venue or *forum non convenes* or for arbitration of any matters; and/or (d) any offset, setoff or recoupment against the Debtors or third parties.

Claimant expressly reserves all rights with respect to claims and causes of action it may hold against the Debtors. The Claimant reserves all of its rights and defenses, whether under title 11 of the United States Code or other applicable law, as to any claims or defenses that may be asserted by the Debtors, including, without limitation, any rights of setoff, offset, and/or recoupment.

The Claimant hereby further reserves all rights accruing to it, and the filing of this Proof of Claim is not and shall not be deemed or construed as: (i) a waiver, release, or limitation of its rights against any person, entity, or property (including, without limitation, the Debtors or any other person or entity that is or may become a debtor in a case pending in this Court; (ii) a consent by the Claimant to the jurisdiction or venue of this Court or any other court with respect to proceedings, if any, commenced in any case against or otherwise involving the Claimant; (iii) a waiver, release, or limitation of the right of the Claimant to trial by jury in this Court or any other court in any proceeding as to any and all matters so triable herein, whether or not the same be designated legal or private rights or in any case, controversy, or proceeding related hereto,

notwithstanding the designation or not of such matters as “core proceedings” pursuant to 28 U.S.C. § 157(b)(2), and whether or not such jury trial right is pursuant to statute or the U.S. Constitution; (iv) a consent by the Claimant to a jury trial in this Court of any other court in any proceeding as to any and all matters so triable herein or in any case, controversy, or proceeding related hereto, pursuant to 28 U.S.C. § 157(e) or otherwise; (v) a waiver, release, or limitation of the right of the Claimant to have any and all final orders in any and all non-core matters or proceedings entered only after de novo review by U.S. District Court Judge; (vi) consent to this Court hearing or deciding any matter or proceeding, to the extent this Court lacks the constitutional authority to do so, under *Stern v. Marshall* or otherwise; (vii) a waiver of the right to move to withdraw the reference with respect to the subject matter of this Proof of Claim, any objection thereto or other proceeding which may be commenced in this case against or otherwise involving the Claimant; (viii) an election of remedies; (ix) a consent to the final determination or adjudication of any claim or right pursuant to 28 U.S.C. § 157(c); or (x) waiver of a right to enforce arbitration.

Exhibit A

FIBER TRANSPORT SERVICES/DARK FIBER RIGHTS EXCHANGE AGREEMENT

This FIBER TRANSPORT SERVICES/DARK FIBER RIGHTS EXCHANGE AGREEMENT ("Agreement") is made as of this 15th day of August, 2010 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN constructs and operates fiber-to-the-premises ("FTTP") network systems in communities to provide broadband services to end users. KDL provides long haul fiber transport services to other communications providers. CMN wishes to obtain fiber transport services from KDL between certain FTTP network systems and certain network hub sites. KDL wishes to obtain dark fiber rights from CMN throughout certain FTTP network systems. The Parties, therefore, wish to enter into this Agreement whereby CMN shall provide dark fiber rights to KDL in exchange for fiber transport services as more particularly set forth below.

2. Eligible FTTP Network Systems. A CMN FTTP network system that satisfies the following criteria shall be considered an "Eligible System" under this Agreement: (i) the FTTP network system must span at least sixty (60) fiber miles upon completion of construction by CMN; and (ii) KDL must have the network capacity and equipment to provide two (2) diverse 10 Gb optical wavelengths (collectively a "Transport Service") from the proposed origination or "a" location and the proposed termination or "z" location for the transport service.

3. Request for Transport Service. At any time during the Term of this Agreement, CMN may request that KDL provide a Transport Service from an Eligible System to an Authorized Location, as that term is defined below, by sending KDL written notice. Subject to Section 4 below, the "a" location for a Transport Service must be a site where the KDL fiber network intersects with the Eligible System (e.g. a Central Office). The "z" location for a Transport Service must be a CMN network hub site located in Evansville (the "Authorized Location"). Each notice shall contain a minimum of the following information: (i) the addresses of the proposed "a" and "z" locations; and (ii) the requested delivery date for the Transport Service. Upon receipt of notice, KDL shall promptly review and verify that it has the network capacity and equipment in place to provide the requested Transport Service. KDL shall promptly notify CMN if it cannot provide the requested Transport Service and shall specify to CMN the reason the request was rejected.

4. Fiber Segments. If CMN proposes an "a" location for a Transport Service where KDL is not currently located, CMN shall construct and maintain (including securing any necessary building entrance rights) a fiber segment from a mutually agreed point on the KDL System to the proposed CMN "a" location ("Fiber Segment"). In addition to those fibers being provided to KDL pursuant to Section 10, CMN shall provide KDL with two (2) fibers in each Fiber Segment for purposes of providing the Transport Services to CMN.

5. Service Acknowledgement. Upon verification by KDL that it is feasible for KDL to provide a Transport Service requested by CMN; the Parties shall execute a service acknowledgement in substantially the same form as is attached hereto as Exhibit A ("Service Acknowledgment"). When fully executed each Service Acknowledgement shall become a part of this Agreement.
6. Approved Eligible Systems. Schedule A sets forth a list of Eligible Systems that are approved by KDL as of the date of this Agreement. If CMN requests a Transport Service from an Eligible System listed in Schedule A to an Authorized Location, the Parties shall promptly enter into a Service Acknowledgment for that Transport Service.
7. Incremental Costs. CMN shall reimburse KDL for all out of pocket Costs associated with provisioning a Transport Service. For purposes of this Agreement the term "Costs" shall be the sum of: (a) all actual costs paid or payable by KDL including, without limitation, pass through costs paid to third parties and network card costs and (b) an overhead allocation equal to fifteen percent (15%) of the sum of the costs set forth in (a).
8. License. For each Transport Service set forth in a fully executed Service Acknowledgment, KDL hereby grants CMN an exclusive, non transferable, fully paid-up (with no periodic payments), license to utilize such Transport Service solely for the purpose of transporting CMN's communications services and end user traffic and for no other purpose. For avoidance of doubt, CMN may not use the Transport Services to either directly or indirectly, whether in whole or in part, provide a transport service (e.g. T1s, DS3s, etc.) to a Carrier. A "Carrier" is a person or entity, who sells or otherwise provides voice, video, data hosting or data services to third parties (e.g., local or long distance telephone service, fiber or fiber transport service, Internet service or cable television service). Carriers include, without limitation, LECs, CLECs, ISPs, IXC's, CAPs, CATV providers, Wireless providers or other persons or entities, which provide similar services.
9. Interconnection. CMN hereby grants KDL, a license to use however much space (power included) at each "a" and "z" location listed in a Service Acknowledgment, that KDL reasonably requires in order to provide the Transport Service to CMN ("CMN Locations"). Such arrangement shall be governed by the Terms and Conditions attached as Exhibit B hereto, as well as the terms of this Agreement. It shall be the responsibility of CMN to obtain interconnection from KDL's equipment at the CMN Locations described in each Service Acknowledgment.
10. Grant of IRU. For any Eligible System covered by a fully executed Service Acknowledgment, CMN hereby conveys to KDL a fully paid-up (with no periodic lease payments), fully transferable, indefeasible right to use four (4) dark fiber strands throughout the Eligible System and in any Fiber Segments (collectively the "IRU Fibers"). CMN shall specifically identify the IRU Fibers in each Eligible System and shall use reasonable efforts to ensure such fiber assignment will be consecutive in count. For avoidance of doubt, fiber drops to customer locations are not a part of an Eligible System.

11. Use of Fibers. KDL and CMN shall use their respective fibers in an Eligible System covered by this Agreement in a manner that does not cause material technical interference with the other Party's network, fiber, or any equipment or element thereof. Each Party shall be responsible for the operation and maintenance of any equipment it attaches or uses in conjunction with the fibers granted or used by such Party in an Eligible System. Neither KDL, nor any affiliate of KDL, shall use any of the IRU Fibers to directly provide voice, video and/or Internet services to residential or small business consumers in competition with voice, video and/or Internet services provided by CMN. Notwithstanding the foregoing, KDL or any KDL affiliate, may use the IRU Fibers: (i) to provide wholesale transport services to any carrier including, without limitation, carriers providing voice, video and data services to residential and business consumers; (ii) to provide services to any school or post secondary school; or (iii) for any other purpose not prohibited under this Agreement.

12. Access. CMN shall provide KDL with access to the IRU Fibers at any splice point, handhole, manhole or slack loop in the Eligible System by cable stub taken by CMN from the Eligible System and delivered to KDL at any splice points in the KDL System, as reasonably requested by KDL from time-to-time, (the "Connecting Points"). All connections described in this paragraph shall be performed by CMN, without cost to KDL and in accordance with CMN's applicable specifications and operating procedures. Subject to any underlying rights or third party restrictions, CMN shall provide KDL with reasonable access to Connecting Points at all times on a 24 hour / 7 days per week basis. KDL shall provide its own cable from the Connecting Points to KDL's equipment.

13. Testing. The Parties shall establish a mutually agreed upon commencement date under each Service Acknowledgment at which time the IRU Fibers and Transport Service will be available for use by the other Party, as applicable ("Commencement Date"). Each Party shall make the IRU Fibers and Transport Service available to the other Party, as applicable, for testing, thirty (30) days prior to the Commencement Date. The testing Party shall immediately notify the non-testing Party of any defects in the IRU Fibers or Transport Service, as applicable. Upon receipt of such notice, the non-testing Party shall immediately commence repairing the IRU Fibers or Transport Service, as applicable. If the defects are not corrected to the reasonable satisfaction of the testing Party by the Commencement Date, with notice to the non-testing Party, the testing Party may terminate the affected Service Acknowledgment.

14. Maintenance.

(a) KDL shall use commercially reasonable efforts to ensure that the fibers and equipment used to provide any Transport Service covered by a fully executed Service Acknowledgment are maintained in good working order, condition and repair, ordinary wear and tear excepted. KDL shall, at its cost, perform, or oversee the performance of, all maintenance, splicing and relocation activities involving the Transport Service fibers and equipment.

(b) CMN shall use commercially reasonable efforts to ensure that all IRU Fibers are maintained in good working order, condition and repair, ordinary wear and tear excepted. CMN shall, at its cost, perform, or oversee the performance of, all maintenance, splicing and relocation activities involving the IRU Fibers.

15. Term - Agreement. The term of this Agreement shall be forty (40) years, commencing on the date first written above. Thereafter, this Agreement shall be automatically renewed from year to year, unless and until terminated at the end of the initial term or the end of the then current renewal term, as applicable, which either Party may do by providing written notice of termination to the other Party not less than thirty (30) days prior to the expiration of the then current term. Notwithstanding such termination, this Agreement shall remain in full force and effect, and shall continue to govern, with respect to any then-existing Service Order for so long as such Service Acknowledgment is in effect.

16. Term – Service Acknowledgment. Each Service Acknowledgment shall have its own initial term of forty (40) years. Upon the expiration of the initial term applicable to that Service Acknowledgment, the term of such Service Acknowledgment shall automatically renew from year to year under the same terms and conditions as stated herein, unless either Party gives the other Party written notice of termination at least one hundred eighty (180) days prior to the end of the initial term or renewal term.

17. Taxes. It is understood and agreed as between the Parties that for accounting and federal and all applicable state and local tax purposes, KDL shall be treated as the owner of the IRU Fibers.

18. Representations and Warranties. Each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, or creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE IRU FIBERS OR ANY TRANSPORT SERVICE TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

19. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

20. Specific Performance. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder, as its sole remedy of a breach of this Agreement.

21. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an

arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to that Loan and Security Agreement dated November 14, 2005 between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is held to be invalid or unenforceable under the Loan Agreement by the RUS, this Agreement shall be immediately terminated, and neither Party shall have any further obligation to the other Party hereunder.

22. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

23. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way

Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may be similar notice given change the address to which future notices or other communications shall be sent.

24. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively; "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 24 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

25. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts and work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they

deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

26. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

27. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

28. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

29. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

30. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 30 and shall be entitled to enforce the obligations of this Section 30.

31. Relationship of the Parties. The relationship between CMN and KDL shall not be that of partners, agents, or joint venture.

32. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this

Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

33. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

34. Entire Agreement. This Agreement and Exhibit A, Schedule A and Exhibit B sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.

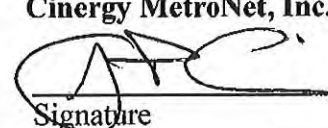

Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.


Signature

John Cinelli
Name

as its President
Title

8/15/10
Date

EXHIBIT A

SERVICE ACKNOWLEDGEMENT

This Service Acknowledgment is made and entered into as of this ____ day of ____, by and between Cinergy MetroNet, Inc. ("CMN") and Kentucky Data Link, Inc. ("KDL"), pursuant and subject to that certain Fiber Transport Services/Dark Fiber Exchange Agreement dated ____, by and between the parties hereto ("Agreement"). All capitalized terms not defined herein shall have the same meaning as ascribed in the Agreement.

1. Transport Service Location Information. KDL shall provide the Transport Service between the "A" and "Z" locations listed below.

"A" Location Address: _____

"B" Location Address: _____

2. Eligible System. KDL shall receive four (4) IRU Fibers throughout the Eligible System illustrated on the map attached hereto as Schedule A. Upon request, CMN shall provide KDL with "as built" drawings of the Eligible System.

3. Commencement Date. The Commencement Date of this Service Acknowledgment is _____.

4. Term. The initial term of this Service Acknowledgment shall be forty (40) years commencing on the Commencement Date. Upon the expiration of the initial term this Service Acknowledgment shall automatically renew on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

5. Miscellaneous. In case of any conflict between the terms of this Service Acknowledgment and the terms of the Agreement, the terms of this Service Acknowledgment shall prevail.

IN WITNESS WHEREOF, the Parties have executed this Service Acknowledgment the day and year written above.

Kentucky Data Link, Inc.

Cinergy MetroNet, Inc.

Signature

Signature

Title

Title

Date

Date

SCHEDULE A

ELIGIBLE SYSTEMS

INDIANA

Chesterton
Crown Point
Dyer
Franklin
Greenfield
Hobart
Huntingburg/Jasper
Jeffersonville
Lafayette
W Lafayette
Lebanon
Merrillville
New Whiteland
Portage
Saint Johns
Schereville
Valparaiso
Whiteland

KENTUCKY

Florence
Georgetown
Independence
Richmond

OHIO

Hamilton
Lebanon
Mason
Springboro
Xenia

TENNESSEE

Gallatin

Goodletsville

Hendersonville

Lebanon

Mount Juliet

Springfield

EXHIBIT B

COLLOCATION

1. GRANT OF LICENSE ("License"): For good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, CMN hereby grants to KDL, an irrevocable and infeasible right to occupy, use and maintain however much space and power at each CMN Location as KDL reasonably requires in order to provide the Transport Service to CMN (the "Licensed Space"), for the term of this Agreement or any then-existing Service Acknowledgment as long as such Service Acknowledgment is in effect. From and after the date efforts to ready the Licensed Space for KDL's occupancy are commenced, CMN may not relocate, or cause KDL to relocate, any of KDL's equipment or facilities from any CMN Location during the term. As a part of this License, CMN shall provide heat, ventilation and air conditioning ("HVAC") to the Licensed Space sufficient to maintain an ambient temperature of the Licensed Space between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity in the Licensed Space between five percent (5%) and ninety-five percent (95%). KDL shall have 24 hour / 7 day per week unescorted access to such space and shall have an easement of ingress and egress for its personnel and its facilities to access such space, including any necessary easement and building entrance rights to extend KDL's network from the public rights of way into the CMN Location. No fees or charges shall be imposed on KDL in connection with, or related to, the License. CMN agrees that its failure to provide the space and services described in this Section 1 of Exhibit B may adversely impact the Transport Service, and KDL shall not be responsible for any such adverse impact.

2. TITLE TO EQUIPMENT: Title to KDL's equipment and other facilities located in or at each CMN Location shall remain with KDL and its subtenants, sublicensees, successors and assigns, as applicable. From time to time throughout the term, KDL may remove, or cause to be removed, from any CMN Location, any or all of KDL's equipment or other facilities. Upon expiration or termination of the License, KDL shall remove, or cause to be removed, from each CMN Location, any and all of KDL's equipment and other facilities. CMN hereby acknowledges and agrees that only KDL authorized personnel shall be allowed to access the KDL equipment and other facilities.

EXHIBIT A-1

Service Acknowledgment

This Service Acknowledgment is made and entered into as of this _____ day of _____, 2011 by and between Cinergy MetroNet, Inc. ("CMN") and Windstream KDL, Inc., formerly Kentucky Data Link, Inc. ("KDL"), pursuant and subject to the Fiber Transport Services/Dark Fiber Exchange Agreement dated August 15, 2010 by and between the parties hereto ("Agreement"). All capitalized terms not defined herein shall have the same meaning as ascribed in the Agreement.

1. Transport Services Location Information. KDL shall provide the Transport Service between the "A" and "Z" locations listed below:

A Location:	Z Location:
IPL WIN75 701 W. Henry Street Indianapolis IN 46225	LBNNNAA Location at or near 302 W. Washington Street Lebanon IN 46052
Z Location:	A Location:
LBNNNAA Location at or near 302 W. Washington Street Lebanon IN 46052	IPL WIN75 701 W. Henry Street Indianapolis IN 46225 (via Lafayette IN for diversity)

2. Eligible System. KDL shall receive four IRU Fibers throughout the Lebanon, Indiana System ("Eligible System") illustrated on the map attached hereto as Schedule A-1, and including any additions thereto that utilize the Transport Service set forth in this Service Acknowledgment. Upon request, CMN shall provide KDL with "as built" drawings of the Eligible System.
3. Commencement Date. The Commencement Date of this Service Acknowledgment is July 16, 2011.
4. Term. The initial term of this Service Acknowledgment shall be 40 years commencing on the Commencement Date. Upon the expiration of the initial term, this Service Acknowledgment shall automatically renew on a year-to-year basis until terminated by either Party with 180 days prior written notice.

5. Miscellaneous. In case of any conflict between the terms of this Service Acknowledgment and the term of the Agreement, the terms of this Service Acknowledgment shall prevail.

IN WITNESS WHEREOF, the Parties have executed this Service Acknowledgment on the day and year written above.

Windstream KDL, Inc.

Cinergy MetroNet, Inc.

By: 

By: 

Its: SVP Fiber Transport Svcs.

Its: as President



Schedule A-1
Lebanon, Indiana System

[illegible]

Exhibit 7

Jeremy R. Johnson
POL SINELLI PC
600 Third Avenue, 42nd Floor
New York, New York 10016
(212) 684-0199
jeremy.johnson@polsinelli.com
Attorneys for CMN-RUS, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

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

Debtors.¹

Chapter 11

Case No. 19-22312 (RDD)

Jointly Administered

**CMN-RUS, INC.'S MOTION FOR ALLOWANCE OF ADMINISTRATIVE CLAIM
FOR POST-PETITION SERVICES AND IMMEDIATE PAYMENT THEREOF**

CMN-RUS, Inc. ("CMN"), by and through its undersigned counsel, files its *Motion for Allowance of Administrative Claim for Post-Petition Services and Immediate Payment Thereof* (the "Motion"), pursuant to section 503(b) of title 11 of the United States Code (the "Bankruptcy Code"). In support of the Motion, CMN respectfully states as follows:

INTRODUCTION

1. Debtor Windstream KDL, LLC ("Windstream KDL") is liable to CMN for post-petition services that CMN provided to Windstream KDL pursuant to the Agreement (as defined below) in the amount of \$100,933.36 (the "Admin Claim"). The Debtors have not disputed the

¹ The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of Debtors 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.



Admin Claim, and CMN has attempted to informally address the same with Debtors, but Debtors were not able to investigate and respond to CMN before the applicable deadline. Thus, CMN files this Motion seeking allowance of the Admin Claim, as a fully Allowed Administrative Claim under the Debtors' Plan, and asks for payment thereof upon approval of the Admin Claim in a final order.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334.

3. This Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B).

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

4. The statutory basis for the relief requested herein is Bankruptcy Code section 503(b).

BACKGROUND

5. On February 25, 2019 (the "Petition Date"), the above captioned debtors and debtors-in-possession (the "Debtors") commenced their respective cases under chapter 11 of the Bankruptcy Code.

6. Prior to the Petition Date, CMN and Windstream KDL entered into the following the Collocation and Maintenance Agreement, dated February 7, 2005 (as amended from time to time), ("the Agreement"), A true and correct copy is attached hereto and incorporated by reference as **Exhibit A**.

7. After the Petition Date, on July 10, 2019, CMN filed a proof of claim asserting a general, unsecured claim the amount of \$432,439.00 for services rendered prior to the Petition Date.

8. In addition, subsequent to the Petition Date, CMN continued to provide services to Debtors, including the provision of rack space and power, pursuant to the Agreement. The related

amounts due and owing to CMN, as set forth in the invoices attached hereto as **Group Exhibit B**, total \$100,933.36 and are summarized as follows:

Invoice Date	Invoice Amount
4/1/2019	\$4,464.50
5/1/2019	\$5,428.12
6/1/2019	\$5,285.83
7/1/2019	\$5,931.28
8/1/2019	\$5,331.21
9/1/2019	\$5,919.72
10/1/2019	\$5,974.74
11/1/2019	\$5,687.08
12/1/2019	\$5,552.99
1/1/2020	\$5,176.30
2/1/2020	\$5,544.66
3/1/2020	\$5,261.44
4/1/2020	\$5,410.06
5/1/2020	\$5,590.17
6/1/2020	\$5,642.92
7/1/2020	\$5,845.36
8/1/2020	\$6,838.72
9/1/2020	\$6,048.26
	\$100,933.36

9. CMN has not been paid for these post-petition services and is, therefore, entitled to an administrative expense claim in the amount of \$100,933.36 for such services rendered as the services were provided to the post-petition Debtors and benefited the Debtors and their bankruptcy estates.

RELIEF REQUESTED

10. Pursuant to Bankruptcy Code section 503(b), CMN requests allowance of its administrative priority claim in the amount of \$100,933.36 and further requests payment thereof upon a final order approving the Admin Claim. Because CMN's provided services to Debtor subsequent to the Petition Date, pursuant to the Agreement, CMN is entitled to an administrative claim under Bankruptcy Code section 503(b)(1).

11. The elements for an administrative claim under 11 U.S.C. § 503(b)(1) are set out in *Amalgamated Ins. Fund v. McFarlin's Inc.*, 789 F.2d 98, 101 (2d Cir. 1986) (citing *Cramer v. Mammoth Mart, Inc. (In Re Mammoth Mart, Inc.)*, 536 F.2d 950, 953 (1st Cir. 1976)). Indeed, one court described the administrative priority test as follows: “[a] claimant's expenses for providing post-petition goods and services to a Debtor may be afforded administrative status ‘(1) if it arises out of a transaction between the creditor and the bankrupt's trustee or debtor-in-possession; and (2) only to the extent that the consideration supporting the claimant's right to payment was both supplied to and beneficial to the debtor-in-possession in the operation of the business.’” *In re Global Metallurgical, Inc.*, 312 B.R. 34, 40 (Bankr. S.D.N.Y. 2004).²

12. The requirement that administrative expenses arise post-petition and provide a benefit to the debtor-in-possession in the operation of its business is closely tied to the purpose of section 503(b)(1)(A). *Nabors Offshore Corporation v. Whistler Energy II, LLC, et al. (In re Whistler Energy II, LLC)*, 931 F.3d 432, 441 (5th Cir. 2019). Administrative priority is given to post-petition vendors as an inducement to engage in business transactions with a debtor's estate. *Pennsylvania Department of Environmental Resources v. Tri-State Clinical Laboratories, Inc.*, 178 F.3d 685, 690 (3d Cir. 1999) (“The drafters of the Code recognized that...the debtor has to continue to operate between the filing of the petition and the adjudication of bankruptcy. This can result in additional expenses that are necessary to the continued operation of the business or to successfully winding it down. Congress recognized this need to provide an incentive to creditors who otherwise would not continue to provide services to a failing business.”); *see also TransAmerican Natural Gas Corp.*, 978 F.2d 1409, 1416 (5th Cir. 1992) (“[T]hird parties might refuse to extend credit to debtors-in-possession for fear that their claims would not be paid.”).

² This corresponds with the Debtors definition of Administrative Claim in the Debtors Plan.

“Absent the priority established under § 503, a debtor in possession could not keep its employees, nor obtain services necessary to its operations as it attempts to reorganize, or wind-down pending ultimate liquidation.” *Id*; see also *In re Jartran, Inc.*, 732 F.2d 584, 590 (7th Cir. 1984) (explaining that section 503 creates “a practical incentive to achieving reorganization for the benefit of all creditors”).

A. The Transactions Giving Rise to the Admin Claim were with the Post-Petition Debtor in Possession and Were Provided after the Petition Date.

13. Here, the transactions giving rise to the post-petition amounts due and owing to CMN were clearly between CMN, as a creditor, and Windstream KDL, as debtor-in-possession. See *In re Native American Systems, Inc.*, 351 B.R. 135, 139 (B.A.P. 10th Cir. 2006) (pre-petition contracts may be treated as administrative expenses to the extent that the Debtor receives post-petition consideration for them.); and *In re Goody's Family Clothing*, 2009 WL 903370, 10 (D. Del. March 31, 2009) (claimant's performance of a pre-petition contract, and a debtor's acceptance of that performance, can establish a post-petition transaction). Thus, even though the Agreements were entered into pre-petition, as the Debtors received and accepted the services after the Petition Date, they satisfy the post-petition transaction prong of the administrative claim test.

B. The Services Provided to the Debtor-In-Possession Were Beneficial to the Debtor-In-Possession and to its Estate.

14. “The “substantial contribution” test is thus satisfied where the services rendered have substantially contributed to an actual and demonstrable benefit to the debtor's estate, its creditors, and to the extent relevant, the debtor's shareholders.” *In re U.S. Lines, Inc.*, 103 B.R. 427, 429 (Bankr. S.D.N.Y. 1989), *aff'd*, 90 CIV. 3823 (MGC), 1991 WL 67464 (S.D.N.Y. Apr. 22, 1991). “Broadly speaking, “[s]ervices which substantially contribute to a case are those which foster and enhance, rather than retard or interrupt the progress of reorganization.” *Id.* “Where a

“debtor-in-possession elects to continue to receive benefits from the other party to an executory contract pending a decision to assume or reject the contract, the debtor-in-possession is obligated to pay for the reasonable value of those services.” *Patient Education Media*, 221 B.R. at 101, quoting, *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 531, 104 S.Ct. 1188, 1199, 79 L.Ed.2d 482 (1984); see also *In re Continental Airlines, Inc.*, 146 B.R. 520, 526 (Bankr.D.Del.1992). Thus, the claims of third-parties who are induced to supply goods or services to a debtor-in-possession pursuant to a contract that has not been rejected are afforded administrative priority to the extent that the consideration supporting the claim was supplied during the reorganization. *Jartran, Inc.*, 732 F.2d at 588.” *In re Enron Corp.*, 279 B.R. 79, 86 (Bankr. S.D.N.Y. 2002)

15. The services, which the Debtors accepted, including the provision of rack space and power, were beneficial to the operations of the Windstream KDL’s business and to the overall success of the Debtors’ jointly administered bankruptcy cases. Windstream KDL has used and continues to use such rack space and power to deliver services to its customers. If CMN had discontinued the provision of this space and power, it would have resulted in interruptions in Windstream KDL’s services to third parties and loss of associated revenue or other compensation. Thus, the services were beneficial to the Debtor and bankruptcy estate, and are typical for businesses like the Debtors to contract for, and satisfy the last prong of the administrative claim test.

C. The Admin Claim Should be Paid Upon Entry of a Final Order Allowing It

16. Under the Debtors Plan, Allowed Administrative Claims are to be paid as stated below:

“[E]ach holder of an Allowed Administrative Claim shall be paid in full in Cash: (a) if such Administrative Claim is Allowed as of the Effective Date, not later than the Effective Date; or (b) if such Administrative Claim is not Allowed as of the Effective Date, upon entry of an order of the Bankruptcy Court Allowing such

Claim, or as soon as reasonably practicable thereafter; provided that if an Allowed Administrative Claim arises from liabilities incurred by the Estates in the ordinary course of business after the Petition Date, such Claim shall be paid in accordance with the terms and conditions of the particular transaction giving rise to such Claim in the ordinary course.³

17. Given the substantial delay in payment, CMN, represents that the full amount of the Admin Claim in the amount of \$100,933.36 be paid upon an order allowing the Admin Claim becoming final and non-appealable, pursuant to the terms of the Debtors Plan.

THEREFORE, CMN asks this Court to enter the Order attached hereto as Exhibit C allowing the Admin Claim as a fully Allowed Administrative Claim under the Debtors Plan, and order payment thereof as soon as the order is final, and CMN asks for such other relief as the Court deems just and equitable.

Dated: New York, New York
October 20, 2020

POLSINELLI PC

By: /s/ Jeremy R. Johnson
Jeremy R. Johnson
600 Third Avenue, 42nd Floor
New York, New York 10016
(212) 684-0199
Fax No. (212) 684-0197
jeremy.johnson@polsinelli.com

Andrew J. Nazar
900 West 48th Place, Suite 900
Kansas City, Missouri 64112
(816) 753-1000
Fax No. (816) 753-1536
anazar@polsinelli.com

Attorneys for CMN-RUS, Inc.

³ See Article II, Part A of the Debtors Plan.

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2020, a true and correct copy of *CMN-RUS, Inc.'s Motion for Allowance of Administrative Claim for Post-Petition Services and Immediate Payment Thereof* was electronically filed with the Clerk of Court using the CM/ECF system, which sent notice of such filing to Debtors' counsel, the U.S. Trustee, and the interested parties registered to receive ECF notification from the court.

/s/ Jeremy R. Johnson

Exhibit A

COLLOCATION AND MAINTENANCE AGREEMENT

This COLLOCATION AND MAINTENANCE AGREEMENT ("Agreement") is effective as of the 7th day of February, 2005 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cjenergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN owns network transmission facilities (each individually a "Facility" collectively the "Facilities") at various locations throughout its fiber network. KDL has the expertise and ability to maintain the Facility sites. KDL and CMN wish to enter into an exchange of the right to use CMN Facilities for the performance of maintenance services as more particularly set forth below.
2. KDL Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL Site" collectively the "KDL Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.
3. Collocation License. For each of the KDL Sites, CMN grants KDL a license to occupy, use and maintain rack spaces for purposes of installing, operating and maintaining KDL's equipment ("Licensed Space"). The Licensed Space for each of the KDL Sites is set forth in Exhibit A. As part of this license, at its sole cost, CMN shall provide thirty (30) amps of power to the Licensed Space ("KDL's Power Allocation") and heat, ventilation and air conditioning service to the Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).
4. Additional Services. KDL may request that CMN provide additional AC or DC power, backup power, space or racks at any KDL Site. Subject to its own operational needs, CMN shall use commercially reasonable efforts to accommodate any KDL request for additional services. CMN shall charge KDL Five Hundred Dollars (\$500.00) a month for any additional racks. For any power utilized by KDL beyond KDL's Power Allocation at a KDL Site, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("KDL's Portion"): $[(A) \text{ divided by } (B)] \text{ times } (C) \text{ equals KDL's Portion}$, where (A) is the total number of additional breakerred amps of power delivered to KDL's racks in excess of KDL's Power Allocation at the KDL Site; (B) is the total breakerred amps of power delivered to all racks at the KDL Site (including KDL's racks); and (C) is the total power costs CMN incurs in connection with the KDL Site including the cost of breakerred amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that KDL has 2 racks at the KDL and has exceeded the KDL Power Allocation by 100 breakerred amps of power. Further assume that at the KDL Site there are a total of 10 racks (including KDL's 2 racks) using a total of 1000 breakerred amps of power (including KDL's 100 additional amps of power). Finally, assume that the total power costs incurred by CMN associated with the Evansville Facility in the example month is \$5,000. KDL's Portion for such month would be \$500 (100 divided by 1000 = .01 x \$5,000).

5. Installation. KDL shall be solely responsible for the installation and maintenance of any KDL equipment in a Licensed Space. KDL shall not install any equipment in a Licensed Space that overloads any electrical circuits or associated hardware. All KDL equipment located in a Licensed Space shall be maintained and operated by KDL in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

6. Access. Subject to reasonable rules and regulations as may be promulgated by CMN from time to time, KDL shall have unescorted access to each KDL Site twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the Licensed Space and performing KDL's obligations under this Agreement. CMN hereby grants KDL an easement of ingress and egress to extend KDL's network and equipment from the public rights of way into the Licensed Space.

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL Site, as may be amended from time to time. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL Site; (iv) monitoring the climate temperature of each KDL Site; and (v) providing escorted access to any third parties requiring access to a KDL Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL in performing the maintenance activities set forth in this Section 7.

8. Billing and Payment. A Party providing or performing a service (referred to in this Section 8 as a "Provider") to the other Party (referred to in this Section 8 as a "Recipient") shall invoice the Recipient for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by the Recipient. Should the Recipient dispute any of the charges on an invoice, it shall notify the Provider in writing within sixty (60) days after the Recipient's receipt of invoice of the disputed charges and the Recipient's reason for disputing the same. If the Recipient does not deliver a challenge or dispute to any invoice within sixty (60) days after the Recipient's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by the Recipient.

9. Term. The initial term of this Agreement shall be forty (40) years. After the expiration of the initial term the Agreement shall continue on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

10. Termination. Notwithstanding anything to the contrary in Section 9 above, either Party may terminate this Agreement during the initial term by delivering notice to the non terminating Party at least twenty-four (24) months in advance of the proposed termination date.

11. Representations and Warranties. Except as expressly set forth herein, each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, or creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SPACE OR THE EQUIPMENT OR MAINTENANCE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ALL LICENSED SPACE IS EXPRESSLY ACCEPTED BY KDL ON AN "AS" "IS" "WHERE IS" BASIS.

12. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

13. Remedies. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder. Additionally, if KDL fails to perform any of its obligations under Section 7 of this Agreement in a timely manner, with reasonable prior notice to KDL under the circumstances, CMN may perform such obligation and invoice KDL for any out of pocket expenses incurred by CMN in performing such obligation. The Parties intend for the remedies set forth in this Section 13 to be the sole remedies available to either Party for a breach of this Agreement.

14. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

15. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

16. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may be similar notice given change the address to which future notices or other communications shall be sent.

17. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively; "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 17 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

18. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts to work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision.

However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

19. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with third parties to the extent that such agreements or arrangement do not violate the terms of this Agreement.

20. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

21. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the wavier thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

22. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

23. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

24. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 24 and shall be entitled to enforce the obligations of this Section 24.

25. Relationship of the Parties. The relationship between CMN and KDL shall not be that of partners, agents, or joint venture.

26. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

27. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

28. Entire Agreement. This Agreement and Exhibit A sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.

Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.

Signature

John Cinelli
Name

as its president
Title

8/15/10
Date

EXHIBIT A

KDL SITES

Address	City, State	Racks
112 W Washington Ave	Greencastle, IN	2
3701 Communications Way	Evansville, IN	5
600 E Avenue	Seymour, IN	2
287 N 15 th St	Vincennes, IN	2
1113 Clifty Drive	Madison, IN	1
219 N Jennings Rd	North Vernon	1
146 W Market St	Wabash IN	1
703 Thorn St	North Manchester	1
317 E State St	Huntington IN	1
3765 S US 231	Wolcott IN	2
1558 W 16 th St	Marion IN	2

Amendment to Collocation and Maintenance Agreement

This Amendment modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link ("KDL"), a Kentucky corporation, and CInergy MetroNet, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

Section 2 of the Agreement and all corresponding references to "KDL Site" in the Agreement are hereby modified as follows:

2. KDL/CMN Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL/CMN Site" collectively the "KDL/CMN Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.

Section 7 of the Agreement shall be modified to the following:

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL/CMN Site, as may be amended from time to time by mutual agreement of the parties. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL/CMN Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL/CMN Site; (iv) monitoring the climate temperature of each KDL site; and (v) providing escorted access to any third parties requiring access to a KDL/CMN Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL related to the replacement of any equipment owned by CMN or used exclusively by CMN or the performance of any repair services by a third party on equipment owned by CMN or used exclusively by CMN. For avoidance of doubt, KDL shall perform all other maintenance activities set forth in this Section 7 at KDL's sole cost. In the event CMN expands or modifies a KDL/CMN Site at any time after August 15, 2010, to add floor space that requires additional monitoring capabilities, unless otherwise agreed to by the parties, KDL shall not be required to monitor or otherwise perform any maintenance activities for the additional space.

Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each.

This Amendment shall be effective as of the last date entered below and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Kentucky Data Link, Inc:

By: 

Printed Name: John Greenbank

Title: as President

Date: 11/7/10

Cinergy MetroNet, Inc:

By: 

Printed Name: John Cinelli

Title: as President

Date: 11/05/18

Amendment # 2 to Collocation and Maintenance Agreement

This Amendment # 2 is effective as of 2nd day of June, 2012 ("Effective Date"), and modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link n/k/a Windstream Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and CInergy MetroNet, Inc. n/k/a CMN-RUS, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

The Agreement shall be deemed amended as follows:

1. **Purpose.** Pursuant to Section 4 of the Agreement, KDL wishes to obtain additional rack space in CMN's data center located at 3701 Communications Way, Evansville, IN ("Data Center"). CMN is willing to grant KDL such rack space in the Data Center in accordance with the terms of the Agreement and this Amendment.
2. **License.** CMN hereby grants KDL a non-exclusive year to year license to occupy those racks and portions of racks that are located in the Data Center and identified in Schedule 1 to this Amendment (each a "KDL Rack").
3. **Termination Rights.** With written notice at least thirty (30) days prior to the end of the then current license term, KDL may terminate that portion of the license applicable to any KDL Rack. If CMN wishes to terminate KDL's license to use a KDL Rack, CMN shall provide KDL with written notice at least ninety (90) days prior to the end of the then current license term. Prior to the date of termination, KDL shall remove all of its equipment from any KDL Rack vacated pursuant to this Section 3.
4. **License Fee.** The license fee for the licenses granted in Section 2 is set forth in Schedule 1 to this Amendment ("Cumulative License Fee"). With written notice at least thirty (30) days prior to the effective date of the increase, CMN may increase the Cumulative License Fee based upon the greater of: (a) any actual increases in the cost to operate and maintain the Data Center including, but not limited to, increases in the price of electricity; or (2) any increase in the CPI-U consumer price index from the previous year. Payment of the Cumulative License Fee and KDL's Portion of the any additional power charges for the KDL Racks shall be paid in accordance with Section 8 of the Agreement.
5. **Adjustments to the License Fee.** Upon the termination of a KDL Rack in accordance with Section 3 above, provided KDL's equipment has been removed from the vacated KDL Rack, the Cumulative License Fee shall be reduced by an amount equal to the monthly license fee for the vacated KDL Rack set forth in Schedule 1 to this Amendment.
6. **Miscellaneous.** Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each. In cases of conflict between the terms in this Amendment and those in the Agreement, the terms of this Amendment shall prevail. This Amendment shall be effective on the Effective Date and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Windstream Kentucky Data Link, Inc.

By: 

Printed Name: Anthony Walsh

Title: VP Transport Engineer

CMN-RUS, Inc.

By: 

Printed Name: John P. Cinelli

Title: as President

Reviewed JMC Legal

SCHEDULE 1

KDL Racks 1/3 Dedicated to KDL

Rack Number	Monthly License Fee
105.01 1B	\$166.00
108.03C	\$166.00

KDL Racks 1/2 dedicated to KDL

Rack Number	Monthly License Fee
102.10	\$250.00
103.07	\$250.00
110.02	\$250.00
112.04	No charge
114.04	\$250.00
114.08	\$250.00
101.07	\$250.00

KDL Racks 100% dedicated to KDL

Rack Number	Monthly License Fee
103.05	\$500.00
103.06	\$500.00
104.05	\$500.00
104.06	\$500.00
104.07	\$500.00
104.08	\$500.00
109.11	\$500.00
110.01	\$500.00
112.05	\$500.00
112.07	\$500.00
113.01	\$500.00
114.01	\$500.00
114.03	\$500.00
114.07	\$500.00
114.10	\$500.00

Exhibit B

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Apr 1, 2019
INVOICE # 686

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 04/01/2019- 04/30/2019	\$500.00
Windstream Portion of Utility Expense: 03/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0319	\$259.39
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 03/21/2019	\$185.58
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0319	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 03/07/2019	\$154.67
DUKE ENERGY Invoice: 36003590016 0319	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 03/13/2019	\$3,364.86
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,464.50

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: May 1, 2019
INVOICE # 687

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 05/01/2019- 05/31/2019	\$500.00
Windstream Portion of Utility Expense: 04/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0419	\$174.01
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 04/20/2019	\$185.32
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0419	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 04/05/2019	\$157.22
DUKE ENERGY Invoice: 36003590016 0419	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 04/11/2019	\$4,411.57
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,428.12

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Jun 1, 2019
INVOICE # 688

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 06/01/2019- 06/30/2019	\$500.00
Windstream Portion of Utility Expense: 05/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0519	\$139.62
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 05/21/2019	\$213.03
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0519	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 05/09/2019	\$156.28
DUKE ENERGY Invoice: 36003590016 0519	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 05/13/2019	\$4,276.90
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,285.83

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Jul 1, 2019
INVOICE # 689

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 07/01/2019- 07/31/2019	\$500.00
Windstream Portion of Utility Expense: 06/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0619 (estimate)	\$139.62
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 06/20/2019	\$246.37
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0619	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 06/06/2019	\$210.38
DUKE ENERGY Invoice: 36003590016 0619	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 06/13/2019	\$4,834.91
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,931.28

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: Aug 1, 2019
INVOICE # 690

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 08/01/2019- 08/30/2019	\$500.00
Windstream Portion of Utility Expense: 07/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0719	\$156.51
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 07/22/2019	\$250.23
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0719	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 07/08/2019	\$182.93
DUKE ENERGY Invoice: 36003590016 0719	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 07/12/2019	\$4,241.54
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,331.21

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Sep 1, 2019
INVOICE # 691

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 09/01/2019- 09/30/2019	\$500.00
Windstream Portion of Utility Expense: 08/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0819	\$161.97
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 08/20/2019	\$253.97
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0819	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 08/06/2019	\$182.93
DUKE ENERGY Invoice: 36003590016 0819	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 08/13/2019	\$4,820.85
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,919.72

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Oct 1, 2019
INVOICE # 692

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 10/01/2019- 10/31/2019	\$500.00
Windstream Portion of Utility Expense: 09/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0919	\$152.43
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 09/19/2019	\$237.63
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0919	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 09/05/2019	\$169.63
DUKE ENERGY Invoice: 36003590016 0919	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 09/13/2019	\$4,915.05
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,974.74

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Nov 1, 2019
INVOICE # 693

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 11/01/2019- 11/30/2019	\$500.00
Windstream Portion of Utility Expense: 10/25/2019	
CARROLL WHITE REMC Invoice: 1698700 1019	\$140.77
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 10/19/2019	\$217.22
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1019	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 10/05/2019	\$153.21
DUKE ENERGY Invoice: 36003590016 1019	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 10/11/2019	\$4,675.88
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,687.08

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Dec 1, 2019
INVOICE # 694

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 12/01/2019- 12/31/2019	\$500.00
Windstream Portion of Utility Expense: 11/25/2019	
CARROLL WHITE REMC Invoice: 1698700 1119	\$163.03
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 11/18/2019	\$219.15
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1119	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 11/04/2019	\$142.27
DUKE ENERGY Invoice: 36003590016 1119	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 11/12/2019	\$4,528.54
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,552.99

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: January 1, 2020
INVOICE # 695

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 01/01/2020- 01/31/2020	\$500.00
Windstream Portion of Utility Expense: 12/25/2019	
CARROLL WHITE REMC Invoice: 1698700 1219	\$161.97
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 12/19/2019	\$211.59
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1219	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 12/06/2019	\$134.93
DUKE ENERGY Invoice: 36003590016 1219	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 12/12/2019	\$4,167.81
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,176.30

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: February 1, 2020
INVOICE # 696

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 02/01/2020- 02/29/2020	\$500.00
Windstream Portion of Utility Expense: 1/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0120	\$155.42
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 1/22/2020	\$233.27
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0120	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 1/8/2020	\$128.51
DUKE ENERGY Invoice: 36003590016 0120	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 1/14/2020	\$4,527.46
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,544.66

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: March 1, 2020
INVOICE # 697

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 03/01/2020- 03/31/2020	\$500.00
Windstream Portion of Utility Expense: 2/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0220	\$212.42
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 2/20/2020	\$193.95
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0220	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 2/6/2020	\$115.01
DUKE ENERGY Invoice: 36003590016 0220	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 2/13/2020	\$4,240.06
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,261.44

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: April 1, 2020
INVOICE # 698

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 04/01/2020- 04/30/2020	\$500.00
Windstream Portion of Utility Expense: 3/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0320	\$193.46
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 3/20/2020	\$186.79
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0320	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 3/6/2020	\$121.21
DUKE ENERGY Invoice: 36003590016 0320	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 3/12/2020	\$4,408.60
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,410.06

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: May 1, 2020
INVOICE # 699

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 05/01/2020- 05/31/2020	\$500.00
Windstream Portion of Utility Expense: 4/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0420	\$179.80
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 4/20/2020	\$224.16
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0420	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 4/6/2020	\$128.20
DUKE ENERGY Invoice: 36003590016 0420	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 4/14/2020	\$4,558.01
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,590.17

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 913-794-3136

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: June 1, 2020
INVOICE # 700

Bill To:

Windstream KDL, LLC
Attn: Windstream.WholesaleCost@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 06/01/2020- 06/30/2020	\$500.00
Windstream Portion of Utility Expense: 5/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0520	\$156.25
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 5/21/2020	\$261.33
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0520	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 5/6/2020	\$136.96
DUKE ENERGY Invoice: 36003590016 0520	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 5/13/2020	\$4,588.38
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,642.92

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 913-794-3136

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: July 1, 2020
INVOICE # 701

Bill To:

Windstream KDL, LLC

Attn: Windstream.WholesaleCost@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 07/01/2020- 07/31/2020	\$500.00
Windstream Portion of Utility Expense: 6/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0620	\$209.33
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 6/19/2020	\$271.52
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0620	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 6/5/2020	\$142.48
DUKE ENERGY Invoice: 36003590016 0620	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 6/11/2020	\$4,722.03
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,845.36

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 913-794-3136

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: August 1, 2020
INVOICE # 702

Bill To:

Windstream KDL, LLC
Attn: Windstream.WholesaleCost@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 08/01/2020- 08/31/2020	\$500.00
Windstream Portion of Utility Expense: 7/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0720	\$203.53
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 7/21/2020	\$316.87
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0720	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 7/7/2020	\$174.93
DUKE ENERGY Invoice: 36003590016 0720	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 7/14/2020	\$5,643.39
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$6,838.72

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 913-794-3136

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: September 1, 2020
INVOICE # 703

Bill To:

Windstream KDL, LLC
Attn: Windstream.WholesaleCost@windstream.com
11101 Anderson Drive, Ste. 100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 09/01/2020- 09/30/2020	\$500.00
Windstream Portion of Utility Expense: 8/25/2020	
CARROLL WHITE REMC Invoice: 1698700 0820	\$222.75
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 8/19/2020	\$278.00
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0820	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 8/5/2020	\$172.23
DUKE ENERGY Invoice: 36003590016 0820	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 8/13/2020	\$4,875.28
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$6,048.26

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 913-794-3136

Jeremy R. Johnson
POL SINELLI PC
600 Third Avenue, 42nd Floor
New York, New York 10016
(212) 684-0199
jeremy.johnson@polsinelli.com

Attorneys for CMN-RUS, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

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

Debtors.¹

Chapter 11

Case No. 19-22312 (RDD)

Jointly Administered

**NOTICE OF HEARING ON CMN-RUS, INC.'S MOTION FOR ALLOWANCE
OF ADMINISTRATIVE CLAIM FOR POST-PETITION SERVICES
AND IMMEDIATE PAYMENT THEREOF**

PLEASE TAKE NOTICE that a hearing on *CMN-RUS, Inc.'s Motion for Allowance of Administrative Claim for Post-Petition Services and Immediate Payment Thereof* (“**Motion**”), filed October 20, 2020, will be conducted on November 19, 2020, at 10:00 a.m. ET, before the Honorable Robert D. Drain, 300 Quarropas Street, White Plains, New York 10601.

If no objection is filed with the Clerk of the Bankruptcy Court on or before **November 12, 2020**, with a copy served upon undersigned counsel, then the court may enter an order granting the motion without further notice or hearing.

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors 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.

Dated: New York, New York
October 20, 2020

POLSINELLI PC

By: /s/ Jeremy R. Johnson
Jeremy R. Johnson
600 Third Avenue, 42nd Floor
New York, New York 10016
(212) 684-0199
Fax No. (212) 684-0197
jeremy.johnson@polsinelli.com

Andrew J. Nazar
900 West 48th Place, Suite 900
Kansas City, Missouri 64112
(816) 753-1000
Fax No. (816) 753-1536
anazar@polsinelli.com

Attorneys for CMN-RUS, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2020, a true and correct copy of the foregoing *Notice of Hearing on CMN-RUS, Inc.'s Motion for Allowance of Administrative Claim for Post-Petition Services and Immediate Payment Thereof* was electronically filed with the Clerk of Court using the CM/ECF system, which sent notice of such filing to Debtors' counsel, the U.S. Trustee, and the interested parties registered to receive ECF notification from the court.

/s/ Jeremy R. Johnson

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

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

Debtors.¹

Chapter 11

Case No. 19-22312 (RDD)

Jointly Administered

**ORDER GRANTING MOTION FOR ALLOWANCE OF ADMINISTRATIVE CLAIM
FOR POST-PETITION SERVICES AND IMMEDIATE PAYMENT THEREOF**

Upon the *Motion for Allowance of Administrative Claim for Post-Petition Services and Immediate Payment Thereof* (the “Motion”) as Docket # (___) filed by CMN-RUS, Inc. (“CMN”), through its counsel, for entry of an order allowing CMN’s administrative claim and requiring immediate payment thereof, pursuant to 11 U.S.C. § 503(b), all as more fully set forth in the Motion; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 as a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B); and venue in this district being proper pursuant to 11 U.S.C. §§ 1408 and 1409; and after due deliberations and for good cause shown, the Court having determined the Motion should be granted, after due and proper notice, it is now, therefore, ORDERED THAT:

1. CMN has an allowed administrative expense claim against Debtor Windstream KDL, LLC in the amount of \$100,933.36 (the “Administrative Claim”), that the Administrative

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors 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.

Claim is a fully Allowed Administrative Claim under the Debtors Plan, and is not subject to offset, recoupment, reduction, deduction, or claim;

2. The Administrative Claim is not subject to reconsideration under 11 U.S.C. § 502(j);

3. Debtor Windstream KDL, LLC is directed to pay to CMN the full amount of the Administrative Claim within ten (10) days of the entry of this Order becoming final and non-appealable; and

4. The Bankruptcy Court retain jurisdiction over this Order and any interpretation of it.

White Plains, New York

Dated: _____

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 8

Hearing Date: August 18, 2020, at 10:00 a.m. (prevailing Eastern Time)
Response Deadline: August 11, 2020, at 4:00 p.m. (prevailing Eastern Time)

Stephen E. Hessler, P.C.
Marc Kieselstein, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Brad Weiland (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

WINDSTREAM HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 19-22312 (RDD)

(Jointly Administered)

**NOTICE OF DEBTORS' SIXTH OMNIBUS OBJECTION
TO AMENDED CLAIMS, CROSS-DEBTOR DUPLICATE
CLAIMS, EQUITY INTEREST CLAIMS, AND NO LIABILITY CLAIMS**

PLEASE TAKE NOTICE that a hearing on the *Debtors' Sixth Omnibus Objection to Amended Claims, Cross-Debtor Duplicate Claims, Equity Interest Claims, and No Liability Claims* (the "Objection") will be held before the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601, on **Tuesday, August 18, 2020, at 10:00 a.m., prevailing Eastern Time** (the "Hearing").

¹ The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of Debtors 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.



PLEASE TAKE FURTHER NOTICE that any responses to the relief requested in the Objection must (a) be in writing, (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York, and the *Order (I) Approving (A) Omnibus Claims Objection Procedures, (B) Omnibus Substantive Claims Objections and Form of Notice, and (C) Satisfaction Procedures and Form of Notice and (II) Waiving Bankruptcy Rule 3007(e)(6)* (the “Objection Procedures Order”) [Docket No. 1141], (c) be filed electronically with the Court on the docket of *In re Windstream Holdings, Inc.*, Case 19-22312 (RDD) by registered users of the Court’s electronic filing system and in accordance with the General Order M-399 (which is available on the Court’s website at <http://www.nysb.uscourts.gov>), (d) be sent to the Court’s chambers, and (e) be served so that the following parties actually receive such response on or before **Tuesday, August 11, 2020, at 4:00 p.m., prevailing Eastern Time** (the “Response Deadline”): (i) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn.: Stephen E. Hessler, P.C., Neda Davanipour, Trudy Smith, Spencer Caldwell-McMillan, and Christopher Ceresa; and Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, Illinois 60654, Attn.: Ross M. Kwasteniet, P.C., Brad Weiland, and John R. Luze; (ii) Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019, Attn.: Lorenzo Marinuzzi, Todd M. Goren, Jennifer L. Marines, and Erica J. Richards; and (iii) the Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, New York 10014, Attn.: Paul K. Schwartzberg and Serene Nakano.

PLEASE TAKE FURTHER NOTICE that the Debtors are authorized to submit to the Court an order substantially in the form annexed as Exhibit A to the Objection (the “Order”) if

(a) a response to the Objection is not filed and served timely on or before the Response Deadline or (b) all responses to the Objection are resolved on or before the Hearing. The Court may enter the Order with no further notice or opportunity to be heard under such circumstances.

PLEASE TAKE FURTHER NOTICE that the Hearing may be continued or adjourned thereafter from time to time in accordance with the *Final Order Establishing Certain Notice, Case Management, and Administrative Procedures* [Docket No. 392].

PLEASE TAKE FURTHER NOTICE that a copy of the Objection may be obtained free of charge on Kurtzman Carson Consultants LLC's website: <http://www.kccllc.net/windstream>. You may also obtain copies of any pleadings on the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth thereon.

[Remainder of page intentionally left blank]

Dated: July 17, 2020
New York, New York

/s/ Stephen E. Hessler, P.C.

Stephen E. Hessler, P.C.

Marc Kieselstein, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

James H.M. Sprayregen, P.C.

Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)

Brad Weiland (admitted *pro hac vice*)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Counsel to the Debtors and Debtors in Possession

Hearing Date: August 18, 2020, at 10:00 a.m. (prevailing Eastern Time)
Response Deadline: August 11, 2020, at 4:00 p.m. (prevailing Eastern Time)

Stephen E. Hessler, P.C.
Marc Kieselstein, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Brad Weiland (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

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> , ¹	)	Case No. 19-22312 (RDD)
)	
Debtors.	)	(Jointly Administered)
)	

**DEBTORS' SIXTH OMNIBUS OBJECTION
TO AMENDED CLAIMS, CROSS-DEBTOR DUPLICATE CLAIMS,
EQUITY INTEREST CLAIMS, AND NO LIABILITY CLAIMS**

YOU SHOULD LOCATE YOUR NAME AND YOUR CLAIM(S) ON THE SCHEDULES ATTACHED TO EXHIBIT A HERETO. PLEASE TAKE NOTICE THAT THE OBJECTION SEEKS TO EITHER DISALLOW, EXPUNGE, OR OTHERWISE AFFECT YOUR CLAIM(S). THEREFORE, PLEASE READ THIS OBJECTION AND ATTACHMENTS THERETO VERY CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.

The above-captioned debtors and debtors in possession (collectively, the "Debtors") respectfully state as follows in support of this Objection:²

¹ The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of Debtors 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.

² Capitalized terms used but not defined in this objection shall have the meanings given to such terms in the *Order (I) Approving (A) Omnibus Claims Objection Procedures, (B) Omnibus Substantive Claims Objections and Form*

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), disallowing and expunging the claims identified on (a) Schedule 1 to the Order (collectively, the “Amended Claims”) because they have been amended and superseded by subsequently filed proofs of claim, (b) Schedule 2 to the Order (collectively, the “Cross-Debtor Duplicate Claims”) because they assert the same claim against more than one of the Debtors, (c) Schedule 3 to the Order (collectively, the “Equity Interest Claims”) because they were filed solely on account of purported equity interests in the Debtors, and (d) Schedule 4 to the Order (collectively, the “No Liability Claims”) because, among other reasons, the Debtors are unable to reconcile each purported liability with their books and records. In support of this Objection, the Debtors submit the declaration of Holden Bixler, a Managing Director at Alvarez & Marsal North America, LLC, attached hereto as **Exhibit B** (the “Bixler Declaration”).

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York 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 Court in connection with this Objection to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

of Notice, and (C) Satisfaction Procedures and Form of Notice and (II) Waiving Bankruptcy Rule 3007(e)(6) (the “Objection Procedures Order”) [Docket No. 1141].

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

4. The bases for the relief requested herein are section 502(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Bankruptcy Rule 3007, and the Objection Procedures Order.

The Claims Reconciliation Process

5. On May 10, 2019, the Debtors filed their respective schedules of assets and liabilities and statements of financial affairs [Docket Nos. 505 and 506] pursuant to Bankruptcy Rule 1007 and the *Order Granting a Second Extension of Time to File Schedules and Statements of Financial Affairs* [Docket No. 387]. On January 21, 2020, the Debtors filed amendments to certain schedules, as set forth in the *Notice of Filing Amended Schedule G and Supplemental Deadline to Submit Proofs of Claim* [Docket No. 1436] and *Notice of Filing Amended Schedule F and Supplemental Deadline to Submit Proofs of Claim* [Docket No. 1435].

6. On May 13, 2019, the Court entered the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, and (III) Approving Notice Thereof* [Docket No. 518] establishing certain dates and deadlines for filing proofs of claim in these chapter 11 cases with Kurtzman Carson Consultants LLC (the “Notice and Claims Agent”). Specifically, the Court established (a) July 15, 2019, at 4:00 p.m., prevailing Eastern Time, as the last date and time for all persons and entities (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts but not governmental units) to file proofs of claim based on prepetition claims, including claims pursuant to section 503(b)(9) of the Bankruptcy Code, against any Debtor and (b) August 26, 2019, at 4:00 p.m., prevailing Eastern Time, as the last date and time for governmental units to file proofs of claim against any Debtor (each as applicable, the “Claims Bar Date”).

7. Over 8,500 proofs of claim have been filed against the Debtors, totaling approximately \$16.5 billion in the aggregate as of the date hereof. The Debtors were granted authority to file omnibus objections to claims in accordance with the procedures set forth in the Objection Procedures Order on October 10, 2019.

8. The Debtors filed their first omnibus claims objection on November 18, 2019. On June 19, 2020, the Debtors filed the *Debtors' Fifth Omnibus Objection to No Liability Claims* [Docket No. 2170]. The Court has entered orders (as may have been modified) granting all of the Debtors' previous omnibus objections to claims as of the date hereof, except for the aforementioned omnibus claims objection, which is pending at the time of this filing. By this Objection, the Debtors now seek approval to disallow or expunge certain claims for the reasons set forth below.

Objection

9. Section 502(a) of the Bankruptcy Code provides that a filed proof of claim is deemed allowed unless a party in interest objects to it. 11 U.S.C. § 502(a). Bankruptcy Rule 3007 contains the grounds upon which “objections to more than one claim may be joined in an omnibus objection.” Fed. R. Bankr. P. 3007(d). The Objection Procedures Order expands Bankruptcy Rule 3007(d) and permits the Debtors to file omnibus objections to claims on additional grounds. Accordingly, the Debtors file this Objection to the claims listed on Schedules 1, 2, 3, and 4 to the Order on the bases set forth below and in the Bixler Declaration to ease the administrative burden on this Court and the Debtors' estates during the claims reconciliation process.

A. Amended Claims.

10. The Debtors object to one hundred two claims listed in the column labeled “Claims to be Disallowed” on Schedule 1 to the Order. In reviewing such claims, the Debtors have determined that subsequently filed proofs of claim have amended and superseded such claims.

Each proof of claim identified in the column labeled “Remaining Claims” on Schedule 1 was identified by the claimant as amending a previously filed proof of claim. Some of the proofs of claim were filed to change the amounts or the Debtors against which the Amended Claims were asserted. Other proofs of claim were filed to modify the claimant asserting the Amended Claim. The Amended Claims should be disallowed and expunged from the claims register in these chapter 11 cases (the “Claims Register”) to streamline the distribution process and reduce the risk that claimants with multiple proofs of claim for the same alleged liability do not receive recoveries in excess of what is owed.

11. This Objection will not affect the claims identified in the column labeled “Remaining Claims” on Schedule 1 to the Order, which will remain on the Claims Register unless the applicable claimants withdraw or the Court otherwise disallows the surviving claims. The Debtors’ right to object to the Remaining Claims in the future on any grounds permitted under applicable law is also preserved in the Objection Procedures Order. Therefore, the Debtors request that the Court disallow and expunge the Amended Claims from the Claims Register.

B. Cross-Debtor Duplicate Claims.

12. The Debtors object to thirty claims listed on Schedule 2 to the Order. Upon review of such claims, the Debtors have determined that each claim duplicates the asserted liability of another claim filed against other Debtors and the claimant asserting such claims is not entitled to multiple recoveries against the Debtors. Each proof of claim identified in the column labeled “Remaining Claims” on Schedule 2 has been identified as duplicating the purported underlying liability of the corresponding claim in the column labeled “Claims to be Disallowed” but as to a different Debtor entity.

13. In choosing which Cross-Debtor Duplicate Claims would be disallowed and expunged, and which Remaining Claims would survive, the Debtors looked to their books and

records and if the Cross-Debtor Duplicate Claims corresponded to a claim therein, identified the Remaining Claim as the claim filed against the Debtor listed as owing the liability in the Debtors' books and records. Therefore, the Debtors have determined that the Cross-Debtor Duplicate Claims should be disallowed and expunged in their entirety to prevent the potential of unwarranted multiple recoveries. Disallowing the Cross-Debtor Duplicate Claims will not prejudice any of the claimants' respective rights regarding the Remaining Claims, as this Objection does not affect the Remaining Claims. Accordingly, the Debtors seek the entry of the Order disallowing and expunging the Cross-Debtor Duplicate Claims in their entirety and preserving the Remaining Claims, as set forth on Schedule 2 to the Order.

C. Equity Interest Claims.

14. The Debtors object to twenty-seven claims listed on Schedule 3 to the Order. In reviewing such claims, the Debtors have determined that they were filed solely on account of asserted equity interests held by such parties in the Debtors, *i.e.*, based only on ownership of common stock of or other equity interest in the Debtors and not on account of any claim against the Debtors. Holders of common stock of or other equity interests in the Debtors do not have "claims" against the Debtors or their estates. *See* 11 U.S.C. § 501(a) ("An equity security holder may file a proof of *interest*.") (emphasis added). Moreover, paragraph 9 of the Bar Date Order provides that "any holder of a Claim based on an equity interest in the Debtors" was not required to file a proof of claim. *Bar Date Order*, ¶ 9. Here, certain holders of common stock filed proofs of claim asserting claims solely on account of such equity interests notwithstanding the provision in the Bar Date Order. The Equity Interest Claims should be disallowed and expunged from the Claims Register as a result. This will streamline the distribution process and reduce the risk that mere equity holders receive recoveries on account of their interests. Therefore, the Debtors request that the Court disallow and expunge the Equity Interest Claims from the Claims Register.

D. No Liability Claims.

15. The Debtors object to two hundred forty-two No Liability Claims listed on Schedule 4 to the Order. After reviewing such claims, the Debtors and their advisors have determined that such claims seek to recover amounts for which the Debtors are not liable. Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law.” 11 U.S.C. § 502(b)(1).

16. The Debtors and their advisors have reviewed their books and records and other relevant information and determined that each of the No Liability Claims (a) fails to establish any legal or factual basis for a valid claim against the Debtors, (b) seeks recovery for unsubstantiated amounts for which the Debtors are not liable, (c) was improperly asserted against a Debtor that is not obligated, (d) was satisfied with a payment to a primary contractor or waived via settlement, (e) fails to specify the amount or assert the amount as unliquidated, or (f) is inconsistent with the Debtors’ books and records. The specific basis for each No Liability Claim is stated on Schedule 4 in the “Reason” entry and is further described in the Bixler Declaration. Accordingly, the No Liability Claims are unenforceable against the Debtors because they do not evince an amount for which the relevant Debtor is liable.

17. These No Liability Claims listed on Schedule 4 to the Order should be disallowed and expunged in their entirety. Disallowance of these No Liability Claims will enable the claims register to reflect more accurately the claims asserted against the Debtors. Therefore, the Debtors request that the Court disallow and authorize the Debtors to expunge the No Liability Claims from the claims register.

Compliance with the Objection Procedures and the Bankruptcy Rules

18. The Debtors believe that the content of this Objection is in full compliance with the applicable Bankruptcy Rules and Objection Procedures Order for the following reasons:

- (a) this Objection conspicuously states on the first page that **“YOU SHOULD LOCATE YOUR NAME AND YOUR CLAIM(S) ON THE SCHEDULES ATTACHED TO EXHIBIT A HERETO. PLEASE TAKE NOTICE THAT THE OBJECTION SEEKS TO EITHER DISALLOW, EXPUNGE, OR OTHERWISE AFFECT YOUR CLAIM(S). THEREFORE, PLEASE READ THIS OBJECTION AND ATTACHMENTS THERETO VERY CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE”**;³
- (b) each schedule lists the claims subject to this Objection in alphabetical order based on the claimant’s name and contains a reference to the applicable claim number;⁴
- (c) each schedule to the Order provides the grounds for the objection to the claims and a cross-reference to the page in this Objection pertinent to the stated grounds;⁵
- (d) this Objection states in the title the identity of the objecting party (the Debtors) and the grounds for the objection;⁶
- (e) this Objection is numbered appropriately;⁷
- (f) the grounds asserted are that (i) the Amended Claims were amended and superseded by subsequently filed claims, (ii) the Cross-Debtor Duplicate Claims assert the same liability against more than one debtor entity and double recovery is not warranted (iii) the Equity Interest Claims were filed solely on the basis of purported equity interests in the Debtors, and (iv) the No Liability Claims assert claims for which the Debtors have determined they are not liable;⁸ and

³ See Fed. R. Bankr. P. 3007(e)(1).

⁴ See Fed. R. Bankr. P. 3007(e)(2).

⁵ See Fed. R. Bankr. P. 3007(e)(3).

⁶ See Fed. R. Bankr. P. 3007(e)(4).

⁷ See Fed. R. Bankr. P. 3007(e)(5).

⁸ See Fed. R. Bankr. P. 3007(d)(1), (3), (6)-(7); Objection Procedures Order ¶ 4; Objection Procedures, Ex. 1, ¶ 2.

- (g) each schedule to the Order includes only the claims to which there is a common basis for the Objection.⁹

19. For the foregoing reasons, the Debtors respectfully submit that the content of this Objection is in full compliance with the Bankruptcy Rules and the Objection Procedures Order.

20. The Debtors further respectfully state that notice and service of this Objection will be in full compliance with the Bankruptcy Rules for the following reasons:

- (a) the Objection will be filed with the Court and served upon (i) the affected claimant set forth on each proof of claim subject to this Objection or its respective attorney of record, (ii) the U.S. Trustee, (iii) the official committee of unsecured creditors, and (iv) parties that have filed a request for service of papers under Bankruptcy Rule 2002;¹⁰
- (b) the Debtors will also serve each claimant affected as a result of this Objection with a customized objection notice tailored, as appropriate, to address the particular creditor, claim, and objection;¹¹ and
- (c) this Objection will be set for hearing at least thirty days after the filing of this Objection.¹²

Reservation of Rights

21. This Objection is limited to the grounds stated herein. Accordingly, it is without prejudice to the rights of the Debtors or any other party in interest to object to any of the claims listed on Schedules 1, 2, 3, and 4 to the Order, including the “Remaining Claims” listed on Schedules 1 and 2 to the Order (to the extent not disallowed and expunged pursuant to this Objection) on any grounds whatsoever, and the Debtors expressly reserve all further substantive or procedural objections they may have with respect to such claims.

⁹ See Objection Procedures Order ¶ 4.

¹⁰ See Fed. R. Bankr. P. 2002, 3007(a).

¹¹ See Objection Procedures Order ¶ 4.

¹² See Fed. R. Bankr. P. 2002, 3007(a); Objection Procedures Order ¶ 4.

Objection Practice

22. This Objection 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 Objection. Accordingly, the Debtors submit that this Objection satisfies Local Bankruptcy Rule 9013-1(a).

Notice

23. The Debtors have provided notice of this Objection to (a) the affected claimant party set forth on the proof of claim or the respective attorney of record, (b) the U.S. Trustee, (c) the official committee of unsecured creditors, (d) the entities on the Master Service List (as defined in the case management order and available on the Debtors' case website at www.kccllc.net/windstream), and (e) parties that have filed a request for service of papers under Bankruptcy Rule 2002. The Debtors respectfully submit that no other or further notice is necessary.

No Prior Request

24. No prior request for the relief sought in this Objection has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request entry of the Order granting the relief requested herein and such other relief as is just and proper.

Dated: July 17, 2020
New York, New York

/s/ Stephen E. Hessler, P.C.

Stephen E. Hessler, P.C.

Marc Kieselstein, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

James H.M. Sprayregen, P.C.

Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)

Brad Weiland (admitted *pro hac vice*)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

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> , ¹	)	Case No. 19-22312 (RDD)
)	
Debtors.	)	(Jointly Administered)
)	

**ORDER GRANTING DEBTORS' SIXTH OMNIBUS OBJECTION TO
AMENDED CLAIMS, CROSS-DEBTOR DUPLICATE CLAIMS,
EQUITY INTEREST CLAIMS, AND NO LIABILITY CLAIMS**

Upon the objection (the “Objection”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) disallowing and expunging the claims as identified on **Schedules 1, 2, 3, and 4** and pursuant to section 502(b) of the Bankruptcy Code, Bankruptcy Rule 3007, and the Objection Procedures Order, all as more fully set forth in the Objection; and upon the Bixler Declaration; and the Court having found that it 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, and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Objection in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Objection is in the best interests of the Debtors’ estates,

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors 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.

² Capitalized terms used in this Order and not immediately defined have the meanings given to such terms in the Objection.

their creditors, and other parties in interest; and the Court having found that the Debtors provided appropriate notice of the Objection and the opportunity for a hearing on the Objection under the circumstances; and the Court having reviewed the Objection; and the Court having determined that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Objection is sustained as set forth herein.
2. The Amended Claims listed in the column labeled “Claims to be Disallowed” on **Schedule 1** attached hereto are disallowed and expunged in their entirety.
3. The Cross-Debtor Duplicate Claims listed in the column labeled “Claims to be Disallowed” on **Schedule 2** attached hereto are disallowed and expunged in their entirety.
4. The Equity Interest Claims listed on **Schedule 3** attached hereto are disallowed and expunged in their entirety.
5. The No Liability Claims listed on **Schedule 4** attached hereto are disallowed and expunged in their entirety.
6. The “Remaining Claims” on **Schedules 1** and **2** will remain on the claims register, subject to any future objection on any basis.
7. Kurtzman Carson Consultants LLC, the Debtors’ noticing and claims agent, is authorized to update the claims register to reflect the relief granted in this Order.
8. Entry of this Order is without prejudice to the Debtors’ right to object to any other claims in these chapter 11 cases or to further object to the claims listed on **Schedules 1, 2, 3, and 4** attached hereto (to the extent they are not disallowed and expunged pursuant to this Order) on any grounds whatsoever at a later date.

9. Each objection to each claim as addressed in the Objection and as identified on **Schedules 1, 2, 3, and 4** attached hereto constitutes a separate contested matter as contemplated in Bankruptcy Rule 9014. This Order shall be deemed a separate order with respect to each claim listed on **Schedules 1, 2, 3, and 4**. Any stay of this Order shall apply only to the contested matter that involves such claim and shall not act to stay the applicability or finality of this Order with respect to the other contested matters covered hereby.

10. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to effectuate the relief granted pursuant to this Order in accordance with the Objection.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

White Plains, New York
Dated: _____, 2020

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Schedule 1

Amended Claims

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
1	ARIZONA DEPARTMENT OF REVENUE C/O TAX, BANKRUPTCY AND COLLECTION SCT OFFICE OF THE ARIZONA ATTORNEY GENERAL 2005 N CENTRAL AVE, SUITE 100 PHOENIX, AZ 85004	04/23/19	Windstream Holdings, Inc. 19-22312	957	\$ 15,000.00*	ARIZONA DEPARTMENT OF REVENUE C/O TAX, BANKRUPTCY AND COLLECTION SCT OFFICE OF THE ARIZONA ATTORNEY GENERAL 2005 N CENTRAL AVE, SUITE 100 PHOENIX, AZ 85004	01/06/20	Windstream Holdings, Inc. 19-22312	7924	\$ 59,253.79
2	BLUE GRASS ENERGY COOPERATIVE CORPORATION BLUE GRASS ENERGY 1201 LEXINGTON ROAD PO BOX 990 NICHOLASVILLE, KY 40340	07/12/19	Windstream Communications, LLC 19-22433	5403	\$ 24,495.57	BLUE GRASS ENERGY COOPERATIVE CORPORATION 1201 LEXINGTON ROAD PO BOX 990 NICHOLASVILLE, KY 40340	02/18/20	Windstream Communications, LLC 19-22433	8028	\$ 122,695.00
3	BROWNSBORO ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1335	\$ 3,134.96*	BROWNSBORO ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7986	\$ 4,271.76
4	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	08/22/19	Earthlink Carrier, LLC 19-22430	7431	\$ 3,991.32*	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	01/31/20	Earthlink Carrier, LLC 19-22430	8000	\$ 0.00
5	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	08/22/19	Windstream Communications, LLC 19-22433	7432	\$ 288.47*	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	01/31/20	Windstream Communications, LLC 19-22433	7997	\$ 0.00

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
6 CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	08/22/19	Windstream KDL, LLC 19-22449	7433	\$ 2,348.24*	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	01/31/20	Windstream KDL, LLC 19-22449	8001	\$ 0.00
7 CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	08/22/19	Windstream NuVox, LLC 19-22492	7434	\$ 4,068.83*	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	01/31/20	Windstream NuVox, LLC 19-22492	8002	\$ 0.00
8 CITY OF BREMERTON 345 6TH STREET SUITE 100 BREMERTON, WA 98337	06/03/19	PaeTec Communications, LLC 19-22311	1823	\$ 115.00	CITY OF BREMERTON 345 6TH STREET, SUITE 100 BREMERTON, WA 98337-1873	03/27/20	PaeTec Communications, LLC 19-22311	8105	\$ 0.00
9 CITY OF BREMERTON 345 6TH STREET SUITE 100 BREMERTON, WA 98337	06/03/19	Talk America, LLC 19-22416	1824	\$ 75.00	CITY OF BREMERTON 345 6TH STREET, SUITE 100 BREMERTON, WA 98337-1873	03/27/20	Talk America, LLC 19-22416	8106	\$ 0.00
10 CITY OF EUSTACE ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1343	\$ 110.40*	CITY OF EUSTACE ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7979	\$ 105.36
11 CITY OF MABANK ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1340	\$ 120.38*	CITY OF MABANK ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7985	\$ 110.53

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
12 CONNECTICUT DEPARTMENT OF REVENUE SERVICES COLLECTIONS UNIT / BANKRUPTCY TEAM 450 COLUMBUS BLVD., STE. 1 HARTFORD, CT 06103	08/22/19	Windstream Holdings, Inc. 19-22312	7437	\$ 5,000.00*	CONNECTICUT DEPARTMENT OF REVENUE SERVICES COLLECTIONS UNIT / BANKRUPTCY TEAM 450 COLUMBUS BLVD., STE. 1 HARTFORD, CT 06103	04/06/20	Windstream Holdings, Inc. 19-22312	8114	\$ 165,422.63
13 DALLAS COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1304	\$ 165,386.97*	DALLAS COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7978	\$ 166,408.76
14 DALLAS COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/22/19	Windstream Communications, LLC 19-22433	1189	\$ 53,215.77*	DALLAS COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7959	\$ 41,847.13
15 ELLIS COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	Windstream Communications, LLC 19-22433	1325	\$ 71.64*	ELLIS COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7958	\$ 34.76
16 EUSTACE ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1342	\$ 1,256.72*	EUSTACE ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7981	\$ 1,490.35
17 FLETCHER, JOHN P 2600 N PIERCE ST LITTLE ROCK, AR 72207	06/15/19	Windstream Services, LLC 19-22400	2784	Undetermined*	FLETCHER, JOHN P. 2600 NORTH PIERCE LITTLE ROCK, AR 72207	01/13/20	Windstream Services, LLC 19-22400	7941	Undetermined*

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
18 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	PaeTec Communications, LLC 19-22311	7216	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/17/20	PaeTec Communications, LLC 19-22311	8145	\$ 0.00
19 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Windstream Holdings, Inc. 19-22312	7217	\$ 800.00*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	Windstream Holdings, Inc. 19-22312	8119	\$ 64,617.19
20 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	LDMI Telecommunications, LLC 19-22342	7218	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	LDMI Telecommunications, LLC 19-22342	8117	Undetermined*
21 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Allworx Corp. 19-22345	7219	\$ 1,630.90*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	Allworx Corp. 19-22345	8118	\$ 1,630.90
22 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Windstream Services, LLC 19-22400	7214	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/17/20	Windstream Services, LLC 19-22400	8143	\$ 0.00
23 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	CTC Communications Corporation 19-22405	7204	\$ 1,630.90*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	CTC Communications Corporation 19-22405	8124	\$ 1,630.90

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
24 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	07/22/19	Talk America, LLC 19-22416	6997	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/17/20	Talk America, LLC 19-22416	8142	\$ 0.00
25 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Windstream Communications, LLC 19-22433	7207	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/17/20	Windstream Communications, LLC 19-22433	8144	\$ 0.00
26 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Broadview Networks, Inc. 19-22456	7208	\$ 1,630.90*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	Broadview Networks, Inc. 19-22456	8120	\$ 1,630.90
27 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Windstream Shared Services, LLC 19-22479	7211	\$ 1,713.46*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	Windstream Shared Services, LLC 19-22479	8122	\$ 1,713.46
28 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Windstream NuVox, LLC 19-22492	7212	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	Windstream NuVox, LLC 19-22492	8123	\$ 0.00
29 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Windstream Norlight, LLC 19-22513	7213	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	Windstream Norlight, LLC 19-22513	8125	\$ 11,790.00

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
30 FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	08/01/19	Windstream NTI, LLC 19-22516	7215	Undetermined*	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812 -2952	04/07/20	Windstream NTI, LLC 19-22516	8121	\$ 0.00
31 GEORGIA AND FLORIDA RAILWAY, LLC ATTN CONSTANCE RUST, PARALEGAL OMNITRAX HOLDINGS COMBINED, INC. 252 CLAYTON STREET, 4TH FLOOR DENVER, CO 80206	07/12/19	Windstream Georgia Communications, LLC 19-22418	5641	\$ 24,706.47	GEORGIA AND FLORIDA RAILWAY, LLC CONSTANCE RUST, PARALEGAL 252 CLAYTON STREET, 4TH FLOOR DENVER, CO 80206	02/12/20	Windstream Georgia Communications, LLC 19-22418	8026	\$ 6,249.90
32 GEORGIA AND FLORIDA RAILWAY, LLC ATTN CONSTANCE RUST, PARALEGAL 252 CLAYTON STREET, 4TH FLOOR DENVER, CO 80206	07/12/19	Windstream KDL, LLC 19-22449	5631	\$ 4,862.02	GEORGIA AND FLORIDA RAILWAY, LLC CONSTANCE RUST, PARALEGAL 252 CLAYTON STREET, 4TH FLOOR DENVER, CO 80206	02/12/20	Windstream KDL, LLC 19-22449	8024	\$ 4,630.50
33 HOOD CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/22/19	Windstream Communications, LLC 19-22433	1191	\$ 1,149.42*	HOOD CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7957	\$ 1,099.84
34 HUGHES SPRINGS ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/22/19	Windstream Communications, LLC 19-22433	1313	\$ 23.50*	HUGHES SPRINGS ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7956	\$ 21.74
35 IBM CORPORATION MARIE-JOSEE DUBE 275 VIGER EAST MONTREAL, QC H2X 3R7 CANADA	05/09/19	Windstream Services, LLC 19-22400	1386	\$ 977,667.96	IBM CORPORATION 2200 CAMINO A EL CASTILLO EL SALTO, JALISCO, 45680 MEXICO	03/19/20	Windstream Services, LLC 19-22400	8101	\$ 0.00

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
36 ILLINOIS RAILWAY, LLC CONSTANCE RUST, PARALEGAL 252 CLAYTON STREET, 4TH FLOOR DENVER, CO 80206	07/12/19	Windstream KDL, LLC 19-22449	5646	\$ 2,680.19	ILLINOIS RAILWAY, LLC CONSTANCE RUST, PARALEGAL 252 CLAYTON STREET, 4TH FLOOR DENVER, CO 80206	02/12/20	Windstream KDL, LLC 19-22449	8025	\$ 2,801.74
37 IRVING ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1341	\$ 655.85*	IRVING ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7983	\$ 2,733.27
38 IRVING ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/22/19	Windstream Communications, LLC 19-22433	1190	\$ 1,496.37*	IRVING ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7955	\$ 1,533.24
39 KAUFMAN COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY SUITE 1000 DALLAS, TX 75207	04/29/19	Windstream Communications, LLC 19-22433	1327	\$ 1,611.61*	KAUFMAN COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7954	\$ 3,526.34
40 KENTUCKY UTILITIES COMPANY 820 W. BROADWAY LOUISVILLE, KY 40202	07/10/19	Windstream Communications, LLC 19-22433	4864	\$ 364,146.14	KENTUCKY UTILITIES COMPANY 820 W. BROADWAY LOUISVILLE, KY 40202	11/15/19	Windstream Communications, LLC 19-22433	7825	\$ 154,146.14
41 LAWRENCE COUNTY MO TREASURER 911 ACCT LAWRENCE COUNTY COURTHOUSE PO BOX 46 MOUNT VERNON, MO 65712	07/15/19	Windstream Holdings, Inc. 19-22312	6073	Undetermined*	LAWRENCE COUNTY MISSOURI TREASURER 911 ACCOUNT LAWRENCE COUNTY COURTHOUSE PO BOX 406 MOUNT VERNON, MO 65712	03/26/20	Windstream Holdings, Inc. 19-22312	8104	\$ 0.00

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
42 LINKEDIN CORPORATION C/O DAVID P. PAPIEZ FOX ROTHSCHILD LLP 1001 4TH AVE. SUITE 4500 SEATTLE, WA 98154	05/07/19	Windstream Services, LLC 19-22400	1257	\$ 453,150.00	LINKEDIN CORPORATION C/O DAVID P. PAPIEZ FOX ROTHSCHILD LLP 1001 4TH AVE. SUITE 4500 SEATTLE, WA 98154	02/20/20	Windstream Services, LLC 19-22400	8038	\$ 453,150.00
43 LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	05/21/19	Windstream Holdings, Inc. 19-22312	1589	\$ 5,651.00*	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	01/22/20	Windstream Holdings, Inc. 19-22312	7945	\$ 0.00
44 LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	05/21/19	CTC Communications Corporation 19-22405	1594	\$ 500.00*	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	01/22/20	CTC Communications Corporation 19-22405	7946	\$ 0.00
45 LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	05/21/19	Broadview Networks, Inc. 19-22456	1591	\$ 4,991.56*	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	01/22/20	Broadview Networks, Inc. 19-22456	7947	\$ 2,501.18
46 LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	05/21/19	Xeta Technologies, Inc. 19-22499	1586	\$ 8,524.00*	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	01/22/20	Xeta Technologies, Inc. 19-22499	7944	\$ 100.00
47 LOW ELECTRIC, INC. CHARLES C. HARTH, ESQ. 10700 W. HIGGINS ROAD SUITE 200 ROSEMONT, IL 60018	04/01/19	Windstream Holdings, Inc. 19-22312	532	\$ 199,410.74	CHARLES C. HARTH AND ASSOCIATES. PC 10700 W. HIGGINS ROAD SUITE 200 ROSEMONT, IL 60018	06/19/19	Windstream Holdings, Inc. 19-22312	3155	\$ 159,500.74

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
48 MABANK ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1339	\$ 431.21*	MABANK ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7987	\$ 409.09
49 MALAKOFF ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19		1338	\$ 207.24*	MALAKOFF ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7988	\$ 198.61
50 MANSFIELD INDEPENDENT SCHOOL DISTRICT EBONEY COBB C/O PERDUE BRANDON FIELDER ET AL 500 EAST BORDER ST, SUITE 640 ARLINGTON, TX 76010	04/15/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	821	\$ 218.97*	MANSFIELD ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7972	\$ 144.60
51 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION - MISSISSIPPI DEPARTMENT OF REVENUE PO BOX 22808 JACKSON, MS 39225-2808	03/19/19	Windstream Communications, LLC 19-22433	248	\$ 696.91	MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	04/08/20	Windstream Communications, LLC 19-22433	8113	\$ 0.00
52 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	03/20/19	Broadview Networks, Inc. 19-22456	292	Undetermined*	MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	03/10/20	Broadview Networks, Inc. 19-22456	8097	\$ 374.00

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
53 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	08/20/19	Broadview Networks, Inc. 19-22456	7388	\$ 28.62	MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	04/02/20	Broadview Networks, Inc. 19-22456	8110	\$ 0.00
54 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION - MS DEPARTMENT OF REVENUE PO BOX 22808 JACKSON, MS 39225-2808	03/19/19	Windstream Mississippi, LLC 19-22504	246	\$ 2,251.74	MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	04/08/20	Windstream Mississippi, LLC 19-22504	8127	\$ 0.00
55 MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	08/02/19	Windstream Communications, LLC 19-22433	7224	\$ 92.62	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	03/04/20	Windstream Communications, LLC 19-22433	8086	\$ 0.00
56 MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	05/21/19	Windstream NuVox Missouri, LLC 19-22480	1602	\$ 926.14	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	02/25/20	Windstream NuVox Missouri, LLC 19-22480	8047	\$ 0.00
57 MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	05/21/19	Windstream NuVox Missouri, LLC 19-22480	1607	\$ 1,400,237.87	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	03/02/20	Windstream NuVox Missouri, LLC 19-22480	8073	\$ 1,400,131.00
58 MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	05/21/19	Windstream Missouri, LLC 19-22506	1600	\$ 23,524.08	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	03/09/20	Windstream Missouri, LLC 19-22506	8096	\$ 0.00

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT		NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
59	MONTAGUE COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/22/19	Windstream Communications, LLC 19-22433	1285	\$ 16.44*		MONTAGUE COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7953	\$ 11.38
60	MOORE COUNTY PO BOX 457 CARTHAGE, NC 28327	08/26/19	Windstream Holdings, Inc. 19-22312	7513	\$ 23,046.09*		MOORE COUNTY PO BOX 457 CARTHAGE, NC 28327	02/19/20	Windstream Holdings, Inc. 19-22312	8033	\$ 0.00
61	MORRIS CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/22/19	Windstream Communications, LLC 19-22433	1286	\$ 34.60*		MORRIS CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7952	\$ 383.29
62	NAVARRO COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY SUITE 1000 DALLAS, TX 75207	05/14/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1450	\$ 2,139.53*		NAVARRO COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7990	\$ 929.92
63	NAVARRO COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY SUITE 1000 DALLAS, TX 75207	04/22/19	Windstream Communications, LLC 19-22433	1131	\$ 8,951.43*		NAVARRO COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7951	\$ 6,669.75
64	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	10/03/19	American Telephone Company LLC 19-22349	7676	\$ 16,795.39		NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	01/09/20	American Telephone Company LLC 19-22349	7929	\$ 14,855.65

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWEDREMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
65 NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	10/04/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7682	\$ 8,232.02	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	01/10/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7934	\$ 9,402.54
66 NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	11/08/19	Conversent Communications of New York, LLC 19-22384	7805	\$ 1,845.44*	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	02/13/20	Conversent Communications of New York, LLC 19-22384	8029	\$ 2,796.91
67 NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	10/03/19	Deltacom, LLC 19-22423	7684	\$ 4,848.75	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	01/09/20	Deltacom, LLC 19-22423	7932	\$ 8,523.45
68 NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	10/03/19	Earthlink Business, LLC 19-22427	7679	\$ 1,770.44	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	01/09/20	Earthlink Business, LLC 19-22427	7931	\$ 2,363.72
69 NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	10/03/19	Windstream Communications, LLC 19-22433	7683	\$ 1,081.60	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	01/09/20	Windstream Communications, LLC 19-22433	7933	\$ 1,027.83
70 NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	10/03/19	Xeta Technologies, Inc. 19-22499	7677	\$ 21,965.18	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	01/09/20	Xeta Technologies, Inc. 19-22499	7930	\$ 7,924.58

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
71 NG-KIH DESIGN BUILD LLC, AS AGENT FOR COMM. OF KENTUCKY, KY. COMMUNICATIONS NETWORK AUTHORITY AND FIN. AND ADM. CABINET TYLER POWELL, ESQ. FROST BROWN TODD, LLC 250 WEST MAIN STREET, SUITE 2800 LEXINGTON, KY 40502	07/12/19	Windstream Kentucky East, LLC 19-22458	5440	Undetermined*	NG-KIH DESIGN BUILD LLC, AS AGENT FOR COMMONWEALTH OF KENTUCKY, KY COMM. NETWORK AUTHORITY AND THE FIN. AND ADMIN. CABINET J. PRESSGROVE 6800 W 115TH STREET, SUITE 2292 OVERLAND PARK, KS 66211	01/31/20	Windstream Kentucky East, LLC 19-22458	8006	\$ 1,314,864.73
72 NG-KIH DESIGN BUILD LLC, AS AGENT FOR COMMONWEALTH OF KENTUCKY, KY COMM. AUTHORITY AND THE FIN. AND ADMIN. CABINET TYLER POWELL, ESQ. FROST BROWN TODD, LLC 250 WEST MAIN STREET, SUITE 2800 LEXINGTON, KY 40502	07/12/19	Windstream Kentucky West, LLC 19-22462	5432	Undetermined*	NG-KIH DESIGN BUILD LLC, AS AGENT FOR COMMONWEALTH OF KENTUCKY, KY COMM. NETWORK AUTHORITY AND THE FIN. AND ADMIN. CABINET J. PRESSGROVE 6800 W 115TH STREET, SUITE 2292 OVERLAND PARK, KS 66211	01/31/20	Windstream Kentucky West, LLC 19-22462	7996	\$ 95,781.78
73 NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	08/26/19	Valor Telecommunications of Texas, LLC 19-22460	7519	\$ 10,060.29*	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	01/10/20	Valor Telecommunications of Texas, LLC 19-22460	7938	\$ 8,629.16
74 NORTHWEST ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	05/14/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1445	\$ 2,492.16*	NORTHWEST ISD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7991	\$ 1,819.74

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
75 OHIO EDISON COMPANY KATHY M. HOFACRE FIRSTENERGY CORP. 76 S. MAIN STREET, A-GO-15 AKRON, OH 44308	07/12/19	Windstream Ohio, LLC 19-22501	5872	\$ 23,824.39	OHIO EDISON COMPANY KATHY M. HOFACRE FIRSTENERGY CORP. 76 S. MAIN STREET, A-GO-15 AKRON, OH 44308	01/16/20	Windstream Ohio, LLC 19-22501	7942	\$ 153,809.95
76 ORACLE AMERICA, INC. (ORACLE) SHAWN M. CHRISTIANSON, ESQ. BUCHALTER, A PROFESSIONAL CORPORATION 55 SECOND STREET, 17TH FLOOR SAN FRANCISCO, CA 94105	07/11/19	Windstream Communications, LLC 19-22433	5211	\$ 2,087,331.81	ORACLE AMERICA, INC. (ORACLE) SHAWN M. CHRISTIANSON, ESQ. BUCHALTER, A PROFESSIONAL CORPORATION 55 SECOND STREET, 17TH FLOOR SAN FRANCISCO, CA 94105	02/07/20	Windstream Communications, LLC 19-22433	8012	\$ 2,331,878.87
77 OWEN ELECTRIC COOPERATIVE INC TARA THORNBERRY PO BOX 400 OWENTON, KY 40359	04/01/20	Windstream KDL, LLC 19-22449	8109	\$ 1,787.00	OWEN ELECTRIC COOPERATIVE INC TARA THORNBERRY PO BOX 400 OWENTON, KY 40359	04/03/20	Windstream KDL, LLC 19-22449	8111	\$ 1,787.00
78 PARKER CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1337	\$ 4,152.89*	PARKER CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7989	\$ 3,844.77
79 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	05/13/19	Choice One Communications of Pennsylvania, Inc. 19-22332	1415	\$ 27,364.51	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISON PO BOX 280946 HARRISBURG, PA 17128	03/09/20	Choice One Communications of Pennsylvania, Inc. 19-22332	8095	\$ 0.00

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
80 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	07/30/19	Broadview Networks, Inc. 19-22456	7175	\$ 659,894.96	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	02/11/20	Broadview Networks, Inc. 19-22456	8020	\$ 0.00
81 PIERCE COUNTY FINANCE 950 FAWCETT AVE, STE 100 TACOMA, WA 98402-5603	07/17/19	Windstream Holdings, Inc. 19-22312	6847	\$ 463.68*	PIERCE COUNTY FINANCE DEPARTMENT ALLEN RICHARDSON 950 FAWCETT AVE, STE 100 TACOMA, WA 98402-5603	01/22/20	Windstream Holdings, Inc. 19-22312	7948	\$ 1,609.84
82 RECEIVABLES PERFORMANCE MANAGEMENT, LLC MEGAN M. ADEYEMO/GORDON REES 2200 ROSS AVE., SUITE 4100 WEST DALLAS, TX 75201	04/17/19	Windstream Communications, LLC 19-22433	902	\$ 59,976.02	RECEIVABLES PERFORMANCE MANAGEMENT, LLC MEGAN M. ADEYEMO 2200 ROSS AVE., SUITE 3700 DALLAS, TX 75201	03/04/20	Windstream Communications, LLC 19-22433	8088	\$ 73,139.06
83 RED RIVER CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	05/07/19	Windstream Communications, LLC 19-22433	1353	\$ 84.65*	RED RIVER CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	01/27/20	Windstream Communications, LLC 19-22433	7950	\$ 81.86
84 SANDRA BULLARD HWY 196 CUNNINGHAM, TX 75434	07/14/19	Windstream Holdings, Inc. 19-22312	5958	\$ 18,000.00	SANDRA BULLARD 4205 SUNRISE DR PARIS, TX 75462	04/07/20	Windstream Business Holdings, LLC 19-22310	8128	\$ 22,000.00
85 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	Infocore, Inc. 19-22314	1370	\$ 45,229.99*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	Infocore, Inc. 19-22314	8066	\$ 1,229.99

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
86 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	TruCom Corporation 19-22334	1322	\$ 17,145.19*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	TruCom Corporation 19-22334	8061	\$ 145.19
87 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	US LEC Communications LLC 19-22340	1372	\$ 28,000.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	US LEC Communications LLC 19-22340	8067	\$ 0.00
88 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1326	\$ 80,200.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	8062	\$ 0.00
89 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	ARC Networks, Inc. 19-22362	1371	\$ 12,000.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	ARC Networks, Inc. 19-22362	8063	\$ 0.00
90 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	PAETEC iTEL, L.L.C. 19-22385	1376	\$ 48,000.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	PAETEC iTEL, L.L.C. 19-22385	8072	\$ 0.00
91 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	CoreComm Communications, LLC 19-22399	1373	\$ 28,000.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	CoreComm Communications, LLC 19-22399	8068	\$ 0.00
92 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	Windstream KDL, LLC 19-22449	1377	\$ 12,000.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	Windstream KDL, LLC 19-22449	8069	\$ 0.00

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
93 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	Windstream D&E Systems, LLC 19-22452	1380	\$ 51,970.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	Windstream D&E Systems, LLC 19-22452	8071	\$ 0.00
94 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	Business Telecom, LLC 19-22469	1379	\$ 21,046.97*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	Business Telecom, LLC 19-22469	8064	\$ 1,046.97
95 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	Windstream Supply, LLC 19-22493	1375	\$ 21,400.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	Windstream Supply, LLC 19-22493	8065	\$ 1,400.00
					STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	06/18/20	Windstream Supply, LLC 19-22493	8502	\$ 0.00
96 STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	05/09/19	Windstream Norlight, LLC 19-22513	1378	\$ 12,000.00*	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	02/27/20	Windstream Norlight, LLC 19-22513	8070	\$ 0.00
97 TENNESSEE DEPARTMENT OF REVENUE C/O ATTORNEY GENERAL TDOR PO BOX 20207 NASHVILLE, TN 37202-0207	04/23/19	Windstream Holdings, Inc. 19-22312	1130	\$ 334,419.00*	TENNESSEE DEPARTMENT OF REVENUE ATTORNEY GENERAL PO BOX 20207 NASHVILLE, TN 37202-0207	01/08/20	Windstream Holdings, Inc. 19-22312	7926	\$ 256,397.00
98 TENNESSEE DEPARTMENT OF REVENUE ATTORNEY GENERAL PO BOX 20207 NASHVILLE, TN 37202-0207	07/09/19	Deltacom, LLC 19-22423	4718	\$ 116,561.21	TENNESSEE DEPARTMENT OF REVENUE ATTORNEY GENERAL PO BOX 20207 NASHVILLE, TN 37202-0207	01/08/20	Deltacom, LLC 19-22423	7927	\$ 6,025.55

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 1 Amended Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLAIM AMOUNT
99 THE OHIO DEPARTMENT OF TAXATION PO BOX 530 COLUMBUS, OH 43216	04/05/19	Broadview Networks, Inc. 19-22456	584	\$ 103,919.37*	OHIO DEPARTMENT OF TAXATION PO BOX 530 COLUMBUS, OH 43216	02/24/20	Broadview Networks, Inc. 19-22456	8039	\$ 644.32
100 TOM GREEN CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	04/29/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1336	\$ 2,469.45*	TOM GREEN CAD ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7975	\$ 2,647.95
101 CHEROKEE DEBT ACQUISITION, LLC ATTN VLADIMIR JELISAVCIC 1384 BROADWAY, SUITE 906 NEW YORK, NY 10018	05/06/19	Windstream Holdings, Inc. 19-22312	1227	\$ 33,577.50	CHEROKEE DEBT ACQUISITION, LLC ATTN VLADIMIR JELISAVCIC 1384 BROADWAY, SUITE 906 NEW YORK, NY 10018	03/27/20	Windstream Communications, LLC 19-22433	8107	\$ 33,577.50
102 WISE COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	05/14/19	McLeodUSA Telecommunications Services, L.L.C. 19-22355	1447	\$ 8,577.42*	WISE COUNTY ELIZABETH WELLER LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2777 N. STEMMONS FREEWAY, SUITE 1000 DALLAS, TX 75207	02/03/20	McLeodUSA Telecommunications Services, L.L.C. 19-22355	7974	\$ 6,860.26
Total				\$ 7,728,603.03*	Total				\$ 7,212,015.86*

Schedule 2

Cross-Debtor Duplicate Claims

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 2 Cross-Debtor Duplicate Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS		NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS
1	BLUE RIDGE MOUNTAIN ELECTRIC CORPORATION JEREMY NELMS PO BOX 9 YOUNG HARRIS, GA 30582	07/15/19	19-22312 Windstream Holdings, Inc.	6152	Unsecured	\$317,739.09		BLUE RIDGE MOUNTAIN ELECTRIC CORPORATION JEREMY NELMS PO BOX 9 YOUNG HARRIS, GA 30582	07/15/19	19-22400 Windstream Services, LLC	6246	Unsecured	\$317,739.09
2	BLUE RIDGE MOUNTAIN ELECTRIC CORPORATION JEREMY NELMS PO BOX 9 YOUNG HARRIS, GA 30582	07/13/19	19-22420 Televue, LLC	5943	Unsecured	\$317,739.09		BLUE RIDGE MOUNTAIN ELECTRIC CORPORATION JEREMY NELMS PO BOX 9 YOUNG HARRIS, GA 30582	07/15/19	19-22400 Windstream Services, LLC	6246	Unsecured	\$317,739.09
3	BLUE RIDGE MOUNTAIN ELECTRIC CORPORATION JEREMY NELMS PO BOX 9 YOUNG HARRIS, GA 30582	07/13/19	19-22488 Windstream Standard, LLC	5935	Unsecured	\$317,739.09		BLUE RIDGE MOUNTAIN ELECTRIC CORPORATION JEREMY NELMS PO BOX 9 YOUNG HARRIS, GA 30582	07/15/19	19-22400 Windstream Services, LLC	6246	Unsecured	\$317,739.09
4	COMPUTER TELEPHONY DISTRIBUTING 1200 WOODRUFF RD F9 GREENVILLE, SC 29607	06/20/19	19-22312 Windstream Holdings, Inc.	3812	Unsecured	\$4,760.80*		COMPUTER TELEPHONY DISTRIBUTING INC 1200 WOODRUFF RD F9 GREENVILLE, SC 29607	07/03/19	19-22493 Windstream Supply, LLC	4388	503(b)(9) Unsecured	\$380.00 \$4,380.80
												Total	\$ 4,760.80
5	EXCLUSIVE NETWORKS USA GREGORY W. FOX GOODWIN PROCTER LLP THE NEW YORK TIMES BUILDING 620 EIGHTH AVENUE NEW YORK, NY 10018	07/10/19	19-22312 Windstream Holdings, Inc.	4888	Unsecured	\$3,360,838.41		EXCLUSIVE NETWORKS USA GREGORY W. FOX GOODWIN PROCTER LLP THE NEW YORK TIMES BUILDING 620 EIGHTH AVENUE NEW YORK, NY 10018	07/10/19	19-22493 Windstream Supply, LLC	4891	Unsecured	\$0.00

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 2 Cross-Debtor Duplicate Claims

CLAIMS TO BE DISALLOWEDREMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS
6 FLINT ELECTRIC MEMBERSHIP CORPORATION, D/B/A FLINT ENERGIES WILLIAM R. JERLES, JR. 912 MAIN STREET PO BOX 89 PERRY, GA 31069	07/13/19	19-22312 Windstream Holdings, Inc.	5946	Unsecured	\$275,341.69	FLINT ELECTRIC MEMBERSHIP CORPORATION, D/B/A FLINT ENERGIES WILLIAM R. JERLES, JR. 912 MAIN STREET PO BOX 89 PERRY, GA 31069	07/13/19	19-22400 Windstream Services, LLC	5924	Unsecured	\$275,341.69
7 FLINT ELECTRIC MEMBERSHIP CORPORATION, D/B/A FLINT ENERGIES WILLIAM R. JERLES, JR. 912 MAIN STREET PO BOX 89 PERRY, GA 31069	07/13/19	19-22420 Teleview, LLC	5925	Unsecured	\$275,341.69	FLINT ELECTRIC MEMBERSHIP CORPORATION, D/B/A FLINT ENERGIES WILLIAM R. JERLES, JR. 912 MAIN STREET PO BOX 89 PERRY, GA 31069	07/13/19	19-22400 Windstream Services, LLC	5924	Unsecured	\$275,341.69
8 FLINT ELECTRIC MEMBERSHIP CORPORATION, D/B/A FLINT ENERGIES WILLIAM R. JERLES, JR. 912 MAIN STREET PO BOX 89 PERRY, GA 31069	07/13/19	19-22447 Georgia Windstream, LLC	5936	Unsecured	\$275,341.69	FLINT ELECTRIC MEMBERSHIP CORPORATION, D/B/A FLINT ENERGIES WILLIAM R. JERLES, JR. 912 MAIN STREET PO BOX 89 PERRY, GA 31069	07/13/19	19-22400 Windstream Services, LLC	5924	Unsecured	\$275,341.69
9 HUPY AND ABRAHAM JAMES THEISEN 6952 ROTE ROAD, SUITE 200 ROCKFORD, IL 61107	07/09/19	19-22400 Windstream Services, LLC	4741	Unsecured	\$8,000.00	HUPY AND ABRAHAM JAMES THEISEN 6952 ROTE ROAD, SUITE 200 ROCKFORD, IL 61107	07/09/19	19-22433 Windstream Communications, LLC	4740	Unsecured	\$8,000.00
10 HUPY AND ABRAHAM JAMES THEISEN 6952 ROTE ROAD, SUITE 200 ROCKFORD, IL 61107	07/09/19	19-22449 Windstream KDL, LLC	4705	Unsecured	\$8,000.00	HUPY AND ABRAHAM JAMES THEISEN 6952 ROTE ROAD, SUITE 200 ROCKFORD, IL 61107	07/09/19	19-22433 Windstream Communications, LLC	4740	Unsecured	\$8,000.00
11 NORTH GEORGIA ELECTRIC MEMBERSHIP CORPORATION HENRY THARPE PO BOX 398 DALTON, GA 30722	07/13/19	19-22400 Windstream Services, LLC	5950	Unsecured	\$70,197.50	NORTH GEORGIA ELECTRIC MEMBERSHIP CORPORATION HENRY THARPE PO BOX 398 DALTON, GA 30722	07/13/19	19-22312 Windstream Holdings, Inc.	5951	Unsecured	\$70,197.50

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 2 Cross-Debtor Duplicate Claims

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS
12 NORTH GEORGIA ELECTRIC MEMBERSHIP CORPORATION HENRY THARPE PO BOX 398 DALTON, GA 30722	07/13/19	19-22418 Windstream Georgia Communications, LLC	5931	Unsecured	\$70,197.50	NORTH GEORGIA ELECTRIC MEMBERSHIP CORPORATION HENRY THARPE PO BOX 398 DALTON, GA 30722	07/13/19	19-22312 Windstream Holdings, Inc.	5951	Unsecured	\$70,197.50
13 PALMETTO UTILITY PROTECTION SERVICE, INC. ATTN MISTY WISE 810 DUTCH SQUARE BOULEVARD, SUITE 320 COLUMBIA, SC 29210	06/04/19	19-22481 Windstream South Carolina, LLC	1880	Unsecured	\$7,516.37	PALMETTO UTILITY PROTECTION SERVICE, INC. ATTN MISTY WISE 810 DUTCH SQUARE BOULEVARD, SUITE 320 COLUMBIA, SC 29210	06/04/19	19-22433 Windstream Communications, LLC	1885	Unsecured	\$7,516.37
14 SERVICE EXPRESS INC DAMIEN RONAN 3854 BROADMOOR AVE SE GRAND RAPIDS, MI 49512	06/06/19	19-22312 Windstream Holdings, Inc.	2016	Unsecured	\$84,870.12	SERVICE EXPRESS INC DAMIEN RONAN 3854 BROADMOOR AVE SE GRAND RAPIDS, MI 49512	06/06/19	19-22433 Windstream Communications, LLC	1971	Unsecured	\$84,870.12
15 SIGMA SYSTEMS CANADA, LP ATTN ROBERT LEVINE 55 YORK STREET, SUITE 1100 TORONTO, ON M5J 1R7 CANADA	07/12/19	19-22400 Windstream Services, LLC	5476	Unsecured	\$1,216,954.48	SIGMA SYSTEMS CANADA, LP ATTN ROBERT LEVINE 55 YORK STREET, SUITE 1100 TORONTO, ON M5J 1R7 CANADA	07/12/19	19-22433 Windstream Communications, LLC	5470	Unsecured	\$1,216,954.48
16 SOURCE MEDIA VENGROFF WILLIAMS, INC 2211 FRUITVILLE SARASOTA, FL 34237	05/21/19	19-22400 Windstream Services, LLC	1622	503(b)(9)	\$10,000.00	SOURCEMEDIA LLC DAVID CLEWORTH ONE STATE STREET PLAZA 27TH FLOOR NEW YORK, NY 10004	06/18/19	19-22433 Windstream Communications, LLC	2996	Unsecured	\$10,000.00
17 SPURRIER LAND SURVEYING, LLC 1102 PAWNEE DR. ELIZABETHTOWN, KY 42701	06/17/19	19-22312 Windstream Holdings, Inc.	2810	Unsecured	\$1,325.00	SPURRIER LAND SURVEYING, LLC 1102 PAWNEE DR. ELIZABETHTOWN, KY 42701	05/29/19	19-22458 Windstream Kentucky East, LLC	1666	Unsecured	\$1,325.00

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 2 Cross-Debtor Duplicate Claims

CLAIMS TO BE DISALLOWEDREMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS
18 STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22418 Windstream Georgia Communications, LLC	6579	Unsecured	\$11,694.40	STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22488 Windstream Standard, LLC	6500	Unsecured	\$11,694.40
19 STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22422 Windstream Georgia Telephone, LLC	6503	Unsecured	\$11,694.40	STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22488 Windstream Standard, LLC	6500	Unsecured	\$11,694.40
20 STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22426 Windstream Georgia, LLC	6577	Unsecured	\$11,694.40	STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22488 Windstream Standard, LLC	6500	Unsecured	\$11,694.40
21 STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22433 Windstream Communications, LLC	6508	Unsecured	\$11,694.40	STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22488 Windstream Standard, LLC	6500	Unsecured	\$11,694.40
22 STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22447 Georgia Windstream, LLC	6512	Unsecured	\$11,694.40	STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22488 Windstream Standard, LLC	6500	Unsecured	\$11,694.40

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 2 Cross-Debtor Duplicate Claims

CLAIMS TO BE DISALLOWEDREMAINING CLAIMS

NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS
23 STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 DUNWOODY, GA 30338	07/15/19	19-22475 Windstream Accucomm Telecommunications, LLC	6267	Unsecured	\$11,694.40	STRICKLAND BROCKINGTON LEWIS LLP JOHN REZAC TAYLOR ENGLISH DUMA LLP SUITE 200 ATLANTA, GA 30339	07/15/19	19-22488 Windstream Standard, LLC	6500	Unsecured	\$11,694.40
24 TRI TOWER TELECOM CORPORATION 70 VANTAGE POINT DR STE 2 ROCHESTER, NY 14624	07/15/19	19-22310 Windstream Business Holdings, LLC	6012	503(b)(9) Unsecured	\$127,086.90 \$280,625.79	TRI TOWER TELECOM CORPORATION 70 VANTAGE POINT DR STE 2 ROCHESTER, NY 14624	07/15/19	19-22493 Windstream Supply, LLC	6013	503(b)(9) Unsecured	\$127,086.90 \$280,625.19
				Total	\$ 407,712.69					Total	\$ 407,712.09
25 UNITED ELECTRIC COOPERATIVE SERVICES, INC. A/K/A UNITED COOPERATIVE SERVICES C/O DONALD KACZKOWSKI MCDONALD SANDERS, P.C. 777 MAIN ST., SUITE 1300 FORT WORTH, TX 76102	05/29/19	19-22433 Windstream Communications, LLC	1658	Unsecured	\$8,269.43	UNITED ELECTRIC COOPERATIVE SERVICES, INC. A/K/A UNITED COOPERATIVE SERVICES C/O DONALD KACZKOWSKI MCDONALD SANDERS, P.C. 777 MAIN ST., SUITE 1300 FORT WORTH, TX 76102	05/29/19	19-22400 Windstream Services, LLC	1661	Unsecured	\$8,269.43
26 UPSON ELECTRIC MEMBERSHIP CORPORATION 607 EAST MAIN STREET PO BOX 31 THOMASTON, GA 30286	07/13/19	19-22312 Windstream Holdings, Inc.	5927	Unsecured	\$70,329.05	UPSON ELECTRIC MEMBERSHIP CORPORATION 607 EAST MAIN STREET PO BOX 31 THOMASTON, GA 30286	07/13/19	19-22418 Windstream Georgia Communications, LLC	5921	Unsecured	\$70,329.05
27 UPSON ELECTRIC MEMBERSHIP CORPORATION ROLAND HALL AUTRY, HALL AND COOK LLP 2100 E. EXCHANGE PLACE SUITE 210 TUCKER, GA 30084	06/19/19	19-22400 Windstream Services, LLC	3097	Unsecured	\$5,016.40	UPSON ELECTRIC MEMBERSHIP CORPORATION 607 EAST MAIN STREET PO BOX 31 THOMASTON, GA 30286	07/13/19	19-22418 Windstream Georgia Communications, LLC	5921	Unsecured	\$70,329.05

* Indicates claim contains unliquidated and/or undetermined amounts

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 2 Cross-Debtor Duplicate Claims

CLAIMS TO BE DISALLOWEDREMAINING CLAIMS

	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS		NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #	CLASSES	CLAIM AMOUNTS	
28	UPSON ELECTRIC MEMBERSHIP CORPORATION 607 EAST MAIN STREET PO BOX 31 THOMASTON, GA 30286	07/13/19	19-22400 Windstream Services, LLC	5953	Unsecured	\$70,329.05		UPSON ELECTRIC MEMBERSHIP CORPORATION 607 EAST MAIN STREET PO BOX 31 THOMASTON, GA 30286	07/13/19	19-22418 Windstream Georgia Communications, LLC	5921	Unsecured	\$70,329.05	
29	WILEY REIN LLP 1776 K STREET NW WASHINGTON, DC 20006	07/15/19	19-22312 Windstream Holdings, Inc.	6619	Unsecured	\$8,957.50		WILEY REIN LLP 1776 K STREET NW WASHINGTON, DC 20006	07/15/19	19-22433 Windstream Communications, LLC	6618	Unsecured	\$8,957.50	
30	WILEY REIN LLP 1776 K STREET NW WASHINGTON, DC 20006	07/15/19	19-22400 Windstream Services, LLC	6620	Unsecured	\$8,957.50		WILEY REIN LLP 1776 K STREET NW WASHINGTON, DC 20006	07/15/19	19-22433 Windstream Communications, LLC	6618	Unsecured	\$8,957.50	
Total						\$ 7,271,640.54*		Total						\$ 3,976,114.18

* Indicates claim contains unliquidated and/or undetermined amounts

Schedule 3

Equity Interest Claims

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 3 Equity Interest Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
1	ANN ANASTASIOU 2305 PULASKI DR PT PLEASANT, NJ 08742	7/12/2019	19-22312	Windstream Holdings, Inc.	5820	\$ 768.51
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
2	BARRY ALAN CROWELL 15 CYRIL STREET QUINCY, MA 02169	1/8/2020	19-22312	Windstream Holdings, Inc.	7928	\$ 10,831.75
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
3	CAROLYN S. MULLEN 101 EAST ELIZABETH STREET ELIZABETH CITY, NC 27909	6/4/2019	19-22312	Windstream Holdings, Inc.	1784	Undetermined*
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
4	CHABAD CENTER OF PASSAIC COUNTY MICHAEL GURKOV 194 RATZER ROAD WAYNE, NJ 07470	1/27/2020	19-22312	Windstream Holdings, Inc.	7966	Undetermined*
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
5	CHRISTINE TARGAN 8616 S.W. 147 COURT MIAMI, FL 33193	6/11/2019	19-22312	Windstream Holdings, Inc.	2442	Undetermined*
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
6	CYRUS D CONTRACTOR 9339 TOMASHAW LANE LENEXA, KS 66219	2/4/2020	19-22312	Windstream Holdings, Inc.	8008	\$ 427.80
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
7	DRIVE-IN-MARKET INC 1914 MONMOUTH ST NEWPORT, KY 41071	6/12/2019	19-22312	Windstream Holdings, Inc.	2622	Undetermined*
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 3 Equity Interest Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
8	ESTATE OF CAROLYN LIVINGSTON MITCHELL LIVINGSTON EXEC 37 CHURCHILL ROAD PITTSBURGH, PA 15235	6/19/2019	19-22312	Windstream Holdings, Inc.	3125	Undetermined*
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
9	GEORGE J MOTTOLA 254 DOANE AVE STATEN ISLAND, NY 10308	6/17/2019	19-22312	Windstream Holdings, Inc.	2967	\$ 6,130.00
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
10	HAL G. BARNES 636 NE 17 TERRACE FORT LAUDERDALE, FL 33304	6/18/2019	19-22312	Windstream Holdings, Inc.	3222	\$ 33.00
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
11	HAROLD TRACY 393 MEADOW VIEW DR POWELL, OH 43065	2/11/2020	19-22312	Windstream Holdings, Inc.	8017	\$ 7,903.08
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
12	HERBERT T. MULLEN, JR. 101 EAST ELIZABETH ST. ELIZABETH CITY, NC 27909	6/4/2019	19-22312	Windstream Holdings, Inc.	1783	Undetermined*
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
13	JOHN EDWARD EVANS 1344 BLOSSOM AVE REDLANDS, CA 92373	6/24/2019	19-22312	Windstream Holdings, Inc.	3522	\$ 1,802.40
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
14	KEITH STOCK ONE STAMFORD FORUM, 201 TRESSER BLVD STAMFORD, CT 06903	8/20/2019	19-22312	Windstream Holdings, Inc.	7371	\$ 1,451.20
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
15	KEVIN HERNDON 10 W. PLEASANT SPRINGS RD ROSE BUD, AR 72137	6/25/2019	19-22312	Windstream Holdings, Inc.	3695	\$ 5,000.00
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 3 Equity Interest Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
16	KHURSHID CHANNAH 20 EAST 9TH ST. APT 14-0 NEW YORK, NY 10003	6/25/2019	19-22312	Windstream Holdings, Inc.	3656	\$ 4,238.39
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
17	LING LI LIAW 43-56 169TH STREET FLUSHING, NY 11358	6/25/2019	19-22312	Windstream Holdings, Inc.	3749	\$ 15,703.00
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
18	LUCY I AZAMA 193 MICHAEL COX LN TRACY, CA 95377	2/11/2020	19-22312	Windstream Holdings, Inc.	8021	\$ 13,883.24
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
19	LUIS E. PEREZ 9380 SW 92 STREET MIAMI, FL 33176	7/10/2019	19-22312	Windstream Holdings, Inc.	5005	\$ 24,978.59
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
20	LUTHER-ROSIE WILLIAMS 6576 N. 58TH ST MILWAUKEE, WI 53223	6/27/2019	19-22312	Windstream Holdings, Inc.	3833	\$ 10,000.00
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
21	MALISA BORING 797 WALNUT RIDGE RD SEYMOUR, MO 65746	6/24/2019	19-22312	Windstream Holdings, Inc.	3562	\$ 1,000.00
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
22	MARK DRESLINSKI 1145 STONEWALL RIDGE DR INDEPENDENCE, KY 41051	3/23/2020	19-22312	Windstream Holdings, Inc.	8102	\$ 25,274.70
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					
23	MARY BETH FARKAS 9754 CROFTWOOD DR. ST. LOUIS, MO 63123	7/5/2019	19-22312	Windstream Holdings, Inc.	4332	\$ 1,156.25
	Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 3 Equity Interest Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
24	MICHAEL H. CROM 507 HIGHLAND PO BOX 581 WAKEFIELD, NE 68784	6/10/2019	19-22312	Windstream Holdings, Inc.	2164	Undetermined*
Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.						
25	SARAH A. COLEMAN 5051 GRANDE DR. TOWNHOUSE UNIT C4 PENSACOLA, FL 32504	6/4/2019	19-22312	Windstream Holdings, Inc.	1778	Undetermined*
Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.						
26	SHARON MASAYE FUJII RBC WEALTH MANAGEMENT 75 STATE ST., SUITE 1701 BOSTON, MA 02109	1/28/2020	19-22312	Windstream Holdings, Inc.	7967	\$ 1,987.83
Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.						
27	WILLIAM L. MUZIO WILLIAM AND EVELYN MUZIO 549 AMHERST DES PLAINS, IL 60016	7/19/2019	19-22312	Windstream Holdings, Inc.	6957	Undetermined*
Reason: The claimant filed the proof of claim on account of an interest, rather than a claim, as defined in Bankruptcy Rule 3007(d)(7). See page 4 of the Objection for more detail.						
					TOTAL	\$ 132,569.74*

Schedule 4

No Liability Claims

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
1	11525 NORTH COMMUNITY HOUSE ROAD 11525 NORTH COMMUNITY HOUSE ROAD, SUITE 100 CHARLOTTE, NC 28277	4/15/2019	19-22312	Windstream Holdings, Inc.	837	\$ 256,699.36
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
2	ANDERSON COUNTY E911 FINANCE DEPARTMENT PO BOX 8002 ANDERSON, SC 29622-8002	6/11/2019	19-22433	Windstream Communications, LLC	2385	\$ 350.00*
	Reason: The Claim seeks to recover amounts for which the Debtors are not liable.					
3	ANDRE NORMAN 1005 FLEEMAN RD HOSCHTON, GA 30548	6/4/2019	19-22418	Windstream Georgia Communications, LLC	1847	Undetermined*
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
4	ANNAROSE GAMBILL 193 CASE LANE SE LUDOWICI, GA 31316	6/4/2019	19-22433	Windstream Communications, LLC	1913	Undetermined*
	Reason: The Debtors have no liability for this claim because the claimant accepted a settlement offer.					
5	ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION ATTN MICHELLE L. BAKER P O BOX 1272, ROOM 2380 LITTLE ROCK, AR 72203	3/28/2019	19-22423	Deltacom, LLC	496	\$ 65.52
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
6	ATLANTA ROOFING SPECIALISTS, INC. C/O CHARLES M. DALZIEL, JR. DALZIEL LAW FIRM 127 CHURCH STREET, SUITE 360 MARIETTA, GA 30060	7/15/2019	19-22312	Windstream Holdings, Inc.	6325	\$ 273,000.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
7	ATLANTA ROOFING SPECIALISTS, INC. CHARLES MEREDITH DALZIEL 127 CHURCH STREET SUITE 360 MARIETTA, GA 30060	7/15/2019	19-22418	Windstream Georgia Communications, LLC	6357	\$ 273,000.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
8	AUGUSTA/RICHMOND COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22423	Deltacom, LLC	7472	\$ 124,245.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
9	BANK OF AMERICA - CORPORATE CARD XXXX-5190-0064-5997 BANK OF AMERICA - BANK CARD CENTER PO BOX 9682238 EL PASO, TX 79998-2238	4/3/2019	19-22400	Windstream Services, LLC	547	\$ 0.05
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
10	BARTLEY SIKES F. DAVIS, POISSON, III 300 EAST WADE STREET WADESBORO, NC 28170	6/4/2019	19-22514	Windstream North Carolina, LLC	1895	\$ 85,000.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
11	BARTOW COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/22/2019	19-22427	Earthlink Business, LLC	7425	\$ 185,760.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
12	BAUM AND ASSOCIATES, P.C. 1570 WARSAW ROAD ROSWELL, GA 30076	7/14/2019	19-22312	Windstream Holdings, Inc.	6041	\$ 1,976.45
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
13	BIERI GRAIN CO. MONICA J. BIERI 170 N. CHERRY ST. LETTS, IA 52754	7/15/2019	19-22312	Windstream Holdings, Inc.	6065	Undetermined*
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
14	BOBBY KENDALL JILL SCHWARTZ AND ASSOCIATES, P.A. 655 W. MORSE BOULEVARD, SUITE 212 WINTER PARK, FL 32789	7/8/2019	19-22312	Windstream Holdings, Inc.	4626	\$ 350,000.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
15	BRIAN T. BRUNK GEORGE W. TETLER III, ESQUIRE 311 MAIN STREET PO BOX 15156 WORCESTER, MA 01615	6/28/2019	19-22310	Windstream Business Holdings, LLC	3934	\$ 744,359.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
16	BRIAN T. BRUNK GEORGE W. TETLER III, ESQUIRE 311 MAIN STREET PO BOX 15156 WORCESTER, MA 01615	6/28/2019	19-22400	Windstream Services, LLC	3935	\$ 744,359.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
17	BUDGET CAR SALES ANGIE BOURGEOIS 3302 US HWY 82 WEST TIFTON, GA 31793	3/22/2019	19-22312	Windstream Holdings, Inc.	355	\$ 9,344.08
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
18	CHARLES R BURNS 950 MCDONALD LAKE RD SPRINGVILLE, AL 35146	7/8/2019	19-22312	Windstream Holdings, Inc.	4595	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
19	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	1/31/2020	19-22430	Earthlink Carrier, LLC	8000	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
20	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	1/31/2020	19-22433	Windstream Communications, LLC	7997	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
21	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	1/31/2020	19-22449	Windstream KDL, LLC	8001	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.						
22	CHATHAM COUNTY TAX COMMISSIONER ATTN THERESA C. HARRELSON 222 W. OGLETHORPE AVE, SUITE 107 POST OFFICE BOX 8324 SAVANNAH, GA 31412	1/31/2020	19-22492	Windstream NuVox, LLC	8002	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.						
23	CHEROKEE COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/21/2019	19-22427	Earthlink Business, LLC	7393	\$ 132,890.00
Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.						
24	CHEROKEE COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/21/2019	19-22433	Windstream Communications, LLC	7390	\$ 1,679,470.00
Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.						
25	CHRISTINA AKINYEMI 16638 CHINN RIDGE LN HOUSTON, TX 77083	7/15/2019	19-22433	Windstream Communications, LLC	6344	\$ 18,267.00
Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.						
26	CHRISTINA AKINYEMI 16638 CHINN RIDGE LN HOUSTON, TX 77083	7/15/2019	19-22490	Windstream Sugar Land, LLC	6336	\$ 18,267.00
Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.						

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
27	CITY OF ALBUQUERQUE, A MUNICIPAL CORPORATION ATTENTION JANE L. YEE, ASSISTANT CITY ATTORNEY ONE CIVIC PLAZA NW, ROOM 4072 P.O. BOX 2248 ALBUQUERQUE, NM 87102	7/15/2019	19-22433	Windstream Communications, LLC	6702	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
28	CITY OF ATLANTA, GEORGIA JOHN R. BEVIS 31 ATLANTA STREET SUITE 300 MARIETTA, GA 30060	8/23/2019	19-22427	Earthlink Business, LLC	7454	\$ 1,611,550.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not create a right of action to collect 911 charges from the Debtors.					
29	CITY OF ATLANTA, GEORGIA JOHN R. BEVIS 31 ATLANTA STREET SUITE 300 MARIETTA, GA 30060	8/23/2019	19-22433	Windstream Communications, LLC	7452	\$ 4,364,105.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not create a right of action to collect 911 charges from the Debtors.					
30	CITY OF BREMERTON 345 6TH STREET, SUITE 100 BREMERTON, WA 98337-1873	3/27/2020	19-22311	PaeTec Communications, LLC	8105	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
31	CITY OF BREMERTON 345 6TH STREET, SUITE 100 BREMERTON, WA 98337-1873	3/27/2020	19-22416	Talk America, LLC	8106	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
32	CITY OF CONCORDIA 618 S MAIN STREET P.O. BOX 847 CONCORDIA, MO 64020	6/25/2019	19-22312	Windstream Holdings, Inc.	3679	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
33	CITY OF GOOD HOPE GEORGIA CITY OF GOOD HOPE PO BOX 10 GOOD HOPE, GA 30641	3/19/2019	19-22312	Windstream Holdings, Inc.	245	\$ 382.91
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
34	CITY OF IRWINTON PO BOX 359 IRWINTON, GA 31042	6/4/2019	19-22310	Windstream Business Holdings, LLC	1869	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
35	CITY OF KANSAS CITY, MISSOURI 414 E. 12TH ST, 19TH FLOOR KANSAS CITY, MO 64106	7/5/2019	19-22355	McLeodUSA Telecommunications Services, L.L.C.	4423	\$ 12,907.66
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
36	CITY OF SAVANNAH/CHATHAM COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7457	\$ 166,160.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
37	CITY OF SAVANNAH/CHATHAM COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22433	Windstream Communications, LLC	7455	\$ 941,745.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
38	CITY OF SHILOH PO BOX 811 SHILOH, GA 31826	6/3/2019	19-22312	Windstream Holdings, Inc.	1798	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
39	CITY OF THORNTON SALES AND USE TAX DIVISION CITY OF THORNTON - LEGAL DEPARTMENT 9500 CIVIC CENTER DRIVE THORNTON, CO 80229	3/26/2020	19-22312	Windstream Holdings, Inc.	8160	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
40	CITY OF TONAWANDA NEW YORK GROSS RECEIPTS TAX 200 NIAGARA STREET TONAWANDA, NY 14150	6/6/2019	19-22312	Windstream Holdings, Inc.	2009	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
41	CITY OF UNADILLA SALES USE TAX PO BOX 307 UNADILLA, GA 31091	6/13/2019	19-22310	Windstream Business Holdings, LLC	2589	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
42	CLAYTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7709	\$ 161,666.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
43	CLAYTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22433	Windstream Communications, LLC	7476	\$ 393,333.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
44	CLYBURN, BRIANNA S 5305 MILHAVEN LN CHARLOTTE, NC 28269	7/10/2019	19-22310	Windstream Business Holdings, LLC	4838	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
45	CMN-RUS, INC. ANITA LARSON 8837 BOND STREET OVERLAND PARK, KS 66214	7/10/2019	19-22449	Windstream KDL, LLC	5161	\$ 432,439.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
46	COBB COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22400	Windstream Services, LLC	7459	\$ 2,547,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
47	COBB COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22423	Deltacom, LLC	7461	\$ 870,000.00
Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.						
48	COBB COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22469	Business Telecom, LLC	7462	\$ 330,000.00
Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.						
49	COLUMBUS CONSOLIDATED GOVERNMENT DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7475	\$ 90,000.00
Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.						
50	COLUMBUS CONSOLIDATED GOVERNMENT DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22433	Windstream Communications, LLC	7481	\$ 185,000.00
Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.						
51	COMMUNICATION PARTNERS OF AMERICA KEVIN LEE 2951 S. SYCAMORE LN. ARCADIA, CA 91006	2/6/2020	19-22311	PaeTec Communications, LLC	8014	\$ 12,850.00
Reason: The Debtors have no liability for this claim after a review of their books and records.						
52	CONNECTICUT DEPARTMENT OF REVENUE SERVICES COLLECTIONS UNIT / BANKRUPTCY TEAM 450 COLUMBUS BLVD., STE. 1 HARTFORD, CT 06103	8/22/2019	19-22346	Lightship Telecom, LLC	7442	\$ 1,252.50*
Reason: The Debtors have no liability for this claim after a review of their books and records.						

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
53	CONNECTICUT DEPARTMENT OF REVENUE SERVICES COLLECTIONS UNIT / BANKRUPTCY TEAM 450 COLUMBUS BLVD., STE. 1 HARTFORD, CT 06103	8/22/2019	19-22352	McLeodUSA Purchasing, L.L.C.	7443	\$ 2,987.50*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
54	CONNECTICUT DEPARTMENT OF REVENUE SERVICES COLLECTIONS UNIT / BANKRUPTCY TEAM 450 COLUMBUS BLVD., STE. 1 HARTFORD, CT 06103	8/22/2019	19-22369	Conversent Communications of Connecticut, LLC	7445	\$ 357.50
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
55	CONNECTICUT DEPARTMENT OF REVENUE SERVICES COLLECTIONS UNIT / BANKRUPTCY TEAM 450 COLUMBUS BLVD., STE. 1 HARTFORD, CT 06103	8/22/2019	19-22427	Earthlink Business, LLC	7449	\$ 1,252.50
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
56	COWAN, WILLIAM 2054 OLD NASSAU RD LEXINGTON, KY 40504-0000	7/10/2019	19-22400	Windstream Services, LLC	4858	\$ 503,636.41
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
57	CT CORPORATION CT CORPORATION SYSTEM 28 LIBERTY ST, 42ND FLOOR NEW YORK, NY 10005	4/25/2019	19-22312	Windstream Holdings, Inc.	1572	\$ 656.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
58	DAISY LEE SMITH 500 ELIZABETH AVENUE ALBEMARLE, NC 28001	6/21/2019	19-22312	Windstream Holdings, Inc.	3425	Undetermined*
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
59	DEKALB COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7478	\$ 756,666.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
60	DEKALB COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22433	Windstream Communications, LLC	7477	\$ 1,770,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
61	DENNIS TUNSTALL 3708 HIGBEE WOOD COURT LEXINGTON, KY 40503	2/25/2020	19-22312	Windstream Holdings, Inc.	8043	\$ 647,778.45
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
62	DEPARTMENT OF TAXATION, STATE OF HAWAII ATTN BK UNIT (EL) PO BOX 259 HONOLULU, HI 96809	7/30/2019	19-22311	PaeTec Communications, LLC	7174	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
63	DEPARTMENT OF TAXATION, STATE OF HAWAII ATTN BK UNIT (EL) PO BOX 259 HONOLULU, HI 96809	7/30/2019	19-22499	Xeta Technologies, Inc.	7173	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
64	ELAINE FUNCHESS 35 LAMAR STREET CARSON, MS 39427	7/15/2019	19-22312	Windstream Holdings, Inc.	6141	Undetermined*
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
65	ESA MANAGEMENT, LLC ALEXANDRIA ANDRESEN 11525 N. COMMUNITY HOUSE ROAD SUITE 100 CHARLOTTE, NC 28277	4/15/2019	19-22312	Windstream Holdings, Inc.	750	\$ 256,699.36
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
66	FORSYTH COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/22/2019	19-22427	Earthlink Business, LLC	7426	\$ 136,930.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
67	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/17/2020	19-22311	PaeTec Communications, LLC	8145	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
68	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	6/10/2019	19-22319	CCL Historical, Inc.	2165	\$ 8,569.78
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
69	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22342	LDMI Telecommunications, LLC	8117	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
70	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22345	Allworx Corp.	8118	\$ 1,630.90
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
71	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	6/11/2019	19-22347	MassComm, LLC	2326	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
72	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22350	McLeodUSA Information Services LLC	7220	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
73	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22352	McLeodUSA Purchasing, L.L.C.	7221	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
74	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22355	McLeodUSA Telecommunications Services, L.L.C.	7222	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
75	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22385	PAETEC iTEL, L.L.C.	7223	\$ 800.00*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
76	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22392	Boston Retail Partners, LLC	7203	\$ 800.00*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
77	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/17/2020	19-22400	Windstream Services, LLC	8143	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
78	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22405	CTC Communications Corporation	8124	\$ 1,630.90
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
79	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/17/2020	19-22416	Talk America, LLC	8142	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
80	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22423	Deltacom, LLC	7205	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
81	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/17/2020	19-22433	Windstream Communications, LLC	8144	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
82	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22456	Broadview Networks, Inc.	8120	\$ 1,630.90
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
83	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22461	Broadview NP Acquisition Corp.	7209	\$ 12,595.57*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
84	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	8/1/2019	19-22469	Business Telecom, LLC	7210	\$ 989.12*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
85	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22479	Windstream Shared Services, LLC	8122	\$ 1,713.46
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
86	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22492	Windstream NuVox, LLC	8123	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
87	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/27/2020	19-22499	Xeta Technologies, Inc.	8196	\$ 1,630.90
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
88	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22513	Windstream Norlight, LLC	8125	\$ 11,790.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
89	FRANCHISE TAX BOARD BANKRUPTCY SECTION MS A340 PO BOX 2952 SACRAMENTO, CA 95812-2952	4/7/2020	19-22516	Windstream NTI, LLC	8121	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
90	FULTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7474	\$ 288,333.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
91	FULTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22433	Windstream Communications, LLC	7480	\$ 580,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
92	GENESIS COMMUNICATIONS I, INC PO BOX 25434 TAMPA, FL 33622	6/6/2019	19-22312	Windstream Holdings, Inc.	3807	\$ 130,662.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
93	GHADA SHABAN 266 AVE C BAYONNE, NJ 07002	6/11/2019	19-22312	Windstream Holdings, Inc.	2400	\$ 544.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
94	GIBSON, VALARIE 435 SENECA PARK AVE ROCHESTER, NY 14617	7/17/2019	19-22312	Windstream Holdings, Inc.	6860	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
95	GRACE ENTERPRISES, INC. 4200 NORTHSIDE PARKWAY NW, BLDG 2, STE 200 ATLANTA, GA 30327	4/24/2019	19-22312	Windstream Holdings, Inc.	1542	\$ 21,008.88
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
96	GRAND TRAVERSE COUNTY 400 BOARDMAN AVENUE TRAVERSE CITY, MI 49684	6/18/2019	19-22433	Windstream Communications, LLC	3268	\$ 0.00
	Reason: The Debtors have no liability for this claim because the claimant accepted a settlement offer and the proof of claim states that no liability exists.					
97	GRAY, RONNIE L 120 REDWOOD DR RICHMOND, KY 40475	7/10/2019	19-22400	Windstream Services, LLC	4859	\$ 212,710.11
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
98	GWINNETT COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22400	Windstream Services, LLC	7460	\$ 1,789,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
99	GWINNETT COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7463	\$ 522,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
100	GWINNETT COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22469	Business Telecom, LLC	7464	\$ 354,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
101	HARLEY-DAVIDSON OF NASSAU COUNTY LAWRENCE A. ALTHOLTZ 2428 SUNRISE HIGHWAY BELLMORE, NY 11710	5/31/2019	19-22312	Windstream Holdings, Inc.	1719	\$ 7,148.63
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
102	HOUSTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/22/2019	19-22418	Windstream Georgia Communications, LLC	7428	\$ 2,343,625.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
103	HOUSTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/22/2019	19-22427	Earthlink Business, LLC	7427	\$ 133,350.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
104	HUSTON II, DENNIS J 9817 MULHOUSE DR. SCHERTZ, TX 78154	7/10/2019	19-22312	Windstream Holdings, Inc.	4765	\$ 63,647.27
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
105	ILLINOIS DEPARTMENT OF REVENUE - BANKRUPTCY UNIT PO BOX 19035 SPRINGFIELD, IL 62794-9035	7/10/2019	19-22323	The Other Phone Company, LLC	4824	\$ 310.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
106	ILLINOIS DEPARTMENT OF REVENUE - BANKRUPTCY UNIT PO BOX 19035 SPRINGFIELD, IL 62794-9035	7/10/2019	19-22342	LDMI Telecommunications, LLC	4903	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
107	ILLINOIS DEPARTMENT OF REVENUE - BANKRUPTCY UNIT PO BOX 19035 SPRINGFIELD, IL 62794-9035	7/10/2019	19-22513	Windstream Norlight, LLC	4887	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
108	INDIANA DEPARTMENT OF REVENUE 100 NORTH SENATE AVENUE N-240 MS 108 INDIANAPOLIS, IN 46204	4/11/2019	19-22392	Boston Retail Partners, LLC	716	\$ 778.32
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
109	INSITE TOWERS, LLC INSITE WIRELESS GROUP, LLC 1199 N FAIRFAX ST, SUITE 700 ALEXANDRIA, VA 22314	7/12/2019	19-22334	TruCom Corporation	5411	\$ 11,626.86
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
110	JEAN K. MOTTILLO 10343 CIRCLE EAST MEADVILLE, PA 16335	7/2/2019	19-22312	Windstream Holdings, Inc.	4249	\$ 62,400.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
111	JENNIFER WILLIS 113 ASARO PL SPRINGVILLE, AL 35146-5372	7/12/2019	19-22433	Windstream Communications, LLC	5657	\$ 3,000.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
112	JIM LIPSKI W181 N8284 DESTINY DR MENOMONEE FALLS, WI 53051	7/23/2019	19-22312	Windstream Holdings, Inc.	7124	\$ 9,636.12
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
113	JIM WHITTLE 708 GERVAISE COURT BRENTWOOD, TN 37027	7/8/2019	19-22310	Windstream Business Holdings, LLC	4632	\$ 105,910.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
114	JOHN SUK HOME 432 11TH AVE W KIRKLAND, WA 98033	12/26/2019	19-22312	Windstream Holdings, Inc.	7906	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
115	JOLINE WEART ESTATE CAROL WOLF, PERSONAL REPRESENTATIVE 2811 FORESTVIEW CIRCLE LINCOLN, NE 68522	3/27/2019	19-22310	Windstream Business Holdings, LLC	479	\$ 131.61
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
116	KENTUCKY DEPARTMENT OF REVENUE LEANNE C. WARREN PO BOX 5222 FRANKFORT, KY 40602	6/5/2019	19-22310	Windstream Business Holdings, LLC	1937	\$ 8,009.15
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
117	KENTUCKY DEPARTMENT OF REVENUE C/O LEANNE C. WARREN PO BOX 5222 FRANKFORT, KY 40602	6/5/2019	19-22349	American Telephone Company LLC	1938	\$ 1,773.48
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
118	KENTUCKY DEPARTMENT OF REVENUE C/O LEANNE C. WARREN PO BOX 5222 FRANKFORT, KY 40602	6/5/2019	19-22430	Earthlink Carrier, LLC	1945	\$ 970.52
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
119	KENTUCKY DEPARTMENT OF REVENUE C/O LEANNE C. WARREN PO BOX 5222 FRANKFORT, KY 40602	6/5/2019	19-22501	Windstream Ohio, LLC	1962	\$ 5,174.78
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
120	K-O PRODUCTS COMPANY 1225 MILTON STREET BENTON HARBOR, MI 49022	6/25/2019	19-22312	Windstream Holdings, Inc.	3756	\$ 1,406.69
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
121	LAWRENCE COUNTY MISSOURI TREASURER 911 ACCOUNT LAWRENCE COUNTY COURTHOUSE PO BOX 406 MOUNT VERNON, MO 65712	3/26/2020	19-22312	Windstream Holdings, Inc.	8104	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
122	LIEBERMAN TECHNOLOGIES 223 NW 2ND ST. STE 300 EVANSVILLE, IN 47708	6/11/2019	19-22312	Windstream Holdings, Inc.	2294	\$ 1,233.36
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
123	LITTEL, INC. DBA OSSTELCO/ONE STOPSOLUTION SUSAN ULRICH 12 BEAVERBROOK DRIVE BROOKHAVEN, NY 11719	7/15/2019	19-22312	Windstream Holdings, Inc.	6363	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
124	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	1/22/2020	19-22312	Windstream Holdings, Inc.	7945	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
125	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	1/22/2020	19-22405	CTC Communications Corporation	7946	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
126	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	10/18/2019	19-22427	Earthlink Business, LLC	7701	\$ 66.51
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
127	LOUISIANA DEPARTMENT OF REVENUE PO BOX 66658 BATON ROUGE, LA 70896-6658	1/22/2020	19-22499	Xeta Technologies, Inc.	7944	\$ 100.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
128	MACON-BIBB COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7473	\$ 395,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
129	MACON-BIBB COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22433	Windstream Communications, LLC	7479	\$ 1,026,666.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
130	MALINDA REDMAN 20430 ALTA HACIENDA WALNUT, CA 91789	2/7/2020	19-22312	Windstream Holdings, Inc.	8011	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
131	MARIANNE CASEY C/O KRISTEN E. FINLON ESSEX RICHARDS, P.A. 1701 SOUTH BLVD. CHARLOTTE, NC 28203	7/15/2019	19-22400	Windstream Services, LLC	6328	\$ 136,333.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
132	MELISSA E SHAW AMANDA LYNN SHAW MELISSA E SHAW AMANDA L SHAW PO BOX 5031 QUITMAN, GA 31643	6/25/2019	19-22312	Windstream Holdings, Inc.	3699	\$ 60,000.00*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
133	MICHIGAN DEPARTMENT OF TREASURY BANKRUPTCY UNIT PO BOX 30168 LANSING, MI 48909	6/5/2020	19-22416	Talk America, LLC	8409	\$ 2,018.49
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
134	MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	6/24/2019	19-22329	Choice One Communications of New York, Inc.	3465	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
135	MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	6/24/2019	19-22329	Choice One Communications of New York, Inc.	3437	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
136	MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	12/12/2019	19-22405	CTC Communications Corporation	7884	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
137 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	4/8/2020	19-22433	Windstream Communications, LLC	8113	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.					
138 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	4/2/2020	19-22456	Broadview Networks, Inc.	8110	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.					
139 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	5/11/2020	19-22456	Broadview Networks, Inc.	8241	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.					
140 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION - MS DEPARTMENT OF REVENUE PO BOX 22808 JACKSON, MS 39225-2808	3/19/2019	19-22504	Windstream Mississippi, LLC	244	Undetermined*
Reason: The Debtors have no liability for this claim after a review of their books and records.					
141 MISSISSIPPI DEPARTMENT OF REVENUE BANKRUPTCY SECTION PO BOX 22808 JACKSON, MS 39225-2808	4/8/2020	19-22504	Windstream Mississippi, LLC	8127	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.					
142 MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	8/2/2019	19-22355	McLeodUSA Telecommunications Services, L.L.C.	7229	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.					
143 MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	8/2/2019	19-22427	Earthlink Business, LLC	7225	\$ 0.00
Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
144	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	3/4/2020	19-22433	Windstream Communications, LLC	8086	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
145	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	2/25/2020	19-22480	Windstream NuVox Missouri, LLC	8047	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
146	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	8/2/2019	19-22493	Windstream Supply, LLC	7227	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
147	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	8/2/2019	19-22499	Xeta Technologies, Inc.	7226	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
148	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	8/2/2019	19-22499	Xeta Technologies, Inc.	7228	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
149	MISSOURI DEPARTMENT OF REVENUE PO BOX 475 JEFFERSON CITY, MO 65105	3/9/2020	19-22506	Windstream Missouri, LLC	8096	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
150	MONTY G. WATSON 4873 FITZPATRICK WAY PEACHTREE CORNERS, GA 30092	6/7/2019	19-22312	Windstream Holdings, Inc.	2046	\$ 9,240.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
151	MOORE COUNTY PO BOX 457 CARTHAGE, NC 28327	2/19/2020	19-22312	Windstream Holdings, Inc.	8033	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
152	NEFERTITI GRAHAM 741 WOODRUFF RD GREENVILLE, SC 29607	6/27/2019	19-22312	Windstream Holdings, Inc.	3852	\$ 5,000.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
153	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	3/28/2019	19-22363	Connecticut Broadband, LLC	402	\$ 76.42
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
154	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	8/22/2019	19-22430	Earthlink Carrier, LLC	7396	\$ 82.89
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
155	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	1/9/2020	19-22433	Windstream Communications, LLC	7933	\$ 4,111.32
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
156	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	8/5/2019	19-22435	Eureka Broadband Corporation	7267	\$ 3,364.73*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
157	NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE BANKRUPTCY SECTION PO BOX 5300 ALBANY, NY 12205-0300	3/29/2019	19-22442	Eureka Telecom of VA, Inc.	410	\$ 86.75
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
158	NEWTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/21/2019	19-22427	Earthlink Business, LLC	7416	\$ 143,420.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
159	NEWTON COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD. SUITE 100 ATLANTA, GA 30350	8/21/2019	19-22433	Windstream Communications, LLC	7415	\$ 29,270.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
160	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	8/20/2019	19-22312	Windstream Holdings, Inc.	7364	\$ 38,085.00*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
161	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	8/20/2019	19-22352	McLeodUSA Purchasing, L.L.C.	7370	\$ 451.09*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
162	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	8/26/2019	19-22355	McLeodUSA Telecommunications Services, L.L.C.	7522	\$ 409.97*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
163	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	8/23/2019	19-22409	Southwest Enhanced Network Services, LLC	7493	\$ 451.09*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
164	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	8/20/2019	19-22416	Talk America, LLC	7367	\$ 308.12*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
165	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	8/20/2019	19-22456	Broadview Networks, Inc.	7369	\$ 118.01*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
166	NM TAXATION & REVENUE DEPARTMENT PO BOX 8575 ALBUQUERQUE, NM 87198-8575	8/23/2019	19-22499	Xeta Technologies, Inc.	7491	\$ 243.54*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
167	NORTH CAROLINA DEPARMENT OF REVENUE PO BOX 1168 RALEIGH, NC 27602	6/10/2019	19-22433	Windstream Communications, LLC	2162	\$ 38,286.16
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
168	NORTH CAROLINA DEPARTMENT OF REVENUE P.O. BOX 1168 RALEIGH, NC 27602	4/30/2019	19-22430	Earthlink Carrier, LLC	1152	\$ 2,645.86
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
169	NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER ND OFFICE OF STATE TAX COMMISSIONER 600 EAST BOULEVARD AVENUE BISMARCK, ND 58505	7/15/2019	19-22311	PaeTec Communications, LLC	6478	\$ 1,196.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
170	NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER ND OFFICE OF STATE TAX COMMISSIONER 600 EAST BOULEVARD AVENUE BISMARCK, ND 58505	7/15/2019	19-22355	McLeodUSA Telecommunications Services, L.L.C.	6470	\$ 10,982.50
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
171	NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER ND OFFICE OF STATE TAX COMMISSIONER 600 EAST BOULEVARD AVENUE BISMARCK, ND 58505	7/15/2019	19-22405	CTC Communications Corporation	6475	\$ 263.75
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
172	NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER ND OFFICE OF STATE TAX COMMISSIONER 600 EAST BOULEVARD AVENUE BISMARCK, ND 58505	7/15/2019	19-22456	Broadview Networks, Inc.	6479	\$ 332.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
173 OKLAHOMA TAX COMMISSION GENERAL COUNSELS OFFICE 100 N. BROADWAY AVE., SUITE 1500 OKLAHOMA CITY, OK 73102	4/15/2019	19-22370	Oklahoma Windstream, LLC	955	\$ 23.09
Reason: The Debtors have no liability for this claim after a review of their books and records.					
174 OKLAHOMA TAX COMMISSION GENERAL COUNSELS OFFICE 100 N. BROADWAY AVE., SUITE 1500 OKLAHOMA CITY, OK 73102	5/14/2019	19-22371	ATX Licensing, Inc.	1460	\$ 650.00*
Reason: The Debtors have no liability for this claim after a review of their books and records.					
175 OKLAHOMA TAX COMMISSION GENERAL COUNSELS OFFICE 100 N. BROADWAY AVE., SUITE 1500 OKLAHOMA CITY, OK 73102	4/9/2019	19-22460	Valor Telecommunications of Texas, LLC	631	\$ 101.41
Reason: The Debtors have no liability for this claim after a review of their books and records.					
176 OKLAHOMA TAX COMMISSION GENERAL COUNSELS OFFICE 100 N. BROADWAY AVE., SUITE 1500 OKLAHOMA CITY, OK 73102	4/9/2019	19-22485	Windstream Southwest Long Distance, LLC	676	\$ 15.40
Reason: The Debtors have no liability for this claim after a review of their books and records.					
177 OKLAHOMA TAX COMMISSION GENERAL COUNSELS OFFICE 100 N. BROADWAY AVE., SUITE 1500 OKLAHOMA CITY, OK 73102	4/26/2019	19-22503	Windstream Oklahoma, LLC	1098	\$ 17.57
Reason: The Debtors have no liability for this claim after a review of their books and records.					
178 PARETI MOBILE WALLS, LLC 1502 13TH STREET BELLE PLAINE, IA 52208	4/8/2019	19-22312	Windstream Holdings, Inc.	606	\$ 283.19
Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
179 PARKSON CORPORATION 1401 WEST CYPRESS CREEK ROAD #100 FORT LAUDERDALE, FL 33309	6/4/2019	19-22312	Windstream Holdings, Inc.	1779	\$ 19,462.72
Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
180	PATRICIA TILLERY 196 WATERFALL DRIVE CLEVELAND, GA 30528	7/15/2019	19-22312	Windstream Holdings, Inc.	6031	\$ 144.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
181	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22312	Windstream Holdings, Inc.	1416	\$ 501,253.87
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
182	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22319	CCL Historical, Inc.	1421	\$ 514.29
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
183	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128	3/9/2020	19-22332	Choice One Communications of Pennsylvania, Inc.	8095	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
184	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22346	Lightship Telecom, LLC	1424	\$ 5,145.87
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
185	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	4/30/2019	19-22350	McLeodUSA Information Services LLC	1154	\$ 463.08
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
186	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22356	Conestoga Enterprises, Inc.	1414	\$ 8,662.43*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
187	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/16/2019	19-22399	CoreComm Communications, LLC	1540	\$ 23,213.68
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
188	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22408	BridgeCom International, Inc.	1427	\$ 18,953.96
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
189	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	2/11/2020	19-22456	Broadview Networks, Inc.	8020	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
190	PERRY B WHITAKER 802 CLEARVIEW DRIVE WILLIAMSBURG, IA 52361-9724	4/1/2019	19-22312	Windstream Holdings, Inc.	424	\$ 67.13
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
191	PHILIP BORNOR 65 VILLAGE LAS PALMAS CIRCLE SAINT AUGUSTINE, FL 32080	6/11/2019	19-22312	Windstream Holdings, Inc.	2292	\$ 27,536.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
192	PINEHURST CENTRE PROPERTY, LLC JOSHUA D. STIFF WOLCOTT RIVERS GATES 200 BENDIX ROAD, SUITE 300 VIRGINIA BEACH, VA 23452	12/31/2019	19-22415	US LEC of Virginia LLC	7920	\$ 12,156.04
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
193	POISSON, POISSON, BOWER, PLLC BARTLEY DALE SIKES 300 E WADE STREET WADESBORO, NC 28170	5/9/2019	19-22312	Windstream Holdings, Inc.	1302	\$ 35,000.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
194	RANDY EDMONDSON 700 CLEVELAND ST SPRINGFIELD, GA 31312	7/14/2019	19-22312	Windstream Holdings, Inc.	5965	\$ 700.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
195	RIVER VALLEY REGIONAL COMMISSION DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22427	Earthlink Business, LLC	7469	\$ 231,666.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
196	RIVER VALLEY REGIONAL COMMISSION DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL RD., SUITE 100 ATLANTA, GA 30350	8/23/2019	19-22433	Windstream Communications, LLC	7470	\$ 3,520,000.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
197	RONNIE GRAY 120 RED WOOD DR RICHMOND, KY 40475	2/25/2020	19-22312	Windstream Holdings, Inc.	8046	\$ 212,710.11
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
198	RONNIE L. GRAY 120 REDWOOD DR RICHMOND, KY 40475	7/10/2019	19-22400	Windstream Services, LLC	4869	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
199	SAGINAW COUNTY E911 SURCHARGE C/O EXECUTIVE DIRECTOR 618 CASS STREET SECOND FLOOR SAGINAW, MI 48602	6/10/2019	19-22312	Windstream Holdings, Inc.	2188	\$ 7,200.00*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
200	SARAH RAGIN 100 CRICKET HOLLOW CT BYRON, GA 31008	6/14/2019	19-22312	Windstream Holdings, Inc.	2665	Undetermined*
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
201	SAYLITE LLC DBA MOBERN LIGHTING COMPANY BOB CLAIRE, GENERAL MANAGER 8200 STAYTON DRIVE #500 JESSUP, MD 20794	4/12/2019	19-22312	Windstream Holdings, Inc.	1516	\$ 40,000.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
202	SHAW INDUSTRIES GROUP, INC. MARK DUEDALL 1201 W. PEACHTREE ST., N.W. ATLANTA, GA 30309	7/15/2019	19-22418	Windstream Georgia Communications, LLC	6706	\$ 0.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
203	SHAW INDUSTRIES GROUP, INC. MARK DUEDALL 1201 W. PEACHTREE ST., N.W. ATLANTA, GA 30309	7/15/2019	19-22452	Windstream D&E Systems, LLC	6685	\$ 0.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
204	SPALDING COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL ROAD SUITE 100 ATLANTA, GA 30350	8/21/2019	19-22427	Earthlink Business, LLC	7418	\$ 141,635.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
205	SPALDING COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL ROAD SUITE 100 ATLANTA, GA 30350	8/20/2019	19-22433	Windstream Communications, LLC	7387	\$ 265,883.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					
206	SPALDING COUNTY, GEORGIA DAVID J. WORLEY EVANGELISTA WORLEY LLC 8100A ROSWELL ROAD SUITE 100 ATLANTA, GA 30350	8/21/2019	19-22433	Windstream Communications, LLC	7417	\$ 74,530.00
	Reason: The Georgia Supreme Court ruled that the applicable statute does not give counties a right of action to collect 911 charges from the Debtors.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
207	STATE OF DELAWARE DIVISION OF REVENUE ZILLAH FRAMPTON PO BOX 8763 WILMINGTON, DE 19899	7/15/2019	19-22315	Cavalier Telephone Mid-Atlantic, L.L.C.	6403	\$ 1,714.42
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
208	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22314	Infocore, Inc.	8066	\$ 1,229.99
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
209	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22334	TruCom Corporation	8061	\$ 145.19
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
210	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22340	US LEC Communications LLC	8067	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
211	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22355	McLeodUSA Telecommunications Services, L.L.C.	8062	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
212	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22362	ARC Networks, Inc.	8063	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
213	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	5/9/2019	19-22373	Open Support Systems, LLC	1320	\$ 883.65
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
214	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22385	PAETEC iTEL, L.L.C.	8072	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
215	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22399	CoreComm Communications, LLC	8068	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
216	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	5/9/2019	19-22408	BridgeCom International, Inc.	1374	\$ 2,553.95
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
217	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	5/9/2019	19-22416	Talk America, LLC	1382	\$ 156,319.20*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
218	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22449	Windstream KDL, LLC	8069	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
219	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22452	Windstream D&E Systems, LLC	8071	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
220	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	6/18/2020	19-22493	Windstream Supply, LLC	8502	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
221	STATE OF NEW JERSEY DIVISION OF TAXATION BANKRUPTCY SECTION PO BOX 245 TRENTON, NJ 08695	2/27/2020	19-22513	Windstream Norlight, LLC	8070	\$ 0.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
222	STATE OF WYOMING, DEPARTMENT OF REVENUE 122 WEST 25TH STREET CHEYENNE, WY 82002-0110	3/19/2020	19-22312	Windstream Holdings, Inc.	8161	\$ 336.12
	Reason: The Debtors have no liability for this claim after a review of their books and records.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
223	STEIN5, LLC JEFFREY STEINER 127 HEATHLAND LANE MOORESVILLE, NC 28117	4/9/2019	19-22514	Windstream North Carolina, LLC	649	\$ 467.53
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
224	STIBBE LOKSUMSTRAAT 25 BRUSSELS 1000 BRUSSELS, BELGIUM	5/22/2019	19-22312	Windstream Holdings, Inc.	1629	\$ 2,451.56
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
225	SUSAN F. BARKMAN 6209 N. PARK RD. TEXARKANA, TX 75503	7/5/2019	19-22312	Windstream Holdings, Inc.	4327	\$ 1,000.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
226	SUSAN K. HAXMEIER 37575 308TH ST BELLEVUE, IA 52031	6/10/2019	19-22434	Windstream Iowa Communications, LLC	2196	\$ 170.88
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
227	TENNESSEE DEPARTMENT OF REVENUE ATTORNEY GENERAL PO BOX 20207 NASHVILLE, TN 37202-0207	1/8/2020	19-22423	Deltacom, LLC	7927	\$ 6,025.55
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
228	TERRY CHATMAN 2605 KENNEDY LANE APT.115 TEXARKANA, TX 75503	6/13/2019	19-22316	Texas Windstream, LLC	2598	Undetermined*
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
229	TEXAS UTILITY ENGINEERING INC AMY HALVORSON 2119 SAN PEDRO AVE SAN ANTONIO, TX 78212	7/10/2019	19-22312	Windstream Holdings, Inc.	4818	\$ 25,225.64
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
230	THE LAW FIRM OF WILLIAM G. SAYEGH, P.C. 65 GLENEIDA AVENUE CARMEL, NY 10512	7/10/2019	19-22312	Windstream Holdings, Inc.	4828	\$ 70,000.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
231	THE OHIO DEPARTMENT OF TAXATION PO BOX 530 COLUMBUS, OH 43216	4/5/2019	19-22347	MassComm, LLC	585	\$ 1,252.38
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
232	THOMAS J ANDERSON 9 FURLONG DRIVE, APT. A FULTON, NY 13069	6/3/2019	19-22512	Windstream New York, Inc.	1826	\$ 150.00
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
233	TOCQUEVILLE RESTAURANT 1 EAST 15TH STREET NEW YORK, NY 10003	7/15/2019	19-22312	Windstream Holdings, Inc.	6569	\$ 27,958.50
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
234	TOWN OF LEXINGTON PO BOX 397 LEXINGTON, SC 29071-0397	4/12/2019	19-22400	Windstream Services, LLC	724	\$ 39,778.68
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					
235	UNIVERSAL SERVICE ADMINISTRATIVE COMPANY AS ADMINISTRATOR OF THE UNIVERSAL SERVICE FUND MIKE POND 700 12TH STREET NW, SUITE 900 WASHINGTON, DC 20005	7/5/2019	19-22433	Windstream Communications, LLC	4549	\$ 5,973,103.50
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
236	USO OF NC, INC. ANNA B. OSTERHOUT, ESQ. PO BOX 2611 RALEIGH, NC 27602-2611	7/10/2019	19-22400	Windstream Services, LLC	4904	\$ 32,433.78
	Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.					

Windstream Holdings, Inc. 19-22312
Sixth Omnibus Objection
Schedule 4 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
237	VINCE CORDERO 74478 HIGHWAY 111 #292 PALM DESERT, CA 92260	6/5/2019	19-22311	PaeTec Communications, LLC	1977	\$ 21,912.84
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
238	W. KENNETH MORRIS GEORGE W. TETLER III, ESQUIRE 311 MAIN STREET P.O. BOX 15156 WORCESTER, MA 01615	6/28/2019	19-22310	Windstream Business Holdings, LLC	3933	\$ 1,488,718.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
239	W. KENNETH MORRIS GEORGE W. TETLER III, ESQUIRE 311 MAIN STREET P.O. BOX 15156 WORCESTER, MA 01615	6/28/2019	19-22400	Windstream Services, LLC	4073	\$ 1,488,718.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
240	WALTER C. DEACON GEORGE W. TETLER III, ESQUIRE 311 MAIN STREET PO BOX 15156 WORCESTER, MA 01615	6/28/2019	19-22310	Windstream Business Holdings, LLC	4075	\$ 1,488,718.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
241	WALTER C. DEACON GEORGE W. TETLER III, ESQUIRE 311 MAIN STREET PO BOX 15156 WORCESTER, MA 01615	6/28/2019	19-22400	Windstream Services, LLC	4074	\$ 1,488,718.00
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
242	WILLIAM COWAN 2054 OLD NASSAU RD LEXINGTON, KY 40504	7/10/2019	19-22400	Windstream Services, LLC	4870	Undetermined*
	Reason: The Debtors have no liability for this claim after a review of their books and records.					
					TOTAL	\$ 47,173,160.96*

Exhibit B

Bixler Declaration

Stephen E. Hessler, P.C.
Marc Kieselstein, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Brad Weiland (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

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> , ¹	)	Case No. 19-22312 (RDD)
)	
Debtors.	)	(Jointly Administered)
)	

**DECLARATION OF HOLDEN BIXLER IN SUPPORT OF DEBTORS'
SIXTH OMNIBUS OBJECTION TO AMENDED CLAIMS, CROSS-DEBTOR
DUPLICATE CLAIMS, EQUITY INTEREST CLAIMS, AND NO LIABILITY CLAIMS**

I, Holden Bixler, declare under penalty of perjury:

1. I am a Managing Director at Alvarez & Marsal North America, LLC (“A&M”).

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) retained A&M and its subsidiaries, affiliates, agents, and independent contractors as financial advisors in connection with these chapter 11 cases.

2. As part of my current position, I am responsible for assisting the Debtors with certain claims management and reconciliation matters. I am generally familiar with the Debtors’

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors 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.

day-to-day operations, financing arrangements, business affairs, and books and records that reflect, among other things, the Debtors' liabilities and the amounts thereof owed to their creditors as of the Petition Date.

3. I have read the *Debtors' Sixth Omnibus Objection to Amended Claims, Cross-Debtor Duplicate Claims, Equity Interest Claims, and No Liability Claims* (the "Objection") filed contemporaneously herewith and am, directly or indirectly through the Debtors' advisors and personnel, familiar with the information contained therein and the schedules attached thereto.²

4. I am authorized to submit this declaration (the "Bixler Declaration") in support of the Objection. All matters set forth in this Declaration are based on (a) my personal knowledge, (b) my review of relevant documents, (c) my view based on my experience and knowledge of the Debtors and the Debtors' operations, books and records, and personnel, (d) information that the Debtors and others supplied to me at the Debtors' request, or (e) as to matters involving bankruptcy law or rules or other applicable laws, my reliance on the advice of counsel or other advisors to the Debtors. If called upon to testify, I could and would testify competently to the facts set forth herein.

5. I believe to the best of knowledge and experience and based on information that I have been able to ascertain after reasonable inquiry that considerable time and resources have been expended to ensure a high level of diligence in reviewing and reconciling the proofs of claim filed against the Debtors in these chapter 11 cases.

² Capitalized terms used in this Bixler Declaration and not defined have the meanings given to such terms elsewhere in the Objection.

A. Amended Claims.

6. A&M along with the Debtors have reviewed and compared the proofs of claim subject to the Objection and the supporting information and documentation provided therewith. As a result of this process, A&M and the Debtors have identified proofs of claim that amended and superseded the proofs of claim filed on account of the claims listed in the “Claims to be Disallowed” column on Schedule 1 to the Order (the “Amended Claims”). The information contained in some of the proofs of claim shows that such proofs of claim were filed to modify the amounts asserted in the initial proofs of claim or the Debtors against which the Amended Claims were asserted. Other proofs of claim changed the claimant asserting the Amended Claim. Moreover, all claims identified in the column labeled “Remaining Claims” self-identified on the form that they were amending another proof of claim. In some instances, the claim identified in the column labeled “Remaining Claims” precisely identified the corresponding “Claims to be Disallowed” column. In other instances, the claim identified in the column labeled “Remaining Claims” did not precisely identify the entry in the corresponding “Claims to be Disallowed” column, in which case, A&M along with the Debtors determined the corresponding “Claims to be Disallowed” entry by matching the supporting documentation. Failure to disallow and expunge the Amended Claims could result in the relevant claimants receiving an unwarranted recovery against the Debtors. Accordingly, I believe the Amended Claims should be disallowed and expunged in their entirety.

B. Cross-Debtor Duplicate Claims.

7. Upon a thorough review of the proofs of claim filed in these chapter 11 cases and supporting documentation thereto, A&M along with the Debtors have determined that the proofs of claim listed on Schedule 2 to the Order (collectively, the “Cross-Debtor Duplicate Claims”) duplicate other claims filed against other Debtors and the claimant asserting such claims is not

entitled to multiple recoveries against the Debtors. Specifically, the Debtors have determined that the Cross-Debtor Duplicate Claims duplicate the claims identified on Schedule 2 to the Order as the “Remaining Claims,” which are not affected by this Objection.

8. In choosing which Cross-Debtor Duplicate Claims would be disallowed and expunged, and which Remaining Claims would survive, the Debtors looked to their books and records and if the Cross-Debtor Duplicate Claims corresponded to a claim therein, identified the Remaining Claim as the claim filed against the Debtor listed as owing the liability in the Debtors’ books and records. The Remaining Claim is the claim filed against the Debtor as reflected in the Debtors’ books and records. Holders of Cross-Debtor Duplicate Claims are not entitled to multiple recoveries against more than one Debtor. If the Cross-Debtor Duplicate Claims are not disallowed, the claimants asserting such claims may receive an unwarranted recovery from the Debtors’ estates. As such, I believe that the Cross-Debtor Duplicate Claims should be disallowed and expunged.

C. Equity Interest Claims.

9. A&M along with the Debtors have reviewed and compared the proofs of claim subject to the Objection and the supporting information and documentation provided therewith. As a result of this process, A&M and the Debtors have identified that the proofs of claim listed on Schedule 3 to the Order (“Equity Interest Claims”) were filed solely on account of asserted ownership of equity interests in the Debtors rather than on account of “claims” (as that term is defined by § 101(5) of the Bankruptcy Code) against one or more of the Debtors. Accordingly, I believe the Equity Interest Claims should be disallowed and expunged in their entirety.

D. No Liability Claims.

10. A&M along with the Debtors have thoroughly reviewed the No Liability Claims filed in these chapter 11 cases and the supporting documentation thereto. The Debtors have

determined that the No Liability Claims listed on Schedule 4 to the Order either seek recovery for unsubstantiated amounts for which the Debtors are not liable, fail to provide a legal or factual basis for the claim, or were improperly asserted against a Debtor not liable for such debt, were satisfied with a payment to a primary contractor or waived via settlement, fail to specify the amount or assert the amount as unliquidated, or are inconsistent with the Debtors' books and records. Thus, I believe the No Liability Claims listed on Schedule 4 should be disallowed and expunged in their entirety.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: July 17, 2020

Respectfully submitted,

/s/ Holden Bixler

Name: Holden Bixler

Title: Managing Director

Alvarez & Marsal North America, LLC

Exhibit 9

Jeremy R. Johnson
POL SINELLI PC
600 3rd Avenue, 42nd Floor
New York, New York 10016
Telephone: (212) 684-0199
Facsimile: (212) 684-0197
jeremy.johnson@polsinelli.com

Counsel to CMN-RUS, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

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

Debtors.

Chapter 11

Case No. 19-22312 (RDD)

Jointly Administered

**RESPONSE OF CMN-RUS, INC. TO
DEBTORS' FIRST OMNIBUS OBJECTION TO CLAIMS**

CMN-RUS, Inc. ("CMN") hereby responds (the "Response") to the *Debtors' Sixth Omnibus Objection to Claims* (the "Omnibus Objection") (Docket No. 2317), filed on July 17, 2020 by Debtors.¹ In support of this Response, CMN states as follows:

SUMMARY OF RELIEF SOUGHT BY THE DEBTORS

1. The Debtors seek to disallow CMS's Proof of Claim No. 5161, an unsecured claim in the amount of \$432,439.00 (the "Claim"), which is listed on Schedule 1 to the Omnibus Objection, on the grounds that "Pursuant to the Debtors' books and records, no amounts are due

¹ The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of Debtors 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.



and no liability exists for this claimant.” See Omnibus Objection, ¶ Schedule 4, line 45 page 58 of 92.

SUMMARY OF RELIEF SOUGHT BY CMN

2. Pursuant to section 502 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et. seq* (the “Bankruptcy Code”), Rules 3001(f) and 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), CMN seeks entry of an Order denying the Omnibus Objection as it pertains to CMN’s Claim. The relief sought is based on the grounds that the Debtors have failed to carry their burden to overcome the *prima facie* evidence of the validity and amount of the Claim. Accordingly, the Debtors are not entitled to the relief sought by the Omnibus Objection and the relief requested as it pertains to CMN’s Claim must be denied.

BACKGROUND

3. The Debtors commenced their respective cases under chapter 11 of the Bankruptcy Code on February 25, 2019. (the “Petition Date”).

4. On May 10, 2019, the Debtors filed their respective schedules of assets and liabilities and statements of financial affairs [Docket Nos. 505 and 506] pursuant to Bankruptcy Rule 1007 and the *Order Granting a Second Extension of Time to File Schedules and Statements of Financial Affairs* [Docket No. 387]. On January 21, 2020, the Debtors filed amendments to certain schedules, as set forth in the *Notice of Filing Amended Schedule G and Supplemental Deadline to Submit Proofs of Claim* [Docket No. 1436] and *Notice of Filing Amended Schedule F and Supplemental Deadline to Submit Proofs of Claim* [Docket No. 1435].

5. On May 13, 2019, the Court entered the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, and (III) Approving Notice Thereof* [Docket No. 518] establishing certain dates and deadlines for filing proofs of claim

in these chapter 11 cases with Kurtzman Carson Consultants LLC (the “Notice and Claims Agent”). Specifically, the Court established (a) July 15, 2019, at 4:00 p.m., prevailing Eastern Time, as the last date and time for all persons and entities (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts but not governmental units) to file proofs of claim based on prepetition claims, including claims pursuant to section 503(b)(9) of the Bankruptcy Code, against any Debtor and (b) August 26, 2019, at 4:00 p.m., prevailing Eastern Time, as the last date and time for governmental units to file proofs of claim against any Debtor (each as applicable, the “Claims Bar Date”).

6. As set forth in the Claim, and the multiple invoices attached to the Claim (collectively, the “Invoices”), and the contracts between CMN and the Debtors, (the “Contracts”) provided services to the Debtor under a Collocation and Maintenance Agreement and Rack Space Swap Agreement.

7. Pursuant to the Bar Date Order, CMN timely filed its Claim on July 10, 2019, a copy of which is attached hereto as Exhibit A. CMN filed the Claim to protect its rights and attached copies of the Invoices and Contracts to further support the validity and amount asserted in the Claim. As of this date, the full amount of the Claim remains due and owing by the Debtors.

LEGAL ARGUMENT

The Debtors Have Failed to Rebut the *Prima Facie* Validity and Amount of the Claim as Evidenced by the Proof of Claim

8. Pursuant to section 502 of the Bankruptcy Code, a proof of claim filed in a bankruptcy proceeding is deemed allowed unless a party in interest objects. 11 U.S.C. § 502(a); *see also In re Gran*, 964 F.2d 822, 827 (8th Cir. 1992).

9. Pursuant to Bankruptcy Rule 3001(f), the filing of a proof of claim constitutes *prima facie* evidence of its amount and validity. Fed. R. Bankr. P. 3001(f); *see also In re Be-Mac*

Transport Co., Inc., 83 F.3d 1020, 1025 (8th Cir. 1996); *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173 (3rd Cir. 1992); *In re Fidelity Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988); *In re Smurfit-Stone Container Corp.*, 2011 Bankr. LEXIS 58 (Bankr. D. Del. 2011). “A properly executed proof of claim constitutes *prima facie* evidence of its validity, and parties objecting to a claim bear the burden of going forward to meet, overcome or, at minimum, equalize the valid claim....” *In re Gridley*, 149 B.R. 128, 132 (Bankr. S.D. 1992); *see also In re Be-Mac Transport*, 83 F3d at 1025 (8th Cir. 1996); *In re Chateaugay Corp.*, 154 B.R. 29, 32 (Bankr. S.D.N.Y. 1993)

10. Pursuant to the express language of Bankruptcy Rule 3001(f), “[a] party objecting to a claim has the initial burden of presenting a substantial factual basis to overcome the *prima facie* validity of a proof of claim [and] [t]his evidence must be of a probative force equal to that of the creditor’s proof of claim.” *In re Hinkely*, 58 B.R. 339, 348 (Bankr. S.D. Tex. 1986), *aff’d*, 89 B.R. 608 (S.D. Tex. 1988), *aff’d* 879 F.2d 859 (5th Cir. 1989), *citing In Re Globe Parcel Service, Inc.*, 71 B.R. 323 (E.D. Pa. 1987) (emphasis added); *accord In re Allegheny*, 954 F.2d at 173; *In re Bennett*, 83 B.R. 248, 252 (Bankr. S.D.N.Y. 1988) (the debtor, as the objecting party, must go forward and produce sufficient evidence to rebut the claimant’s *prima facie* case). The *prima facie* validity of a proof of claim is “strong enough to carry over a mere formal objection without more.” *In re Schlehr*, 290 B.R. 387, 395 (Bankr. D. Mont. 2003). Where a debtor simply makes a *pro forma* objection without any evidentiary support, a court may summarily overrule such objections. *See e.g., Garner v. Shier (In re Garner)*, 246 B.R. 617, 620, 623 (B.A.P. 9th Cir. 2000). Indeed, “[t]o overcome this *prima facie* evidence, the objecting party must come forth with evidence which, if believed, would refute at least one of the allegations essential to the claim.” *In re Reilly*, 245 B.R. 768, 773 (B.A.P. 2d Cir. 2000).

11. In *Garner*, the debtor objected to a proof of claim by merely asserting that “there is no obligation to pay . . . and there are no written documents or other competent evidence of any valid obligations owed . . .” *Garner*, 246 at 620. Moreover, the debtor failed to offer any evidence at the hearing in support of such assertions. *Id.* Consequently, the *Garner* Bankruptcy Court held that the debtor did not fulfill its burden of producing competent evidence rebutting the presumption of validity afforded the proof of claim. *Id.*

12. CMN’s proof of claim includes copies of the underlying Invoices evidencing the validity and amount of the Claim and the signed copies of the Contracts supporting the Invoices. The Invoices from CMN are each itemized and are easily identified by the Debtor’s name, the invoice number, the invoice date, and the invoice amount. This information should have been more than sufficient to allow the Debtors to locate some record of these transactions with CMN in the Debtors’ books and records. The Invoices and Contracts are clearly sufficient to support CMN’s Claim. As a result, the Debtors’ Objection to Claim should be overruled.

13. The situation before this Court, essentially, is no different than the situation presented to the *Garner* court. Here, the Debtors have failed to submit any “substantial factual” evidence satisfying the Debtors’ burden to overcome the *prima facie* presumption of validity of the existence of the Claim or its amount as set forth in the Claim. Simply put, the Debtors’ Omnibus Objection does not address with particularity (except in a conclusory fashion) the underlying facts supporting Claim. Instead, the Omnibus Claims Objection merely states that “Pursuant to the Debtors’ books and records, no amounts are due and no liability exists for this claimant.” *See* Omnibus Objection, ¶ Schedule 4, line 45 page 58 of 92.

14. Standing alone, the Omnibus Objection does not satisfy the Debtors’ burden of adducing “substantial factual” evidence rebutting any element of the Claim. *In re Williams*,

No. 92-50546, 1994 WL 329328, *3 (Bankr. S.D. Ga. March 30, 1994) (merely disagreeing with the amount of a claim cannot rise to the level of producing evidence equal to the weight given to the claim itself as is necessary to rebut the presumption of *prima facie* validity). As in *Garner*, the Debtors in this case have merely asserted that there is “no liability for this claimant.” *See Garner*, 246 B.R. at 620. This conclusory statement certainly does not overcome the *prima facie* evidence set forth in Claim which, “if believed, would refute at least on of the allegations essential to the claim.” *In re Reilly*, 245 B.R. 768, 773 (2nd Cir. 2000). Where a debtor simply makes a *pro forma* objection without competent evidentiary support, a court should summarily overrule such objections. *See Garner*, 246 B.R. at 623. Under these circumstances, the *prima facie* validity of the Claim is “strong enough to carry over a mere formal objection without more.” *In re Schlehr*, 290 B.R. at 395.

Reservation of Rights and Discovery

15. As such, because of Debtors failure to rebut the *prima facie* validity of the Claim, CMN reserves and any all rights to produce subsequent evidence, testimony, legal arguments and seek discovery from Debtors regarding any objections and grounds thereof to the Claim. CMN asserts the right to discovery, and to take discovery against the Debtor.

- a. The designated attorney for contact and authority to resolve this matter is: Andrew J. Nazar, Polsinelli PC. (816) 395-0641, anazar@polsinelli.com.² CMN reserves the right to designate others on its behalf as well.

² Due to COVID-19, a physical address is not provided as contact via email or phone is more efficient way to communicate, given office shutdowns.

WHEREFORE, CMN seeks entry of an order denying the Omnibus Objection to the extent that it seeks disallowance of the Claim and such other and further relief as may be deemed just and proper under the circumstances.

Dated: August 10, 2020
New York, New York

POLSINELLI PC

/s/ Jeremy R. Johnson

Jeremy R. Johnson (Bar No. 4307617)

600 3rd Avenue, 42nd Floor

New York, New York 10016

Telephone: (212) 684-0199

Facsimile: (212) 684-0197

jeremy.johnson@polsinelli.com

Counsel for CMN-RUS, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing response was filed with the Bankruptcy Court and served on all parties registered to receive notice via CM/ECF on August 10, 2020. Copies of the foregoing document were also served via U.S. Mail or email transmission, on the individuals listed below.

Counsel to Debtors

Stephen E. Hessler, P.C.
Neda Davanipour
Spencer Caldwell-McMillan
Christopher Ceresa
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
601 Lexington Avenue
New York, NY 10022

Via ECF: shessler@kirkland.com

Counsel for Committee

Lorenzo Marinuzzi
Todd M. Goren
Jennfer L. Marines
Erica J. Richards
Morrison & Foerster LLP
250 West 55th St.
New York, NY 10019

Via ECF: lmarinuzzi@mofo.com

The Hon. Robert D. Drain
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4140

Via U.S. Mail

Counsel to Debtors

Ross M. Kwasteniet, P.C.
Brad Weiland
John R. Luze
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
300 North LaSalle Street
Chicago, IL 60654

Via U.S. Mail

Office of the U.S. Trustee

Attn: Paul K. Schwartzberg
Serene Nakano
U.S. Federal Office Building
201 Varick St., Suite 1006
New York, NY 10014

Via U.S. Mail

Dated: August 10, 2020

/s/ Jeremy R. Johnson

Jeremy R. Johnson

EXHIBIT A



Anita Larson
Vice President
and Senior Counsel
Direct: 812.213.1095
anita.larson@metronetinc.com

July 9, 2019

VIA FEDERAL EXPRESS
STANDARD OVERNIGHT DELIVERY

Windstream Holdings, Inc. Claims Processing Center
c/o Kurtzman Carson Consultants LLC
222 N. Pacific Coast Highway
Suite 300
El Segundo, CA 90245

*proof of
receipt
included*

Re: Proof of Claim
CMN-RUS, Inc.

Dear Sir or Madam:

Please find enclosed the following:

- Original Proof of Claim of CMN-RUS, Inc.
- Copy of Proof of Claim for proof of receipt
- Federal Express Envelop and Shipping Label for proof of receipt

Please provide proof of receipt in the enclosed Federal Express Envelop using the enclosed shipping label.

Thank you for your time and consideration.

Sincerely,

Anita Larson
Vice President
and Senior Counsel

Encls

Metronet
8837 Bond Street
Overland Park, KS 66214

Anita Larson

From: Tamela Bruns
Sent: Wednesday, July 10, 2019 12:30 PM
To: Anita Larson
Subject: FW: FedEx Shipment 775671596956 Delivered

Delivered!

*Thank you,
Tamela*

Tamela Bruns

Administrative Assistant | Office Manager



phone 812.213.1094 fax 317.599.1154
email tamela.bruns@metronetinc.com
corporate mail 8837 Bond Street, Overland Park, KS 66214

CLOUDJUMPER ~ Q SERVICES

From: TrackingUpdates@fedex.com <TrackingUpdates@fedex.com>
Sent: Wednesday, July 10, 2019 12:06 PM
To: Tamela Bruns <Tamela.Bruns@metronetinc.com>
Subject: FedEx Shipment 775671596956 Delivered

WARNING: This mail is from an external source

Your package has been delivered

Tracking # 775671596956

Ship date:
Tue, 7/9/2019

Tamela Bruns
Q Services
Overland Park, KS 66214
US

Delivery date:
Wed, 7/10/2019 10:02 am


**Windstream Holdings Claims
Proc Ctr**
c/o Kurtzman Carson
Consultants, LL
222 N. Pacific Coast Highway
Suite 300
EL SEGUNDO, CA 90245
US



Shipment Facts

Our records indicate that the following package has been delivered.

Tracking number:	775671596956
Status:	Delivered: 07/10/2019 10:02 AM Signed for By: M.MELISSA
Department number:	800.999
Signed for by:	M.MELISSA
Delivery location:	EL SEGUNDO, CA
Delivered to:	Receptionist/Front Desk
Service type:	FedEx Standard Overnight®
Packaging type:	FedEx® Envelope
Number of pieces:	1
Weight:	2.00 lb.
Special handling/Services:	Deliver Weekday
Standard transit:	7/10/2019 by 3:00 pm

 Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 12:05 PM CDT on 07/10/2019.

All weights are estimated.

To track the latest status of your shipment, click on the tracking number above.

Standard transit is the date and time the package is scheduled to be delivered by, based on the selected service, destination and ship date. Limitations and exceptions may apply. Please see the FedEx Service Guide for terms and conditions of service, including the FedEx Money-Back Guarantee, or contact your FedEx Customer Support representative.



© 2019 Federal Express Corporation. The content of this message is protected by copyright and trademark laws under U.S. and international law. Review our [privacy policy](#). All rights reserved.

Thank you for your business.

copy

Fill in this information to identify the case:

Debtor Windstream KDL, LLC

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

Case number 19-22449

Claim # 5161

Initials slb

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

COPY

Part 1: Identify the Claim

1. Who is the current creditor?	CMN-RUS, Inc. Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor <u>Cinergy Metronet, Cinergy Metronet, Inc. and Metronet</u>	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<u>Anita Larson</u> Name <u>8837 Bond Street</u> Number Street <u>Overland Park KS 66214</u> City State ZIP Code Contact phone <u>812.213.1095</u> Contact email <u>anita.larson@metronetinc.com</u>	Name Number Street City State ZIP Code Contact phone Contact email
RECEIVED JUL 10 2019 KURTZMAN CARSON CONSULTANTS		
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 432,439.00 Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
See Attached Exhibit A.

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____%

☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☐ No
☒ Yes. Identify the property: See attached Exhibit A.

RECEIVED

JUL 10 2019

KURTZMAN CARSON CONSULTANTS

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* 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 date 07/09/2019

MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name

Anita

Larson

First name

Middle name

Last name

Title

Vice President and Senior Counsel

Company

CMN-RUS, Inc.

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

8837 Bond Street

Number Street

Overland Park

KS

66214

City

State

ZIP Code

Contact phone

812.213.1095

Email anita.larson@metronetinc.com

RECEIVED

JUL 10 2019

KURTZMAN CARSON CONSULTANTS

Exhibit A
To Proof of Claim filed by CMN-RUS, Inc.
(f/k/a Cinergy Metronet, Cinergy Metronet, Inc. and d/b/a Metronet)

Invoice #	Invoice Date	Payee	Description	Amount (US\$) ¹	
666	8/23/2017	Windstream KDL, LLC	Dec 2010 to July 2017	351,848.70	
667	9/1/2017	Windstream KDL, LLC	Sep-17	4,066.64	
668	10/1/2017	Windstream KDL, LLC	Oct-17	4,292.45	
669	11/1/2017	Windstream KDL, LLC	Nov-17	964.52	
670	12/1/2017	Windstream KDL, LLC	Dec-17	4,419.46	
671	1/1/2018	Windstream KDL, LLC	Jan-18	4,537.44	
672	2/1/2018	Windstream KDL, LLC	Feb-18	4,935.77	
673	3/1/2018	Windstream KDL, LLC	Mar-18	4,690.99	
674	4/1/2018	Windstream KDL, LLC	Apr-18	4,330.53	
675	5/1/2018	Windstream KDL, LLC	May-18	4,634.15	
676	6/1/2018	Windstream KDL, LLC	Jun-18	992.58	
677	7/1/2018	Windstream KDL, LLC	Jul-18	4,677.13	
678	8/1/2018	Windstream KDL, LLC	Aug-18	5,769.33	
679	9/1/2018	Windstream KDL, LLC	Sep-18	5,602.58	
680	10/1/2018	Windstream KDL, LLC	Oct-18	6,075.25	
681	11/1/2018	Windstream KDL, LLC	Nov-18	4,736.92	
682	12/1/2018	Windstream KDL, LLC	Dec-18	5,148.98	
683	1/1/2019	Windstream KDL, LLC	Jan-19	5,159.21	
684	2/1/2019	Windstream KDL, LLC	Feb-19	5,557.05	
Total				432,439.68	
All the above amounts owed are owed pursuant to (i) the Collocation and Maintenance Agreement between CMN-RUS, Inc. ("CMN" or "Claimant") and Windstream KDL, LLC ("WIN" or "Debtor"), dated February 7, 2005, as amended or (2) the Rack Space Swap Agreement dated January 1, 2008. (Collectively the "Agreements," a copy of each is attached) The above invoiced amounts are for power utilized by WIN in excess of the amount of WIN's Power Allocation as defined in the Agreements or for rack space (see description of charges on invoices).					
The Agreements characterize the collocation and rack space as licenses. Accordingly, CMN has responded negatively to the question in Box 10. CMN reserves all rights to claim it is a lease or executory contract under the Bankruptcy Code.					
CMN-RUS, Inc. reserves the right to set off the above amounts against charges owed, if any, by CMN-RUS, Inc. for power utilized by CMN-RUS, Inc. in excess of the amount of CMN's Power Allocation as defined in and pursuant to the terms of the Rack Space Swap Agreement dated January 1, 2008. (Copy of agreement attached)					

¹ Copies of invoices are attached.

Reservation of Rights

Claimant expressly reserves the right to amend the claim and assert any additional claims and any additional amounts, including amounts which are or may be currently contingent or unliquidated and amounts that may be entitled to administrative priority under sections 507 and 503 of title 11 of the United States Code. Claimant also expressly includes the right to any pre or post-petition interest and for any pre or post-petition legal fees.

This Proof of Claim is filed under the compulsion of the bar date established in these chapter 11 proceedings and is filed to protect the Claimant from any asserted forfeiture of claims by reason of said bar date. Claimant expressly reserves the right to amend, modify and/or supplement any of the claims set forth herein and to file, in accordance with orders of the Bankruptcy Court and/or the Federal Rules of Bankruptcy Procedure, any amended, modified and/or supplementary claims that Claimant may have against the Debtor.

Claimant expressly reserves the right to attach, produce and/or rely upon additional documentation which supports its claims and any additional documents that may become available after further investigation or discovery.

The filing of this proof of claim does not and shall not constitute a waiver or release of any of Claimant's rights or claims against: (a) any other person, entity or property; (b) to contest the jurisdiction of the Bankruptcy Court with respect to the subject matter of the claims set forth herein; and/or (c) to elect remedies or choice of law or right to contest venue or *forum non convenes*.

Claimant expressly reserves all rights with respect to claims and causes of action it may hold against the Debtor. The Claimant reserves all of its rights and defenses, whether under title 11 of the United States Code or other applicable law, as to any claims or defenses that may be asserted by the Debtors, including, without limitation, any rights of setoff, offset, and/or recoupment.

The Claimant hereby further reserves all rights accruing to it, and the filing of this Proof of Claim is not and shall not be deemed or construed as: (i) a waiver, release, or limitation of its rights against any person, entity, or property (including, without limitation, the Debtors or any other person or entity that is or may become a debtor in a case pending in this Court; (ii) a consent by the Claimant to the jurisdiction or venue of this Court or any other court with respect to proceedings, if any, commenced in any case against or otherwise involving the Claimant; (iii) a waiver, release, or limitation of the right of the Claimant to trial by jury in this Court or any other court in any proceeding as to any and all matters so triable herein, whether or not the same be designated legal or private rights or in any case, controversy, or proceeding related hereto, notwithstanding the designation or not of such matters as "core proceedings" pursuant to 28 U.S.C. § 157(b)(2), and whether or not such jury trial right is pursuant to statute or the U.S. Constitution; (iv) a consent by the Claimant to a jury trial in this Court or any other court in any proceeding as to any and all matters so triable herein or in any case, controversy, or proceeding related hereto, pursuant to 28 U.S.C. § 157(e) or otherwise; (v) a waiver, release, or limitation of the right of the Claimant to have any and all final orders in any and all non-core matters or proceedings entered only after de novo review by U.S. District Court Judge; (vi) consent to this Court hearing or deciding any matter or proceeding, to the extent this Court lacks the

constitutional authority to do so, under *Stern v. Marshall* or otherwise; (vii) a waiver of the right to move to withdraw the reference with respect to the subject matter of this Proof of Claim, any objection thereto or other proceeding which may be commenced in this case against or otherwise involving the Claimant; (viii) an election of remedies; (ix) a consent to the final determination or adjudication of any claim or right pursuant to 28 U.S.C. § 157(c); or (x) waiver of a right to enforce arbitration.

CMN-RUS, Inc.

INVOICE

8837 Bond Street
Overland Park, KS 66214

DATE: Aug 23, 2017
INVOICE # 666

Bill To:

Windstream KDL, LLC
Attn: Shelly Sanchez
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 12/1/2010 – 8/31/2017	\$40,500.00
Windstream Portion of Utility Expense: 4/2012 – 7/2017	\$17,482.03
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 12/2010 – 7/2017	\$11,637.94
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 12/2010 – 7/2017	\$10,899.56
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 12/2010 - 7/2017	\$271,329.17
TOTAL	\$351,848.70

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Sept 1, 2017
INVOICE # 667

Bill To:

Windstream KDL, LLC
Attn: Shelly Sanchez
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u> Rack 0101.06: \$500/month/full rack: Service Period: 9/1/2017-9/30/2017	\$500.00
Windstream Portion of Utility Expense: 8/25/2017 CARROLL WHITE REMC Invoice: 1698700 0817	\$136.65
<u>Marion Hut:</u> Windstream Portion of Utility Expense: 8/18/2017 INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0817	\$130.15
<u>Seymour Hut:</u> Windstream Portion of Utility Expense: 8/7/2017 DUKE ENERGY Invoice: 36003590016 0817	\$163.17
<u>Evansville Data Center:</u> Windstream Portion of Utility Expense: 8/14/2017 VECTREN ENERGY Invoice: 0130080085613084262	\$3,136.67
TOTAL	\$4,066.64

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Oct 1, 2017
INVOICE # 668

Bill To:

Windstream KDL, LLC
Attn: Shelly Sanchez
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 10/1/2017-10/31/2017	\$500.00
Windstream Portion of Utility Expense: 9/25/2017	
CARROLL WHITE REMC Invoice: 1698700 0917	\$139.28
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 9/18/2017	\$162.21
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0917	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 9/7/2017	\$170.48
DUKE ENERGY Invoice: 36003590016 0917	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 9/14/2017	\$3,320.48
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,292.45

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE:
INVOICE #

Nov 1, 2017
669

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 11/1/2017-11/30/2017	\$500.00
Windstream Portion of Utility Expense: 10/25/2017	
CARROLL WHITE REMC Invoice: 1698700 1017	\$137.92
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 10/18/2017	\$172.09
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1017	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 10/7/2017	\$154.51
DUKE ENERGY Invoice: 36003590016 1017	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 10/13/2017	\$3,588.70
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,553.22

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Dec 1, 2017
INVOICE # 670

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 12/1/2017-12/31/2017	\$500.00
Windstream Portion of Utility Expense: 11/25/2017	
CARROLL WHITE REMC Invoice: 1698700 1117	\$178.79
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 11/16/2017	\$152.17
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1117	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 11/5/2017	\$152.57
DUKE ENERGY Invoice: 36003590016 1117	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 11/10/2017	\$3,435.93
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,419.46

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Jan 1, 2018
INVOICE # 671

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 1/1/2018-1/31/2018	\$500.00
Windstream Portion of Utility Expense: 12/25/2017	
CARROLL WHITE REMC Invoice: 1698700 1217	\$216.97
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 12/16/2017	\$180.19
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1217	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 12/5/2017	\$149.52
DUKE ENERGY Invoice: 36003590016 1217	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 12/12/2017	\$3,490.76
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,537.44

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Feb 1, 2018
INVOICE # 672

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 2/1/2018-2/28/2018	\$500.00
Windstream Portion of Utility Expense: 01/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0118	\$352.64
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 01/22/2018	\$226.57
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0118	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 01/10/2018	\$144.08
DUKE ENERGY Invoice: 36003590016 0118	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 01/12/2018	\$3,712.48
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,935.77

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: May 1, 2018
INVOICE # 675

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 5/1/2018-5/31/2018	\$500.00
Windstream Portion of Utility Expense: 04/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0418	\$224.36
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 04/20/2018	\$169.26
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0418	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 04/06/2018	\$143.73
DUKE ENERGY Invoice: 36003590016 0418	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 04/12/2018	\$3,596.80
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,634.15

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: June 1, 2018
INVOICE # 676

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 6/1/2018-6/30/2018	\$500.00
Windstream Portion of Utility Expense: 05/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0518	\$166.02
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 05/21/2018	\$174.32
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0518	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 05/07/2018	\$152.24
DUKE ENERGY Invoice: 36003590016 0518	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 05/11/2018	\$3,249.89
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,242.47

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: July 1, 2018
INVOICE # 677

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 7/1/2018-7/31/2018	\$500.00
Windstream Portion of Utility Expense: 06/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0618	\$164.28
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 06/20/2018	\$204.52
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0618	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 06/06/2018	\$184.69
DUKE ENERGY Invoice: 36003590016 0618	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 06/13/2018	\$3,623.64
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,677.13

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Aug 1, 2018
INVOICE # 678

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 8/1/2018-8/30/2018	\$500.00
Windstream Portion of Utility Expense: 07/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0718	\$160.35
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 07/20/2018	\$201.04
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0718	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 07/06/2018	\$196.96
DUKE ENERGY Invoice: 36003590016 0718	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 07/13/2018	\$4,710.98
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,769.33

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Sep 1, 2018
INVOICE # 679

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 9/1/2018-9/31/2018	\$500.00
Windstream Portion of Utility Expense: 08/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0818	\$161.92
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 08/20/2018	\$192.47
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0818	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 08/08/2018	\$196.70
DUKE ENERGY Invoice: 36003590016 0818	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 08/14/2018	\$4,551.49
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,602.58

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Oct 1, 2018
INVOICE # 680

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 10/1/2018- 10/31/2018	\$500.00
Windstream Portion of Utility Expense: 09/25/2018	
CARROLL WHITE REMC Invoice: 1698700 0918	\$160.37
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 09/19/2018	\$219.21
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0918	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 09/05/2018	\$186.15
DUKE ENERGY Invoice: 36003590016 0918	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 09/13/2018	\$5,009.52
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$6,075.25

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Nov 1, 2018
INVOICE # 681

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 11/1/2018- 11/30/2018	\$500.00
Windstream Portion of Utility Expense: 10/25/2018	
CARROLL WHITE REMC Invoice: 1698700 1018	\$153.59
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 10/18/2018	\$174.11
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1018	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 10/04/2018	\$183.46
DUKE ENERGY Invoice: 36003590016 1018	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 10/12/2018	\$3,725.76
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$4,736.92

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Dec 1, 2018
INVOICE # 682

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 12/1/2018- 12/31/2018	\$500.00
Windstream Portion of Utility Expense: 11/25/2018	
CARROLL WHITE REMC Invoice: 1698700 1118	\$192.45
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 11/16/2018	\$161.73
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1118	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 11/02/2018	\$180.71
DUKE ENERGY Invoice: 36003590016 1118	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 11/12/2018	\$4,114.09
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,148.98

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Jan 1, 2019
INVOICE # 683

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 01/01/2019- 01/31/201	\$500.00
Windstream Portion of Utility Expense: 12/25/2018	
CARROLL WHITE REMC Invoice: 1698700 1218	\$241.59
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 12/19/2018	\$187.77
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 1218	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 12/05/2018	\$158.36
DUKE ENERGY Invoice: 36003590016 1218	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 12/13/2018	\$4,071.49
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,159.21

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.

If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Feb 1, 2019
INVOICE # 684

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 02/01/2019- 02/28/2019	\$500.00
Windstream Portion of Utility Expense: 01/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0119	\$243.06
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 01/22/2019	\$202.56
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0119	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 01/08/2019	\$163.97
DUKE ENERGY Invoice: 36003590016 0119	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 01/14/2019	\$4,447.64
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,557.05

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

CMN-RUS, Inc.

8837 Bond Street
Overland Park, KS 66214

INVOICE

DATE: Mar 1, 2019
INVOICE # 685

Bill To:

Windstream KDL, LLC
Attn: Corp.network.leases@windstream.com
11101 Anderson Drive, Ste.100
Little Rock, AR 72212

ITEM DESCRIPTION	AMOUNT
<u>Wolcott Hut:</u>	
Rack 0101.06: \$500/month/full rack: Service Period: 03/01/2019- 03/31/2019	\$500.00
Windstream Portion of Utility Expense: 02/25/2019	
CARROLL WHITE REMC Invoice: 1698700 0219	\$346.81
<u>Marion Hut:</u>	
Windstream Portion of Utility Expense: 02/20/2019	\$206.43
INDIANA MICHIGAN POWER COMPANY Invoice: 04550188108 0219	
<u>Seymour Hut:</u>	
Windstream Portion of Utility Expense: 02/06/2019	\$148.02
DUKE ENERGY Invoice: 36003590016 0219	
<u>Evansville Data Center:</u>	
Windstream Portion of Utility Expense: 02/13/2019	\$4,430.22
VECTREN ENERGY Invoice: 0130080085613084262	
TOTAL	\$5,631.48

DUE UPON RECEIPT

Make all checks payable to CMN-RUS, Inc.
If you have any questions concerning this invoice, contact Jason White at jason.white@metronetinc.com or 812-213-1165

COLLOCATION AND MAINTENANCE AGREEMENT

This COLLOCATION AND MAINTENANCE AGREEMENT ("Agreement") is effective as of the 7th day of February, 2005 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN owns network transmission facilities (each individually a "Facility" collectively the "Facilities") at various locations throughout its fiber network. KDL has the expertise and ability to maintain the Facility sites. KDL and CMN wish to enter into an exchange of the right to use CMN Facilities for the performance of maintenance services as more particularly set forth below.
2. KDL Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL Site" collectively the "KDL Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.
3. Collocation License. For each of the KDL Sites, CMN grants KDL a license to occupy, use and maintain rack spaces for purposes of installing, operating and maintaining KDL's equipment ("Licensed Space"). The Licensed Space for each of the KDL Sites is set forth in Exhibit A. As part of this license, at its sole cost, CMN shall provide thirty (30) amps of power to the Licensed Space ("KDL's Power Allocation") and heat, ventilation and air conditioning service to the Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).
4. Additional Services. KDL may request that CMN provide additional AC or DC power, backup power, space or racks at any KDL Site. Subject to its own operational needs, CMN shall use commercially reasonable efforts to accommodate any KDL request for additional services. CMN shall charge KDL Five Hundred Dollars (\$500.00) a month for any additional racks. For any power utilized by KDL beyond KDL's Power Allocation at a KDL Site, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("KDL's Portion"): $[(A) \text{ divided by } (B)] \text{ times } (C) \text{ equals KDL's Portion}$, where (A) is the total number of additional breakered amps of power delivered to KDL's racks in excess of KDL's Power Allocation at the KDL Site; (B) is the total breakered amps of power delivered to all racks at the KDL Site (including KDL's racks); and (C) is the total power costs CMN incurs in connection with the KDL Site including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that KDL has 2 racks at the KDL and has exceeded the KDL Power Allocation by 100 breakered amps of power. Further assume that at the KDL Site there are a total of 10 racks (including KDL's 2 racks) using a total of 1000 breakered amps of power (including KDL's 100 additional amps of power). Finally, assume that the total power costs incurred by CMN associated with the Evansville Facility in the example month is \$5,000. KDL's Portion for such month would be \$500 ($100 \text{ divided by } 1000 = .01 \times \$5,000$).

5. Installation. KDL shall be solely responsible for the installation and maintenance of any KDL equipment in a Licensed Space. KDL shall not install any equipment in a Licensed Space that overloads any electrical circuits or associated hardware. All KDL equipment located in a Licensed Space shall be maintained and operated by KDL in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

6. Access. Subject to reasonable rules and regulations as may be promulgated by CMN from time to time, KDL shall have unescorted access to each KDL Site twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the Licensed Space and performing KDL's obligations under this Agreement. CMN hereby grants KDL an easement of ingress and egress to extend KDL's network and equipment from the public rights of way into the Licensed Space.

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL Site, as may be amended from time to time. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL Site; (iv) monitoring the climate temperature of each KDL Site; and (v) providing escorted access to any third parties requiring access to a KDL Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL in performing the maintenance activities set forth in this Section 7.

8. Billing and Payment. A Party providing or performing a service (referred to in this Section 8 as a "Provider") to the other Party (referred to in this Section 8 as a "Recipient") shall invoice the Recipient for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by the Recipient. Should the Recipient dispute any of the charges on an invoice, it shall notify the Provider in writing within sixty (60) days after the Recipient's receipt of invoice of the disputed charges and the Recipient's reason for disputing the same. If the Recipient does not deliver a challenge or dispute to any invoice within sixty (60) days after the Recipient's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by the Recipient.

9. Term. The initial term of this Agreement shall be forty (40) years. After the expiration of the initial term the Agreement shall continue on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

10. Termination. Notwithstanding anything to the contrary in Section 9 above, either Party may terminate this Agreement during the initial term by delivering notice to the non terminating Party at least twenty-four (24) months in advance of the proposed termination date.

11. Representations and Warranties. Except as expressly set forth herein, each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, or creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SPACE OR THE EQUIPMENT OR MAINTENANCE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ALL LICENSED SPACE IS EXPRESSLY ACCEPTED BY KDL ON AN "AS" "IS" "WHERE IS" BASIS.

12. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

13. Remedies. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder. Additionally, if KDL fails to perform any of its obligations under Section 7 of this Agreement in a timely manner, with reasonable prior notice to KDL under the circumstances, CMN may perform such obligation and invoice KDL for any out of pocket expenses incurred by CMN in performing such obligation. The Parties intend for the remedies set forth in this Section 13 to be the sole remedies available to either Party for a breach of this Agreement.

14. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

15. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

16. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may be similar notice given change the address to which future notices or other communications shall be sent.

17. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively; "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 17 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

18. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts to work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision.

However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

19. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with third parties to the extent that such agreements or arrangement do not violate the terms of this Agreement.

20. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.

21. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the wavier thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

22. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

23. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.

24. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 24 and shall be entitled to enforce the obligations of this Section 24.

25. Relationship of the Parties. The relationship between CMN and KDL shall not be that of partners, agents, or joint venture.

26. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.

27. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

28. Entire Agreement. This Agreement and Exhibit A sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.



Signature

John Greenbank
Name

Pres
Title

8/15/10
Date

Cinergy MetroNet, Inc.


Signature

John Cinelli
Name

as its president
Title

8/15/10
Date

EXHIBIT A

KDL SITES

Address	City, State	Racks
112 W Washington Ave	Greencastle, IN	2
3701 Communications Way	Evansville, IN	5
600 E Avenue	Seymour, IN	2
287 N 15 th St	Vincennes, IN	2
1113 Clifty Drive	Madison, IN	1
219 N Jennings Rd	North Vernon	1
146 W Market St	Wabash IN	1
703 Thorn St	North Manchester	1
317 E State St	Huntington IN	1
3765 S US 231	Wolcott IN	2
1558 W 16 th St	Marion IN	2

Amendment to Collocation and Maintenance Agreement

This Amendment modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link ("KDL"), a Kentucky corporation, and Clnergy MetroNet, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

Section 2 of the Agreement and all corresponding references to "KDL Site" in the Agreement are hereby modified as follows:

2. KDL/CMN Sites. Exhibit A sets forth a list of those Facilities where KDL wishes to obtain collocation space from CMN (each individually a "KDL/CMN Site" collectively the "KDL/CMN Sites"). In the future, the Parties may incorporate additional Facilities into this Agreement by amendment.

Section 7 of the Agreement shall be modified to the following:

7. Maintenance of Facilities. KDL shall perform or oversee the performance of all routine and emergency maintenance at each KDL/CMN Site, as may be amended from time to time by mutual agreement of the parties. Such maintenance shall include but is not limited to the following: (i) maintaining the performance of all batteries and rectifiers; (ii) keeping the KDL/CMN Site, inside and out, free from debris and broom clean; (iii) continually remotely monitoring available security, environmental and power alarms (if installed by CMN) at each KDL/CMN Site; (iv) monitoring the climate temperature of each KDL site; and (v) providing escorted access to any third parties requiring access to a KDL/CMN Site. CMN shall be responsible for reimbursing the out of pocket Costs incurred by KDL related to the replacement of any equipment owned by CMN or used exclusively by CMN or the performance of any repair services by a third party on equipment owned by CMN or used exclusively by CMN. For avoidance of doubt, KDL shall perform all other maintenance activities set forth in this Section 7 at KDL's sole cost. In the event CMN expands or modifies a KDL/CMN Site at any time after August 15, 2010, to add floor space that requires additional monitoring capabilities, unless otherwise agreed to by the parties, KDL shall not be required to monitor or otherwise perform any maintenance activities for the additional space.

Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each.

This Amendment shall be effective as of the last date entered below and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Kentucky Data Link, Inc:

By: 

Printed Name: John Greenbank

Title: as President

Date: 11/7/10

Cinergy MetroNet, Inc:

By: 

Printed Name: John Cinelli

Title: as President

Date: 11/05/10

Amendment # 2 to Collocation and Maintenance Agreement

This Amendment # 2 is effective as of 2nd day of June, 2012 ("Effective Date"), and modifies the Collocation and Maintenance Agreement entered between Kentucky Data Link n/k/a Windstream Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. n/k/a CMN-RUS, Inc. ("CMN"), an Indiana corporation, dated February 7, 2005 ("Agreement"). KDL and CMN are referred to herein collectively as "the Parties" and individually as a "Party."

The Agreement shall be deemed amended as follows:

1. Purpose. Pursuant to Section 4 of the Agreement, KDL wishes to obtain additional rack space in CMN's data center located at 3701 Communications Way, Evansville, IN ("Data Center"). CMN is willing to grant KDL such rack space in the Data Center in accordance with the terms of the Agreement and this Amendment.
2. License. CMN hereby grants KDL a non-exclusive year to year license to occupy those racks and portions of racks that are located in the Data Center and identified in Schedule 1 to this Amendment (each a "KDL Rack").
3. Termination Rights. With written notice at least thirty (30) days prior to the end of the then current license term, KDL may terminate that portion of the license applicable to any KDL Rack. If CMN wishes to terminate KDL's license to use a KDL Rack, CMN shall provide KDL with written notice at least ninety (90) days prior to the end of the then current license term. Prior to the date of termination, KDL shall remove all of its equipment from any KDL Rack vacated pursuant to this Section 3.
4. License Fee. The license fee for the licenses granted in Section 2 is set forth in Schedule 1 to this Amendment ("Cumulative License Fee"). With written notice at least thirty (30) days prior to the effective date of the increase, CMN may increase the Cumulative License Fee based upon the greater of: (a) any actual increases in the cost to operate and maintain the Data Center including, but not limited to, increases in the price of electricity; or (2) any increase in the CPI-U consumer price index from the previous year. Payment of the Cumulative License Fee and KDL's Portion of the any additional power charges for the KDL Racks shall be paid in accordance with Section 8 of the Agreement.
5. Adjustments to the License Fee. Upon the termination of a KDL Rack in accordance with Section 3 above, provided KDL's equipment has been removed from the vacated KDL Rack, the Cumulative License Fee shall be reduced by an amount equal to the monthly license fee for the vacated KDL Rack set forth in Schedule 1 to this Amendment.
6. Miscellaneous. Except as modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect. The Agreement and this Amendment constitute the Parties' entire agreement related to the subject matter contained in each. In cases of conflict between the terms in this Amendment and those in the Agreement, the terms of this Amendment shall prevail. This Amendment shall be effective on the Effective Date and may be executed in several counterparts, each of which shall constitute one binding agreement on the Parties hereto and each executed counterpart shall be deemed an original. Facsimile signatures shall be accepted as valid and binding for all purposes.

The Parties each aver that the signatories below have authority to sign this Amendment.

Windstream Kentucky Data Link, Inc.

By: [Signature]

Printed Name: Anthony Walsh

Title: VP Transport Engineering

CMN-RUS, Inc.

By: [Signature]

Printed Name: John P. Cinelli

Title: as President

Reviewed JMC Legal

SCHEDULE 1

KDL Racks 1/3 Dedicated to KDL

Rack Number	Monthly License Fee
105.01 1B	\$166.00
108.03C	\$166.00

KDL Racks 1/2 dedicated to KDL

Rack Number	Monthly License Fee
102.10	\$250.00
103.07	\$250.00
110.02	\$250.00
112.04	No charge
114.04	\$250.00
114.08	\$250.00
101.07	\$250.00

KDL Racks 100% dedicated to KDL

Rack Number	Monthly License Fee
103.05	\$500.00
103.06	\$500.00
104.05	\$500.00
104.06	\$500.00
104.07	\$500.00
104.08	\$500.00
109.11	\$500.00
110.01	\$500.00
112.05	\$500.00
112.07	\$500.00
113.01	\$500.00
114.01	\$500.00
114.03	\$500.00
114.07	\$500.00
114.10	\$500.00

RACK SPACE SWAP AGREEMENT

This RACK SPACE SWAP AGREEMENT ("Agreement") is effective as of the 1st day of January, 2008 by and between Kentucky Data Link, Inc. ("KDL"), a Kentucky corporation, and Cinergy MetroNet, Inc. ("CMN"), an Indiana corporation. KDL and CMN are sometimes referred to herein collectively as the "Parties" or individually as a "Party".

1. Purpose. CMN operates a network facility located at 3701 Communications Way, Evansville, Indiana (the "Evansville Facility"). KDL operates a network facility located at 701 Henry Street, Indianapolis, Indiana (the "Indianapolis Facility"). KDL and CMN wish to enter into an agreement for the exchange of rack space and associated rights in the Evansville Facility for rack space and associated rights in the Indianapolis Facility as more particularly set forth below.

2. Licenses.

- (a) In consideration for the license set forth in Section 2(b) below, CMN hereby grants to KDL a license to occupy, use and maintain ten (10) rack spaces for purposes of installing, operating and maintaining KDL's equipment in the Evansville Facility ("KDL Licensed Space"). As part of this license, at its sole cost, CMN shall provide thirty (30) amps of power to each of the racks in the KDL Licensed Space ("KDL's Power Allocation") and heat, ventilation and air conditioning service to the KDL Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

For any power utilized by KDL beyond KDL's Power Allocation, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("KDL's Portion"): $[(A) \text{ divided by } (B)] \text{ times } (C) \text{ equals KDL's Portion}$, where (A) is the total number of additional breakered amps of power delivered to KDL's racks in excess of KDL's Power Allocation in the Evansville Facility; (B) is the total breakered amps of power delivered to all racks in the Evansville Facility (including KDL's racks); and (C) is the total power costs CMN incurs in connection with the Evansville Facility including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that KDL has 10 racks in the Evansville Facility and has exceeded the KDL Power Allocation by 100 breakered amps of power. Further assume that in the Evansville Facility there are a total of 45 racks (including KDL's 10 racks) using a total of 1300 breakered amps of power (including KDL's 100 additional amps of power). Finally, assume that the total power costs incurred by CMN associated with the Evansville Facility in the example month is \$12,000. KDL's Portion for such month would be \$840 (100 divided by 1300 = .07 x \$12,000).

- (b) In consideration for the license set forth in Section 2(a) above, KDL hereby grants to CMN or any affiliate of CMN a license to occupy, use and maintain ten (10) rack spaces for purposes of installing, operating and maintaining the equipment of CMN or any affiliate of CMN in the Indianapolis Facility ("CMN Licensed Space"). As part of this license, at its sole cost, KDL shall provide thirty (30) amps of power to each of the racks ("CMN Power Allocation") in the CMN Licensed Space and heat, ventilation and air conditioning service to the CMN Licensed Space sufficient to maintain an ambient temperature between fifty (50) and eighty (80) degrees Fahrenheit and to maintain the level of relative non-condensing humidity between five percent (5%) and ninety-five percent (95%).

For any power utilized by CMN beyond CMN's Power Allocation, CMN shall invoice KDL based on the following formula without a mark up or an overhead allocation ("CMN's Portion"): $[(A) \text{ divided by } (B)] \text{ times } (C) \text{ equals CMN's Portion}$, where (A) is the total number of additional breakered amps of power delivered to CMN's racks in excess of CMN's Power Allocation in the Indianapolis Facility; (B) is the total breakered amps of power delivered to all racks in the Indianapolis Facility (including CMN's racks); and (C) is the total power costs KDL incurs in connection with the Indianapolis Facility including the cost of breakered amps of power and power costs for common area power, such as power for HVAC usage. For example, assume that CMN has 10 racks in the Indianapolis Facility and exceeds the CMN Power Allocation by 100 breakered amps of power. Further assume that in the Indianapolis Facility there are a total of 45 racks (including CMN's 10 racks) using a total of 1300 breakered amps of power (including CMN's 100 additional amps of power). Finally, assume that the total power costs incurred by KDL associated with the Indianapolis Facility in the example month is \$12,000. CMN's Portion for such month would be \$840 (100 divided by 1300 = .07 x \$12,000).

3. Installation.

- (a) KDL shall be solely responsible for the installation and maintenance of any KDL equipment in the KDL Licensed Space. KDL shall not install any equipment in the KDL Licensed Space that overloads any electrical circuits or associated hardware. All KDL equipment located in the KDL Licensed Space shall be maintained and operated by KDL in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

- (b) CMN shall be solely responsible for the installation and maintenance of any CMN equipment in the CMN Licensed Space. CMN shall not install any equipment in the CMN Licensed Space that overloads any electrical circuits or associated hardware. All CMN equipment located in the CMN Licensed Space shall be maintained and operated by CMN in accordance with prudent telecommunications industry standards and procedures, in accordance with all applicable local, state and federal laws, ordinances and regulations.

4. Access.

- (a) Subject to reasonable rules and regulations as may be promulgated by CMN from time to time, KDL shall have unescorted access to the Evansville Facility twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the KDL Licensed Space. CMN hereby grants KDL an easement of ingress and egress to extend KDL's network and equipment from the public rights of way into the KDL Licensed Space.
- (b) Subject to reasonable rules and regulations as may be promulgated by KDL from time to time, CMN shall have unescorted access to the Indianapolis Facility twenty-four (24) hours a day, seven (7) days a week for purposes of accessing the CMN Licensed Space. KDL hereby grants CMN an easement of ingress and egress to extend CMN's network and equipment from the public rights of way into the CMN Licensed Space.

5. Billing and Payment. A Party providing additional power (referred to in this Section 5 as a "Provider") to the other Party (referred to in this Section 5 as a "Recipient") shall invoice the Recipient for all amounts due under this Agreement. All invoices shall be due and payable within thirty (30) days of receipt by the Recipient. Should the Recipient dispute any of the charges on an invoice, it shall notify the Provider in writing within sixty (60) days after the Recipient's receipt of invoice of the disputed charges and the Recipient's reason for disputing the same. If the Recipient does not deliver a challenge or dispute to any invoice within sixty (60) days after the Recipient's receipt of that invoice, the invoice will be considered final and accepted without recourse or later dispute by the Recipient.

6. Term. The initial term of this Agreement shall be twenty (20) years. After the expiration of the initial term the Agreement shall continue on a year-to-year basis until terminated by either Party with one hundred eighty (180) days prior written notice.

7. Representations and Warranties. Except as expressly set forth herein, each Party represents and warrants that this Agreement constitutes a legal, valid and binding obligation enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, and creditors' rights. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SPACE TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. ALL LICENSED SPACE IS EXPRESSLY ACCEPTED BY EACH PARTY ON AN "AS" "IS" "WHERE IS" BASIS.

8. Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT TO THE EXTENT CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

9. Specific Performance. The Parties acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms and agree that, due to the unique subject matter covered by this Agreement, each Party shall be entitled to specific performance of the obligations hereunder, as its sole remedy.

10. Loan Agreement Obligations. The Parties previously entered into a Services Agreement by and between KDL, CMN and Norlight, Inc. (f/k/a Cinergy Communications Company) dated March 1, 2004 ("Services Agreement"). The Services Agreement was approved by the United States Department of Agriculture's Rural Utilities Service Division (the "RUS"). The purpose of this Agreement is to further clarify the Parties' obligations under an arrangement the Parties believe is permitted under the Services Agreement. KDL, however, acknowledges and understands that CMN's rights and obligations under this Agreement are expressly subject and subordinate to the Loan and Security Agreement dated November 14, 2005, by and between CMN and the United States of America ("Loan Agreement"). Notwithstanding anything to the contrary herein, if this Agreement is determined by the RUS to be violation of the Loan Agreement, upon written notice to KDL from CMN, this Agreement shall immediately terminate and neither Party shall have any further obligation to the other Party hereunder. CMN shall endeavor to provide KDL with as much advance notice of termination as possible under the circumstances.

11. Assignment. Neither Party may assign this Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Parties may assign this Agreement without the consent of the other Party to any affiliate of such Party, to the surviving entity into which such Party may merge or consolidate, or to any entity to which the Party transfers all, or substantially all, of its business and assets. Each Party shall also have the right, without the consent of the other Party, to assign or otherwise transfer this Agreement as collateral to any lender of such Party (or lender to any successor or assign of such Party); provided that the assignee or transferee in any such circumstance shall continue to be subject to all of the provisions of this Agreement, except that any lender shall not incur any obligations under this Agreement, nor shall it be restricted from exercising any right of enforcement or foreclosure with respect to any related security interest or lien, so long as the purchaser in foreclosure is subject to the provisions of this Agreement. In the event any such lender assigns any rights it has under this Agreement, the non assigning Party agrees to accept performance of this Agreement by the assignee so long as the assignee is subject to the provisions of this Agreement.

12. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

All notices and other communications given to KDL at:

Kentucky Data Link, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

with a copy to:

Kentucky Data Link, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Dept

All notices and other communications shall be given CMN at:

Cinergy MetroNet, Inc.
3701 Communications Way
Evansville, IN 47715
Attn: President

Cinergy MetroNet, Inc.
8829 Bond Street
Overland Park, KS 66214
Attn: Legal Department

Any such notice or other communication shall be deemed to be effective when actually received or refused. Either Party may by similar notice given change the address to which future notices or other communications shall be sent.

13. Force Majeure. Neither Party shall be in default under this Agreement if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; government codes, ordinances, laws, rules, regulations or restrictions (collectively; "Regulations"); war or civil disorder; strikes or other labor disputes; or any cause beyond the reasonable control of such Party. The Party claiming relief under this Section 13 shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event, and the Party claiming relief shall exercise reasonable commercial efforts to minimize the time of any such delay.

14. Dispute Resolution. The Parties hereto plan to use due diligence and use their best efforts and work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved thirty (30) days after receipt of the Demand, either Party may start binding arbitration in Evansville, Indiana. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than sixty (60) days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the Parties from resolving the Dispute within such sixty (60) day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within sixty (60) days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each Party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the Party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either Party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each Party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided, No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either Party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such Party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Evansville, Indiana.

15. Non Exclusive. This Agreement is non exclusive and each Party reserves the right to enter into separate agreements or arrangements with third parties to the extent that such agreements or arrangement do not violate the terms of this Agreement.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Indiana, without reference to its choice of law principles.
17. Waiver. The failure of either Party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall nevertheless be and remain in full force and effect.
18. Jointly Drafted. No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.
19. No Third Party Rights. Nothing in this Agreement is intended to provide any legal rights to anyone not an executing Party of this Agreement.
20. No Personal Liability. Each action or claim against any Party arising under or relating to this Agreement shall be made only against such Party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such Party. No Party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other Party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 20 and shall be entitled to enforce the obligations of this Section 20.
21. Relationship of the Parties. The relationship between CMN and KDL shall be that of independent contractors and not be that of partners, agents, or joint venture.
22. Interpretation. The captions or headings in this Agreement are for convenience or reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement. Where context requires, singular terms shall include references to the plural and vice versa. Unless the context otherwise requires, the words "hereof," "hereby" and "herein" and words of similar meaning when used in this Agreement refer to this Agreement in its entirety and not to any particular article, section or provision of this Agreement. The format, words and phrases used in this Agreement shall have the meaning generally understood in the broadband and communications industries.
23. Survival. The Parties' obligations under this Agreement, which by their nature are intended to continue beyond the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.
24. Entire Agreement. This Agreement sets forth the entire understanding and supersedes all prior agreements and understanding between the Parties relating to the subject matter hereof. This Agreement may not be amended or otherwise modified except by an instrument in writing signed by an authorized representative of each Party. Neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise regarding the subject matter hereto other than as expressly stated in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year written above.

Kentucky Data Link, Inc.

Signature

John Greenbank

Name

Pres

Title

8/15/10

Date

Cinergy MetroNet, Inc.

Signature

John Cinelli

Name

as its President

Title

8/15/10

Date

Exhibit 10

Hearing Date: September 30, 2021, at 10:00 a.m. (prevailing Eastern Time)
Response Deadline: September 23, 2021, at 4:00 p.m. (prevailing Eastern Time)

Stephen E. Hessler, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Brad Weiland (admitted *pro hac vice*)
John R. Luze (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

WINDSTREAM FINANCE, CORP., *et al.*,¹

Reorganized Debtors.

)
) Chapter 11
)

) Case No. 19-22397 (RDD)
)

) (Formerly Jointly Administered
) under Lead Case: Windstream
) Holdings, Inc., Case No. 19-22312)
)

**NOTICE OF REORGANIZED DEBTORS' TWENTIETH
OMNIBUS OBJECTION TO THE NO LIABILITY CLAIMS,
SUBSTANTIVELY DUPLICATE CLAIMS, AND CLAIMS TO BE MODIFIED**

PLEASE TAKE NOTICE that a hearing on the *Reorganized Debtors' Twentieth Omnibus Objection to the No Liability Claims, Substantively Duplicate Claims, and Claims to be Modified* (the "Objection") will be held before the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601, on **Thursday, September 30, 2021, at 10:00 a.m., prevailing**

¹ The last four digits of the Reorganized Debtor Windstream Finance, Corp.'s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration was granted, a complete list of the reorganized 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 Reorganized Debtors' claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors' service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

Eastern Time (the “Hearing”).

PLEASE TAKE FURTHER NOTICE that any responses to the relief requested in the Objection must (a) be in writing, (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York, and the *Order (I) Approving (A) Omnibus Claims Objection Procedures, (B) Omnibus Substantive Claims Objections and Form of Notice, and (C) Satisfaction Procedures and Form of Notice and (II) Waiving Bankruptcy Rule 3007(e)(6)* (the “Objection Procedures Order”) [Docket No. 1141], (c) be filed electronically with the Court on the docket of *In re Windstream Finance, Corp.*, Case No. 19-22397 (RDD) by registered users of the Court’s electronic filing system and in accordance with the General Order M-399 (which is available on the Court’s website at <http://www.nysb.uscourts.gov>), (d) be sent to the Court’s chambers, and (e) be served so that the following parties actually receive such response on or before **Thursday, September 23, 2021, at 4:00 p.m., prevailing Eastern Time** (the “Response Deadline”): (i) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn.: Stephen E. Hessler, P.C., Trudy Smith, and Chris Ceresa; (ii) Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, Illinois 60654, Attn.: Ross M. Kwasteniet, P.C., Brad Weiland, and John R. Luze; and (iii) Brann & Isaacson LLP, P.O. Box 3070, Lewiston, Maine 04243, Attn.: Martin Eisenstein and Nathaniel Bessey.

PLEASE TAKE FURTHER NOTICE that the Reorganized Debtors are authorized to submit to the Court an order substantially in the form annexed as Exhibit A to the Objection (the “Order”) if (a) a response to the Objection is not filed and served timely on or before the Response Deadline or (b) all responses to the Objection are resolved before the Hearing. The Court may enter the Order with no further notice or opportunity to be heard under such circumstances.

PLEASE TAKE FURTHER NOTICE that the Hearing may be continued or adjourned thereafter from time to time in accordance with the *Final Order Establishing Certain Notice, Case Management, and Administrative Procedures* [Docket No. 392].

PLEASE TAKE FURTHER NOTICE that a copy of the Objection may be obtained free of charge on Kurtzman Carson Consultants LLC's website at <http://www.kccllc.net/windstream>. You may also obtain copies of any pleadings on the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth thereon.

[Remainder of page intentionally left blank]

Dated: August 31, 2021
New York, New York

/s/ Stephen E. Hessler, P.C.

Stephen E. Hessler, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

James H.M. Sprayregen, P.C.

Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)

Brad Weiland (admitted *pro hac vice*)

John R. Luze (admitted *pro hac vice*)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

-and-

Solely as to the Tax Claims (as defined in the Objection)

Martin Eisenstein (admission *pro hac vice* pending)

Nathaniel Bessey (admission *pro hac vice* pending)

BRANN & ISAACSON LLP

P.O. Box 3070

Lewiston, Maine 04243

Telephone: (207) 786-3566

Facsimile: (207) 783-9325

Counsel to the Reorganized Debtors

Hearing Date: September 30, 2021, at 10:00 a.m. (prevailing Eastern Time)
Response Deadline: September 23, 2021, at 4:00 p.m. (prevailing Eastern Time)

Stephen E. Hessler, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Brad Weiland (admitted *pro hac vice*)
John R. Luze (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

WINDSTREAM FINANCE, CORP., *et al.*,¹

Reorganized Debtors.

)
) Chapter 11
)

) Case No. 19-22397 (RDD)
)

) (Formerly Jointly Administered
) under Lead Case: Windstream
) Holdings, Inc., Case No. 19-22312)
)

**REORGANIZED DEBTORS' TWENTIETH
OMNIBUS OBJECTION TO THE NO LIABILITY CLAIMS,
SUBSTANTIVELY DUPLICATE CLAIMS, AND CLAIMS TO BE MODIFIED**

YOU SHOULD LOCATE YOUR NAME AND YOUR CLAIM(S) ON THE SCHEDULES ATTACHED TO EXHIBIT A HERETO. PLEASE TAKE NOTICE THAT THE OBJECTION SEEKS TO DISALLOW, EXPUNGE, OR OTHERWISE AFFECT YOUR CLAIM(S). THEREFORE, PLEASE READ THIS OBJECTION AND ATTACHMENTS THERETO VERY CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.

Windstream Finance, Corp. and its affiliates (before the effective date of their chapter 11 plan,² collectively, the “Debtors” and after the effective date of their chapter 11 plan, collectively,

¹ The last four digits of the Reorganized Debtor Windstream Finance, Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration was granted, a complete list of the reorganized 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 Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

² The Debtors emerged from chapter 11 on September 21, 2020, as set forth in the *Notice of (I) Entry of Confirmation Order, (II) Occurrence of Effective Date, and (III) Related Bar Dates* [Docket No. 2527].

the “Reorganized Debtors”) respectfully state as follows in support of this objection.³

Relief Requested

1. The Reorganized Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), (a) disallowing and expunging the claims identified on (i) Schedule 1 to the Order (collectively, the “No Liability Claims”) because each purported liability cannot be reconciled with the Debtors’ books and records for the reasons stated in this objection and on Schedule 1 and (ii) Schedule 2 to the Order (the “Substantively Duplicate Claims”) because they are duplicative of another proof of claim filed for the same liability and (b) modifying the claims identified on Schedules 3 and 4 to the Order (collectively, the “Claims to be Modified”) because the asserted amount and/or priority related to each claim is not reflected in the supporting documentation, the Debtors’ books and records, or supported under the Bankruptcy Code. In support of this objection, the Reorganized Debtors submit the declarations of Shannon Wagner, the Director-Tax Accounting for the Reorganized Debtors, as to the Tax Claims (as defined herein), attached hereto as **Exhibit B** (the “Wagner Declaration”), and Holden Bixler, a Managing Director at Alvarez & Marsal North America, LLC, attached hereto as **Exhibit C** (the “Bixler Declaration”) as to the claims subject to this objection other than the Tax Claims.

2. With respect to the Pennsylvania Claims (as defined herein), the Reorganized Debtors seek entry of an order providing that the amount(s) (a) due on account of the remaining claims thereof shall be \$1,863,226.27, which is net of the Debtors’ prepayments and overpayments

³ Capitalized terms used but not defined in this objection shall have the meanings given to such terms in the *Order (I) Approving (A) Omnibus Claims Objection Procedures, (B) Omnibus Substantive Claims Objections and Form of Notice, and (C) Satisfaction Procedures and Form of Notice and (II) Waiving Bankruptcy Rule 3007(e)(6) (the “Objection Procedures Order”)* [Docket No. 1141].

to the Department (as defined herein)⁴ and (b) of the Post-Petition Credits (as defined in the Wagner Declaration), listed in Exhibit 2 to the Wagner Declaration, total \$15,669,669.72.

Jurisdiction and Venue

3. The United States Bankruptcy Court for the Southern District of New York (the “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 January 31, 2012. The Reorganized 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 Court in connection with this objection to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

5. The bases for the relief requested herein are section 502(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) and the Objection Procedures Order.

The Claims Reconciliation Process

6. On May 10, 2019, the Debtors filed their respective schedules of assets and liabilities and statements of financial affairs [Docket Nos. 505–06] pursuant to Bankruptcy Rule 1007 and the *Order Granting a Second Extension of Time to File Schedules and Statements of Financial Affairs* [Docket No. 387]. On January 21, 2020, the Debtors filed amendments to certain schedules, as set forth in the *Notice of Filing Amended Schedule G and Supplemental*

⁴ The Reorganized Debtors have credits arising from certain Pennsylvania No Liability Claims (*i.e.*, Claim Nos. 1413, 1417, 1422, 1434, 7335, 7529, and 8018), and the Reorganized Debtors have applied such credits to reduce amounts owed on account of certain Pennsylvania Claims to be Modified (*i.e.*, Claim Nos. 1428, 7535, and 8739).

Deadline to Submit Proofs of Claim [Docket No. 1436] and *Notice of Filing Amended Schedule F and Supplemental Deadline to Submit Proofs of Claim* [Docket No. 1435].

7. On May 13, 2019, the Court entered the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, and (III) Approving Notice Thereof* (the “Bar Date Order”) [Docket No. 518] establishing certain dates and deadlines for filing proofs of claim in these chapter 11 cases with Kurtzman Carson Consultants LLC.

8. Approximately 8,800 proofs of claim have been filed against the Debtors, totaling approximately \$16.6 billion in the aggregate as of the date hereof. On October 10, 2019, the Court granted the Debtors authority to file omnibus objections to claims in accordance with the procedures set forth in the Objection Procedures Order.

9. The Debtors filed their first omnibus claims objection on November 18, 2019. On July 27, 2021, the Reorganized Debtors filed the *Reorganized Debtors’ Nineteenth Omnibus Objection to the No Liability Claims and Claims to be Modified* [Docket No. 162]. The Court entered orders (as may have been modified) granting all previous omnibus claims objections as of the date hereof other than the aforementioned omnibus claims objection, which is pending at the time of this filing. By this objection, the Reorganized Debtors now seek approval to disallow and expunge or modify certain claims for the reasons set forth below.

Objection

10. Section 502(a) of the Bankruptcy Code provides that a filed proof of claim is deemed allowed unless a party in interest objects to it. 11 U.S.C. § 502(a). Section 502(b)(1) provides that, upon objection, claims shall not be allowed to the extent unenforceable at applicable law. *See* 11 U.S.C. § 502(b)(1). Further, the Plan provides that, after the Effective Date, each Debtor or Reorganized Debtor shall “retain any and all rights and defenses such Debtor had with respect to any Claim immediately before the Effective Date.” Plan, at Art. VII.A.

11. Bankruptcy Rule 3007 contains the grounds upon which “objections to more than one claim may be joined in an omnibus objection.” Fed. R. Bankr. P. 3007(d). The Objection Procedures Order expands Bankruptcy Rule 3007(d) and permits the Reorganized Debtors to file omnibus objections to claims on additional grounds. In addition, the Objection Procedures Order permits the Reorganized Debtors to include an objection to a request for payment of an administrative claim in an omnibus claims objection. Accordingly, the Reorganized Debtors file this objection to the claims listed on Schedules 1, 2, 3, and 4 to the Order on the bases set forth below, in the Wagner Declaration, and in the Bixler Declaration to ease the administrative burden on this Court and the Reorganized Debtors during the claims reconciliation process.

A. No Liability Claims.

12. The Reorganized Debtors object to the sixteen (16) No Liability Claims listed on Schedule 1 to the Order—twelve (12) of which (the claims identified on rows 3 and 6-16 of Schedule 1) (collectively, the “Pennsylvania No Liability Claims”) were filed by the Pennsylvania Department of Revenue or a bureau or division thereof (the “Department”).⁵ After reviewing the No Liability Claims, the Reorganized Debtors and their advisors have determined that such claims seek to recover amounts for which the Debtors are not liable. Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law.” 11 U.S.C. § 502(b)(1).

13. The Reorganized Debtors and their advisors have reviewed the Debtors’ books, records, and other relevant information to determine that each of the No Liability Claims is

⁵ The following twelve (12) claims constitute the Pennsylvania No Liability Claims: Claim Nos. 1413, 1417, 1419, 1422-23, 1426, 1434, 1685, 7335, 7529, 8018, and 8633. See Schedule 1 to the Order attached hereto.

inconsistent with the Debtors' books and records. The specific basis for the objection to each No Liability Claim is stated on Schedule 1 to the Order in the "Reason" entry and is further described herein, in the Wagner Declaration solely as to the Pennsylvania No Liability Claims, or in the Bixler Declaration. Disallowance of these No Liability Claims will enable the claims register to reflect more accurately the claims asserted against the Debtors. Therefore, the Reorganized Debtors request that the No Liability Claims be disallowed and authority to expunge the No Liability Claims from the claims register.

Pennsylvania No Liability Claims

14. The Pennsylvania No Liability Claims consist of the claims against certain Debtor entities for certain Gross Receipts Taxes and Income/Franchise Taxes. Each Pennsylvania No Liability Claim was filed before the bar date for claims of governmental units, except for Claim No. 8633 (regarding the claim against Windstream Holdings, Inc. for corporate income taxes for the 2018 calendar year), which was filed in October 2020, more than a year after the applicable bar date.⁶

15. On August 19, 2021, the Debtors and the Department agreed to resolve and settle (the “Sales Tax/Withholding Tax Settlement Agreement”) the Department’s claims for sales tax, withholding tax, and interest and penalty thereon.

16. As part of the Sales Tax/Withholding Tax Settlement Agreement, the Department agreed to withdraw all claims that sought only sales tax or withholding tax and did not include claims for gross receipts taxes and/or income/franchise taxes. The Sales Tax/Withholding Tax

6 For the avoidance of doubt, Claim No. 8633 remains subject to a pending objection on grounds it was late-filed. *See Reorganized Debtors' Thirteenth Omnibus Objection to Insufficient Documentation Claims, a Late-Filed Claim, No Liability Claims, Substantively Duplicate Claims, and Claims to be Modified* [Docket No. 33], at Schedule 2 to the proposed order attached thereto.

Settlement Agreement provides that, to the extent the Department's claims included gross receipts taxes and/or income/franchise taxes in addition to the sales taxes and/or withholding taxes, the Department agreed to reduce such claims by the amount of the sales taxes, withholding taxes, and interest and penalty thereon, leaving only amounts owed on account of gross receipt taxes and/or income/franchise taxes.

17. Representatives of the Reorganized Debtors and the Department have engaged in good-faith negotiations to attempt to resolve the gross receipts and income/franchise tax claims, but have not reached final agreement. In that regard, the Reorganized Debtors and the Department have agreed in principle to the amounts set forth on Exhibit 1 to the Wagner Declaration in (a) Column I thereof as to pre-payments by Windstream PA and (b) Column J thereof as to overpayments by certain Debtors. *See* Wagner Declaration. What remains in disagreement are the amount of tax liability and interest thereon, as set forth in Columns G and H of Exhibit 1 to the Wagner Declaration as well as the amounts of overpayments by Windstream D&E Systems LLC, as set forth in Column K thereof and discussed in the Wagner Declaration. The Pennsylvania Claims identified on Schedule 1 to the Order are those claims for which the Reorganized Debtors determined that no liability exists, including claims for which the amount of any liability is equal to or exceeded by the amounts of pre-payments or overpayments made by the Debtors, as illustrated in Exhibit 1 to the Wagner Declaration, and for which the Reorganized Debtors contend no additional payment is due to the Department.

B. Substantively Duplicate Claims.

18. The Reorganized Debtors object to the two (2) Substantively Duplicate Claims listed in the column labeled "Claims to be Disallowed" on Schedule 2 to the Order because the Reorganized Debtors have determined that more than one proof of claim was filed for the same underlying liability, and such claimants are not entitled to multiple recoveries. As further

described in the Bixler Declaration, the Reorganized Debtors determined that each “Remaining Claim” should survive in lieu of the corresponding Substantively Duplicate Claim in the column titled “Claims to be Disallowed” on Schedule 2 to the Order after reviewing the Debtors’ books and records and the documents attached to the proofs of claim. Specifically, the holder of each Substantively Duplicate Claim filed a subsequent proof of claim to change the Debtor entity against which the claim was asserted while the underlying obligation remained the same. Each Substantively Duplicate Claim was identified because there is no substantive difference between the original and subsequently-filed proofs of claim. Therefore, the Substantively Duplicate Claim should be disallowed and expunged in its entirety to prevent a double recovery.

19. Furthermore, the Remaining Claims listed on Schedule 2 to the Order will remain on the claims register unless the relevant claimant withdraws or the Court disallows such claim. The Reorganized Debtors’ right to object to the Remaining Claims in the future on any grounds permitted under applicable law is preserved in the Objection Procedures Order.

C. Claims to be Modified.

20. As provided in more detail on Schedules 3 and 4 to the Order, the Reorganized Debtors object to twelve (12) Claims to be Modified because the Reorganized Debtors have determined that each claim failed to provide sufficient documentation to support the asserted amount to such claims, showed a record of indebtedness not reflected in the Debtors’ books and records, and/or asserted an amount or priority that is not supported under the Bankruptcy Code. The Department filed the eleven (11) claims identified on Schedule 3 to the Order (the “Pennsylvania Claims to be Modified” and, together with the Pennsylvania No Liability Claims,

the “Pennsylvania Claims”).⁷ The City of Lincoln, Nebraska (the “City”) filed Claim No. 8651 identified on Schedule 4 to the Order (together with the Pennsylvania Claims, the “Tax Claims”). The specific basis for the objection to each Claim to be Modified is stated on Schedules 3 and 4 to the Order in the “Reason” entry and is further described in the Wagner Declaration as to the Pennsylvania Claims to be Modified and Lincoln Claim or in the Bixler Declaration.

21. Failure to modify the Claims to be Modified could result in each relevant claimant receiving an unwarranted recovery. Accordingly, the Reorganized Debtors respectfully request entry of an order modifying the amount of each Claim to be Modified to the corresponding amount identified in the “Amount” and or “Priority” sub-column within the “Modified Claims” column on Schedules 3 and 4 to the Order.

Certain Pennsylvania Claims to be Modified

22. As described in paragraphs A.17 above, the Reorganized Debtors and the Department have agreed in principle to amounts of prepayment by Windstream PA (as shown in Column I of Exhibit 1 to the Wagner Declaration) and overpayments by certain Debtors (as shown in Column J of Exhibit 1 to the Wagner Declaration) relating to pre-petition periods. These payments, together with pre-petition overpayments made by Windstream D&E Systems LLC, as set forth in Column K of Exhibit 1 to the Wagner Declaration are Pre-Petition Credits, available to reduce the amount of any bankruptcy claims asserted by the Department against the Debtors.

23. In certain cases, as shown in Column L of Exhibit 1 to the Wagner Declaration, the amount of Pre-Petition Credits available to a particular Debtor exceed the amount of liability claimed by or allowable to the Department, resulting in certain credits owed by the Department to

⁷ The following eleven (11) claims constitute the Pennsylvania Claims to be Modified: Claim Nos. 1420, 1428, 1431-32, 1435, 1546, 1549, 1552, 7535, 8737, and 8739. See Schedule 3 to the Order attached hereto.

the Reorganized Debtors. These credits are set forth in Column L of Exhibit 1 to the Wagner Declaration. The proposed modifications to Claims No. 1428, 7535 and 8739, as listed on Schedule 3 to the Order include the application of these credits to reduce amounts otherwise owed by the Debtors.

24. As a result of the modifications, the aggregate amount of the Pennsylvania Claims to be Modified should be reduced to a total amount of \$1,863,226.27, as reflected on Schedule 3 to the Order.

25. The use of these Pre-Petition Credits to reduce the total amount of the Department's claims against the Reorganized Debtors is equitable under the circumstances, not barred by the Bankruptcy Code, and is consistent with the Plan, which provides that, after the Effective Date, each Debtor or Reorganized Debtor shall "retain any and all rights and defenses such Debtor had with respect to any Claim immediately before the Effective Date." Plan, at Art. VII.A.

26. Importantly, no credits owed by the Department to the Reorganized Debtors due to pre-payments or overpayments made by the Reorganized Debtors after the petition date, or relating to any tax period not yet concluded as of the Petition Date (including overpayments from a previous tax year that were rolled forward to a subsequent tax year) were applied. These Post-Petition Credits remain available to the Reorganized Debtors to reduce Pennsylvania tax liability for post-petition periods. The amount of the Post-Petition Credits is \$15,669,669.72, as set forth in Exhibit 2 to the Wagner Declaration.

Claim No. 8651

27. On or about August 26, 2019, the City filed proof of Claim No. 7511 against debtor Windstream Holdings, Inc. for the City's Telecommunication Occupation Taxes (the "Occupation Tax" or "Taxes") imposed on the gross receipts "resulting from any telecommunication services

and charges to a customer for which telecommunication services are provided,” pursuant to Lincoln Municipal Code 3.24.080 (the “Municipal Code”).⁸ Claim No. 7511 did not include a claim for any specific dollar amount, but stated that the City had contracted with a third-party auditor, Garth Ashpaugh, to conduct an audit of the Debtor’s liability for the Occupation Tax.

1. The Surprise: A Close to \$2 Million Claim for Occupation Tax Against a Different Debtor and Largely Based on a Tax on a Tax.

28. On or about October 13, 2020, nearly a month after the Effective Date of the Reorganized Debtors’ confirmed bankruptcy plan, and more than a year after the bar date for claims of governmental units (August 26, 2019), the City filed Claim No. 8651: a nearly \$2 million claim for the period of 2013-2017 against a different Debtor—Windstream Nebraska, Inc.—than the debtor described in the original Claim No. 7511. Claim No. 8651 is based, in large part, on Windstream Nebraska’s alleged failure to assess its customers and pay the resulting City Occupation Tax, on certain charges. Specifically, the City contends that Windstream Nebraska should have calculated tax based not just on its charges to customers for telecommunication services, but also for the add-on charges it passed on to customers for the City Occupation Tax itself. Windstream Nebraska billed its customers for the Occupation Tax, as the Municipal Code specifically authorized. *See* Section 3.24.080(d) of the Municipal Code. However, neither the Municipal Code nor the City ever made clear in a regulation, ruling, or other public announcement that a tax was due on the tax, and the Debtors’ tax department had consulted with a national service provider, Avalara, and has been informed that no tax should be charged to customers on the taxes it is allowed to pass on to customers. *See* Wagner Declaration.

⁸ Claim No. 7511 was previously expunged. *See Order Granting Reorganized Debtors’ Eleventh Omnibus Objection to Amended Claims, Equity Interest Claims, Insufficient Documentation Claims, No Liability Claims, Substantively Duplicate Claims, and Claims to be Modified* [Docket No. 2758], at row 6 of Schedule 1 thereto.

29. The proof of claim for Claim No. 8651 states that it is an amendment to the previously-filed proof of claim for Claim No. 7511. Claim No. 8651 asserts a priority claim in the amount of \$1,929,443, consisting of unpaid Occupation Taxes for the period between January 2013 and April 2017, and attaching, as Attachment 1 thereto, a schedule showing the auditor's determinations of additional tax liability (\$914,406.62), interest through October 31, 2020 (\$969,316.50), and penalty (\$45,720.31).

30. On or about July 1, 2021, third-party auditor Garth Ashpaugh provided the Reorganized Debtors a revised schedule attached to the Wagner Declaration as Exhibit 4 (the "July 1, 2021 Schedule"), reducing the total amount claimed by the City from \$1,929,443 to \$1,337,123.78, consisting of Occupation Tax liability (\$555,025.52), interest through July 31, 2021 (\$754,346.98), and penalty (\$27,751.28). The City has not filed an amended claim reflecting the recent audit adjustments as set forth in the July 1, 2021 Schedule.

31. Upon examination of the audit workpapers and their own books and records, the Reorganized Debtors have determined that the City's claims are excessive, for the reasons set forth in more detail below. Specifically, the City's claims for Occupation Tax, as revised in the July 1, 2021 Schedule, are erroneously calculated based upon charges not subject to the Occupation Tax under the Municipal Code, the lion's share of which are the tax on the tax itself. Further, the City claims, in both Claim No. 8651 as well as the July 1, 2021 Schedule, interest accruing during the pendency of the Reorganized Debtors' bankruptcy proceedings, in contravention of section 502(b)(2) of the Bankruptcy Code. The City also erroneously claims priority for the entirety of its claim, including claims for the tax years 2013-2015, and for non-compensatory penalties.

32. Accordingly, and subject to further objection and the express reservation of rights set forth below, the Reorganized Debtors request that Claim No. 8651 be reduced to reflect solely

a general unsecured claim in the total amount of \$413,481.69 (consisting of \$198,779.36 of Occupation Tax Liability and \$214,702.34 of interest through the February 25, 2019 date of the Reorganized Debtors' petition in bankruptcy). The entire claim, as reduced, should be categorized as a general unsecured claim because the entire allowable portion of Claim No. 8651 relates to returns for gross receipts taxes filed more than three years prior to the petition date. As a result, no portion of the claim is entitled to priority under section 507 of the Bankruptcy Code.

2. Objection to Claim No. 8651.

33. The Reorganized Debtors object to Claim No. 8651 on the grounds that it is excessive and includes claims for amounts that are not owed to the City.

34. As an initial matter, Claim No. 8651 – which purports to assert a priority claim in the total amount of \$1,929,443 – exceeds the total liability determined by the City's own auditor and shared with Windstream in its most recent audit workpapers, which is the July 1, 2021 Schedule. The July 1, 2021 Schedule asserts a total amount due of \$1,337,123.78. While this amount is itself excessive, for the reasons set forth more fully below, the Claim should in no case exceed the amount calculated by the City's own contracted auditor in the July 1, 2021 Schedule.

viii. Objection to claimed liability calculated on receipts not subject to the City's Occupation Tax.

35. The City's claim is also excessive because it calculates tax on receipts that are not subject to the City's Occupation Tax. As described in the Wagner Declaration, the City's contracted auditor calculated Occupation Tax on the following categories of charges shown on customer's bills: (1) revenue from charges for telecommunication service; (2) revenue from Universal Service Fund charges; (3) E911 Charges; (4) Late Payment Revenue; (5) Returned Check Charges; (6) Voicemail Revenue; (7) Telecom Relay Surcharge; and (8) charges reflecting the Lincoln occupation tax itself, as authorized by Lincoln Municipal Code Section 3.24.080(d).

For the reasons set forth below, only categories 1, 2 & 3 above are “gross receipts” subject to Lincoln’s occupation tax.

ii. Charges for the Occupation Tax, late payment charges, and returned check charges are not gross receipts resulting from telecommunication services.

36. Claim No. 8651 is a claim for the telecommunication occupation tax imposed under Section 3.24.080 of the Municipal Code. Section 3.24.080 levies “upon every person, firm, partnership, corporation, or association engaged in the business of offering, providing or selling telecommunication services to the public for hire in the City of Lincoln an occupation tax of six percent (6%) on the gross receipts resulting from any telecommunication services and charges to a customer for which telecommunication services are provided.” Clearly, the Occupation Tax is designed to impose a tax on a company for the occupation of “offering, providing or selling telecommunication services.” The charges to the customer for the occupation tax itself are not part of the service offered to the customer. While the Municipal Code does specify that charges for regulatory fees on the service such as universal service fees are subject to the Occupation Tax, nowhere does the Municipal Code state that the service provider’s receipts from charges to customers for the Occupation Tax are themselves subject to the Occupation Tax, even though Subsection 3.24.080(d) of the Municipal Code permits the telecommunications service provider to “itemize, as an add-on charge, the tax” on the bill to the customer. Nor did the City provide by any regulation, ruling or other public statement that a tax was due on the add-on charge the provider is permitted to add to the bill to the customer. Therefore, it was a surprise to Windstream Nebraska that the claim for a period going back to 2013 and ending in 2017 was in large part an assessment by the City of a tax on the tax it was allowed to pass on to its customers.

37. “Generally speaking, statutes imposing a tax are strictly construed against the government and in favor of the taxpayer, while exemptions from taxation are to be strictly

construed in favor of the government and not extended by judicial construction.” *Big Blue Express, Inc. v. Nebraska Department of Revenue*, Case No. S-20-518, 2021 WL 3234373, at *8 (Supreme Court of Nebraska, July 30, 2021) (citing *New York Ins. Co. v. Edwards*, 271 U.S. 109 (1926) and 71 Am. Jur. 2d State and Local Taxation § 7 (2012)). In light of this rule of construction, the definition of “telecommunications services,” as well as the term “gross receipts resulting from telecommunications services,” contained in Section 3.24.080 must be read strictly, and not interpreted to include charges other than those included within the plain meaning of the language of the Ordinance long after the period when the company could have passed that tax on to its customers.

38. “Telecommunications Services” are defined in Section 3.24.080(a) of the Municipal Code as “the provision of all communication services operable by the general public.” Under Section 3.24.080(b)(5), “telecommunication services” subject to the occupation tax include “any other telecommunication services that are a necessary component of the service provided, regardless of whether the services or fees are required by federal, state or local authorities or provided by the telecommunication business including, but not limited to, universal service fund fees imposed under Neb Rev. Stat. §§86-317 et seq.”

39. In determining whether receipts from certain categories of charges on a customer’s bill are gross receipts from the provision of telecommunications services, subject to the occupation tax, this Court must determine if the charges are “a necessary component of the service provided.” Any receipts that do not meet this definition cannot be part of the base on which the Occupation Tax is calculated.

- iii. **Charges to customers for the Occupation Tax should not themselves be subject to the tax lest there be a tax on a tax, which is not a telecommunications service in the first place.**

40. The most significant category of receipts erroneously included in taxable gross receipts by the City's contracted auditor are charges to customers for the Occupation Tax itself. Under the plain language of the Ordinance, a charge for the occupation tax does not meet the definition of "telecommunications services." The Occupation Tax is not a charge for a telecommunications service within the meaning of Section 3.24.080(a) ("the provision of all communication services operable by the general public"). Nor are the taxes a component, much less a "necessary component of the service provided," within the meaning of Section 3.24.080(b)(5).

41. That a separate charge for the occupation tax is not itself a gross receipt subject to the occupation tax is further illustrated by subsection (d) of Section 3.24.080 of the Ordinance, which expressly provides that "the seller of telecommunication services may itemize, as an add-on charge, the tax levied on the bill, receipt, or other invoice to the purchaser." The fact that the Ordinance contemplates and permits the seller of telecommunications to pass the Occupation Tax on to the customer necessarily means that the charge for the tax cannot itself be subject to the tax. Indeed, if it were the intent of the legislature that added Subsection (d) to impose the tax on the pass-on of charges for the tax, Subsection (d) would have stated as follows: "(d) the seller of telecommunication services may itemize, as an add-on charge, **to the charges for the other telecommunication services**, the tax levied on the bill, receipt, or other invoice to the purchaser" (emphasis added).

42. In addition, the fact that the communications company is given the option under Subsection (d) to pass on the Occupation Tax shows that the tax cannot be a "necessary" component of the service provided under Section 3.24.080(b)(5).

43. Moreover, if the charge for the Occupation Tax were itself subject to the Occupation Tax, the seller of telecommunications would be placed in the impossible position of having to either understate the amount of tax imposed or overstate the amount of tax, in either case thwarting the intention of the Municipal Code that the “tax imposed” may be separately stated as an add-on charge to the customer.⁹

44. In light of the cardinal rule of statutory construction that tax statutes are construed strictly against the government entity imposing the tax and the actual statutory language that does not treat the occupation tax as a telecommunication service subject to the tax, the City’s claim should be reduced to reflect that charges to customers for the Occupation Tax are not taxable gross receipts subject to the tax.

45. Finally, the add-on charges Windstream Nebraska passed on to its customers for the Occupation Tax were not “gross receipts resulting from telecommunications services.” The phrase gross receipts resulting from telecommunications services by necessity must mean all receipts a provider receives from telecommunications services. If there were a different construction, then a seller of telecommunication services and ancillary items such as t-shirts, pens and other items with a Company logo would be charged a telecommunications occupation tax on the sale of these other items (unlike a general retailer, which would not be subject to the telecommunications occupation tax), simply because the telecommunications provider also sold

⁹ As an example, if a seller charged a customer \$100.00 for telecommunications services, the occupation tax would be \$6.00 (6% of \$100.00). If the seller chose to include the \$6.00 tax as an add-on charge, as expressly permitted under the Ordinance, the City’s position is that the gross receipts subject to the occupation tax would not be \$100.00 (the charge for service), but would instead be \$106.00 (the charge for service plus the charge for the occupation tax). The occupation tax owed, then, would be \$6.36 (6% of \$106.00). If the seller instead charged its customer \$6.36 for the occupation tax, the City would treat \$106.36 as taxable gross receipts, and the tax owed would be \$6.3816. If the seller instead included a charge of \$6.38, it would be understating the amount of occupation tax by a fraction of a cent ($\$106.38 * 6\% = \6.3824). However, if the seller included a charge of \$6.39, it would be overstating the occupation tax by a fraction of a cent ($\$106.39 * 6\% = \6.3834).

telecommunications services. Certainly, if the legislature’s intention was to impose a tax on all services and products a telecommunications provider sells or charges to its customers, then the legislature should have spelled that out.

iv. Charges for Late Payment and Returned Checks are not for telecommunications services.

46. Additional categories of receipts that do not meet the definition of charges for the provision of telecommunications services include late payment and returned check charges. Based on the plain language of the Ordinance, a late fee or returned check charge is not a “necessary component” of any “communication services operable by the general public,” and accordingly those categories of charges cannot be included in taxable gross receipts. The City’s claim should be reduced to reflect that late fees and returned check fees are not taxable gross receipts from the provision of telecommunications service.

v. Charges for the Telecommunications Relay Surcharge are explicitly exempted from tax.

47. Section 3.24.080(c) of the Municipal Code provides that “Gross receipts shall not include any services and charges for ... (6) any surcharges required by Neb. Rev. Stat. §§ 86-313 [surcharges for the Nebraska Telecommunications Relay System Fund] or 86-457 [Enhanced Wireless 911 surcharges]. One of the categories of receipts the City’s contracted auditor included in his calculation of taxable gross receipts was “Telecom Relay Surcharge” receipts. Because the Telecom Relay Surcharge is imposed by Neb. Rev. Stat. § 86-313, this category of receipts is explicitly exempt from taxation under the Municipal Code itself.

vi. Charges for voice mail are charges for an ancillary service, and Nebraska law prohibits the imposition of tax on these charges.

48. Section 86-704(4)(a)(i)(B) of the revised statutes of Nebraska prohibits the imposition by a municipality of a tax on a telecommunications company except for those

occupation taxes imposed on receipts from telecommunications service as defined in Section 77-2703.04(7)(aa). Section 77-2703.04(7)(aa)(viii) specifically excludes from the definition of telecommunications service “ancillary services.”

vii. The City has erroneously claimed interest that accrued during the pendency of Windstream’s bankruptcy proceedings.

49. Claim No. 8561 purports to calculate and claim interest on the claimed tax liability through October 31, 2020. The July 1, 2021 Schedule calculates interest through July 31, 2021. Section 502(b)(2) of the Bankruptcy Code precludes the accrual of interest during the pendency of the bankruptcy proceeding. Thus, interest should stop as of the date the chapter 11 petition was filed, which was February 25, 2019. Any interest amounts calculated for periods subsequent to that date should be eliminated.

viii. The Imposition of Penalties is not Warranted.

50. Section 3.24.090 of the Municipal Code provides that “all deferred payments shall draw interest at the rate of one percent per month and shall be compounded quarterly. After default for six months, a penalty of five percent (5%) shall be added in addition to the interest charges.” The City, in Claim 8651, claims a penalty in the amount of 5% of the calculated additional liability.

51. While neither the Municipal Code nor the Nebraska Revised Statutes articulate the grounds for waiver or abatement of tax penalties, the Nebraska Tax Commission has discretion to waive all or part of any penalties imposed under Nebraska’s tax laws. Neb. Rev. ST. §77-2792. Abatement of penalties is appropriate in this case, where the proper calculation of liability shows good faith efforts by Windstream Nebraska, which actually resulted in overpayments of tax for the three most recent years under audit. Accordingly, Claim No. 8651 should be reduced to eliminate penalties.

ix. Summary of the Reduction.

52. The amount of the claim shall be reduced to a total amount of \$413,481.69 of general unsecured liability, consisting of \$198,779.36 of Occupation Tax and \$214,702.34 of interest through the February 25, 2019 date of the Reorganized Debtors' chapter 11 petition.

53. None of Claim No. 8651 is entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

54. The City has claimed priority under Section 507(a)(8) of the Bankruptcy Code. In fact, no part of the City's claim is entitled to priority under that section.

55. Section 507(a)(8)(A) of the Bankruptcy Code provides that unsecured claims of governmental units are entitled to priority "only to the extent that such claims are for --- a tax on or measured by income or gross receipts for a taxable year ending on or before the date of the filing of the petition -- (i) for which a return, if required, is last due, including extensions, after three years before the date of the filing of the petition." As reflected in Schedule 4 to the Order, the only liability, properly calculated, relates to the 2013 and 2014 tax periods -- well outside of the three-year window in which unsecured claims for gross receipts taxes are entitled to priority.

56. Similarly, Section 507(a)(8)(G) of the Bankruptcy Code provides that penalties are subject to priority only if the penalty is related to a claim of a kind specified in Section 507(a)(8), and only if the penalty is in compensation for actual pecuniary loss. The 5% penalty claimed by the City relates to periods more than three years old, and is not compensatory in nature, so is not entitled to priority.

Compliance with the Objection Procedures and the Bankruptcy Rules

57. The Reorganized Debtors believe that the content of this objection is in full compliance with the applicable Bankruptcy Rules and Objection Procedures Order for the following reasons:

- (a) this objection conspicuously states on the first page that **“YOU SHOULD LOCATE YOUR NAME AND YOUR CLAIM(S) ON THE SCHEDULES ATTACHED TO EXHIBIT A HERETO. PLEASE TAKE NOTICE THAT THE OBJECTION SEEKS TO DISALLOW, EXPUNGE, OR OTHERWISE AFFECT YOUR CLAIM(S). THEREFORE, PLEASE READ THIS OBJECTION AND ATTACHMENTS THERETO VERY CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE”**;¹⁰
- (b) each schedule lists the claims subject to this objection in alphabetical order based on the claimant’s name and contains a reference to the applicable claim number;¹¹
- (c) each schedule to the Order provides the grounds for the objection to the claims and a cross-reference to the page in this objection pertinent to the stated grounds;¹²
- (d) this objection states in the title the identity of the objecting party (*i.e.*, the Reorganized Debtors) and the grounds for the objection;¹³
- (e) this objection is numbered appropriately;¹⁴
- (f) the grounds asserted are that (i) the No Liability Claims assert claims that are unenforceable against the Debtors, (ii) the Substantively Duplicate Claims assert the same purported liability as another proof of claim filed in the chapter 11 cases, and (iii) the Claims to be Modified failed to provide sufficient documentation to support the asserted amount and/or priority, do not relate to a record of indebtedness reflected in the Debtors’ books and records, or are not supported under the Bankruptcy Code or nonbankruptcy law;¹⁵ and
- (g) each schedule to the Order includes only the claims to which there is a common basis for the objection.¹⁶

¹⁰ See Fed. R. Bankr. P. 3007(e)(1).

¹¹ See Fed. R. Bankr. P. 3007(e)(2).

¹² See Fed. R. Bankr. P. 3007(e)(3).

¹³ See Fed. R. Bankr. P. 3007(e)(4).

¹⁴ See Fed. R. Bankr. P. 3007(e)(5).

¹⁵ See Fed. R. Bankr. P. 3007(d)(1); Objection Procedures Order.

¹⁶ See Objection Procedures Order, ¶ 4.

For the foregoing reasons, the Reorganized Debtors respectfully submit that the content of this objection is in full compliance with the Bankruptcy Rules and the Objection Procedures Order.

58. The Reorganized Debtors further respectfully state that notice and service of this objection will be in full compliance with the Bankruptcy Rules for the following reasons:

- (a) the objection will be filed with the Court and served upon (i) the affected claimant set forth on each proof of claim subject to this objection or its respective attorney of record, (ii) the U.S. Trustee, and (iii) parties that have filed a request for service of papers under Bankruptcy Rule 2002;¹⁷
- (b) the Reorganized Debtors will also serve each claimant affected as a result of this objection with a customized objection notice tailored, as appropriate, to address the particular creditor, claim, and objection;¹⁸ and
- (c) this objection will be set for hearing at least thirty (30) days after the filing of this objection.¹⁹

Reservation of Rights

59. This objection is limited to the grounds stated herein. Accordingly, it is without prejudice to the rights of the Reorganized Debtors or any other party in interest to object to any of the claims listed on Schedules 1, 2, 3, and 4 to the Order, including the “Remaining Claims” listed on Schedule 2 and the “Modified Claim” listed on Schedules 3 and 4 to the Order, on any grounds whatsoever, and the Reorganized Debtors expressly reserve all further substantive or procedural objections they may have with respect to such claims.

Objection Practice

60. This objection 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

¹⁷ See Fed. R. Bankr. P. 2002, 3007(a).

¹⁸ See Objection Procedures Order ¶ 4.

¹⁹ See Fed. R. Bankr. P. 2002, 3007(a); Objection Procedures Order, ¶ 4.

objection. Accordingly, the Reorganized Debtors submit that this objection satisfies Local Bankruptcy Rule 9013-1(a).

Notice

61. The Reorganized Debtors have provided notice of this objection to (a) the affected claimant party set forth on each proof of claim or the respective attorney of record, (b) the entities on the Master Service List (as defined in the case management order and available on the Reorganized Debtors' case website at www.kccllc.net/windstream), and (c) parties that have filed a request for service of papers under Bankruptcy Rule 2002. The Reorganized Debtors respectfully submit that no other or further notice is necessary.

No Prior Request

62. No prior request for the relief sought in this objection has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Reorganized Debtors respectfully request entry of the Order granting the relief requested herein and such other relief as is just and proper.

Dated: August 31, 2021
New York, New York

/s/ Stephen E. Hessler, P.C.

Stephen E. Hessler, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

James H.M. Sprayregen, P.C.

Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)

Brad Weiland (admitted *pro hac vice*)

John R. Luze (admitted *pro hac vice*)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

-and-

Solely as to the Tax Claims

Martin Eisenstein (admission *pro hac vice* pending)

Nathaniel Bessey (admission *pro hac vice* pending)

BRANN & ISAACSON LLP

P.O. Box 3070

Lewiston, Maine 04243

Telephone: (207) 786-3566

Facsimile: (207) 783-9325

Counsel to the Reorganized Debtors

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:	)	Chapter 11
)	
WINDSTREAM FINANCE, CORP., <i>et al.</i> , ¹	)	Case No. 19-22397 (RDD)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered
	)	under Lead Case: Windstream
	)	Holdings, Inc., Case No. 19-22312)

**ORDER GRANTING REORGANIZED DEBTORS’
TWENTIETH OMNIBUS OBJECTION TO THE NO LIABILITY CLAIMS,
SUBSTANTIVELY DUPLICATE CLAIMS, AND CLAIMS TO BE MODIFIED**

Upon the objection, dated August 31, 2021 (the “20th Objection”)² of the above-captioned reorganized debtors (collectively, the “Reorganized Debtors”) for entry of an order (this “Order”) disallowing and expunging or modifying the claims as identified on **Schedules 1, 2, 3, and 4** attached hereto and pursuant to section 502(b) of the Bankruptcy Code and the Objection Procedures Order [Docket No. 1141], all as more fully set forth in the 20th Objection; and upon the Wagner Declaration; and upon the Bixler Declaration; and the Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012 as a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409;

¹ The last four digits of the Reorganized Debtor Windstream Finance, Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration was granted, a complete list of the Reorganized 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 Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

² Capitalized terms used in this Order and not defined herein have the meanings given to such terms in the 20th Objection filed contemporaneously herewith.

and the Court having found that the Reorganized Debtors provided due and sufficient individualized notice of the 20th Objection and the opportunity for a hearing thereon; and there being no opposition to the relief granted herein; and no additional notice or a hearing being required under the circumstances; and after due deliberation the Court having determined that the legal and factual bases set forth in the 20th Objection establish just cause for the relief granted herein, in that the 20th Objection rebutted any presumption of the validity of the claims at issue and the respective claimants have not carried their burden of proof; and the relief granted herein being in the best interests of the estates, creditors, and other parties in interest; now, therefore, it is HEREBY ORDERED THAT:

1. The 20th Objection is granted as set forth herein.
2. The No Liability Claims listed on **Schedule 1** attached hereto are disallowed and expunged in their entirety.
3. The Substantively Duplicate Claims listed in the column labeled “Claims to be Disallowed” on **Schedule 2** attached hereto are disallowed and expunged in their entirety.
4. The Claims to be Modified identified on **Schedules 3** and **4** attached hereto are hereby modified in accordance with the corresponding entries within the “Modified Claims” column relating to the amount and/or priority identified in the corresponding sub-column, as described in the Motion.
5. The “Remaining Claims” as identified on **Schedule 2** attached hereto and the “Modified Claims” as identified on **Schedules 3** and **4** attached hereto, as described above, (collectively, the “**Surviving Claims**”) will remain on the Claims Register (including remain, subject to any future objection on any basis), subject to the terms hereof.

6. The total of the remaining Pennsylvania Claims to be Modified shall be \$1,863,226.27 (the “Payment Amount”) after the modifications for the tax liability, interest, and the Debtors’ prepayments and overpayments, as described in the 20th Objection and Wagner Declaration.

7. Upon the Reorganized Debtors’ payment of the Payment Amount to the Department, the Pennsylvania Claims to be Modified shall be expunged.

8. Upon the payment by the Reorganized Debtors of the Payment Amount and the payment by the Debtors of any recording fees for liens, the Department shall release any and all liens on the Debtors’ or Reorganized Debtors’ properties that are on account of the Pennsylvania Claims.

9. The amounts of Post-Petition Credits available to each Reorganized Debtor to reduce taxes due for the calendar years 2019 and thereafter set forth on Exhibit 2 to the Wagner Declaration are preserved to the fullest extent under applicable law and remain otherwise unaffected by this Order.

10. Kurtzman Carson Consultants LLC is authorized to update the claims register to reflect the relief granted in this Order.

11. Entry of this Order is without prejudice to the Reorganized Debtors’ right to object to any other claims in these chapter 11 cases or to further object to the claims as addressed in the 20th Objection and as identified on Schedules 1, 2, 3, and 4 attached hereto (to the extent they are not disallowed and expunged pursuant to this Order) on any grounds whatsoever at a later date.

12. Each objection to each claim as addressed in the 20th Objection and as identified on Schedules 1, 2, 3, and 4 attached hereto constitutes a separate contested matter as contemplated in Bankruptcy Rule 9014. This Order shall be deemed a separate order with respect to each claim

as addressed in the 20th Objection and as identified on Schedules 1, 2, 3, and 4 attached hereto. Any stay of this Order shall apply only to the contested matter that involves such claim and shall not act to stay the applicability or finality of this Order with respect to the other contested matters covered hereby.

13. Notice of the 20th Objection shall be deemed good and sufficient, and the applicable requirements of the Bankruptcy Rules and Local Bankruptcy Rules have been satisfied.

14. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

15. The Reorganized Debtors are authorized to take any and all actions reasonably necessary or appropriate to effectuate the relief granted pursuant to this Order.

16. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

White Plains, New York
Dated: _____, 2021

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Schedule 1

No Liability Claims

The basis for the objection to each claim listed on this schedule may be found on pages 5-7 of the Objection.

Windstream Finance, Corp. 19-22397
 Twentieth Omnibus Claims Objection
 Schedule 1 - No Liability Claims

	NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
1	CMN-RUS, INC. JEREMY R. JOHNSON POLSINELLI PC 600 THIRD AVENUE, 42ND FLOOR NEW YORK, NY 10016 Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant. This claim alleges obligations related to power charges for facilities in Wolcott, Marion, and Seymour. However, the claimant owes the Reorganized Debtors on account of certain power payments for a facility in Indianapolis. In addition, the claimant owes the Reorganized Debtors for inadvertent payments the Debtors made on account of fifteen (15) racks in Evansville that were to be free of charge pursuant to certain contract amendment(s). The Reorganized Debtors have provided materials for the claimant's review, including calculations.	10/20/2020	19-22312	Windstream Holdings, Inc.	8713	\$ 100,933.36
2	CMN-RUS, INC. ANDREW J. NAZAR, ESQ. POLSINELLI PC 900 WEST 48TH PLACE, SUITE 900 KANSAS CITY, MO 64112 Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant. This claim remains unliquidated as of the date hereof.	10/21/2020	19-22449	Windstream KDL, LLC	8710	Undetermined
3	COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF REVENUE BUREAU OF COMPLIANCE PO BOX 280948 HARRISBURG, PA 17128-0946 Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant.	10/7/2020	19-22312	Windstream Holdings, Inc.	8633	\$ 2,169,089.95
4	JAMES A. LURZ HASSAKIS AND HASSAKIS, P.C. 206 SOUTH NINTH STREET, SUITE 201 MOUNT VERNON, IL 62864 Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant. The Reorganized Debtors are not liable for such amounts.	5/30/2019	19-22460	Valor Telecommunications of Texas, LLC	1711	\$ 5,000,000.00
5	JOHNNY R. WILKERSON HASSAKIS AND HASSAKIS, P.C. 206 SOUTH NINTH STREET, SUITE 201 MOUNT VERNON, IL 62864 Reason: Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant. The Reorganized Debtors are not liable for such amounts.	5/30/2019	19-22460	Valor Telecommunications of Texas, LLC	1710	\$ 5,000,000.00
6	PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128 Reason: Windstream objects because some of the receipts were not taxable, but is willing to compromise at 50% of the tax due. No interest is due from Windstream on tax due because the amount of overpayments far exceed the amount of the tax due.	8/26/2019	19-22315	Cavalier Telephone Mid-Atlantic, L.L.C.	7529	\$ 3,055,305.16

Windstream Finance, Corp. 19-22397
 Twentieth Omnibus Claims Objection
 Schedule 1 - No Liability Claims

NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
7 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/22/2019	19-22317	Cavalier Telephone, L.L.C.	1685	\$ 3,300.00

Reason: No tax is due because company is not a provider of telecommunications service because the Secretary of State has not certificated it to provide telecommunications services. In addition, penalty is not a priority claim.

8 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22323	The Other Phone Company, LLC	1426	\$ 8,357.00
---	-----------	----------	------------------------------	------	-------------

Reason: No tax is due because company is not a provider of telecommunications service because the Secretary of State has not certificated it to provide telecommunications services.

9 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22393	PAETEC, LLC	1422	\$ 23,350.00
---	-----------	----------	-------------	------	--------------

Reason: The company was not certified to provide telecommunications service during at least half of the taxable period, so no tax is due on gross receipts. No interest is due because the amount of overpayments exceed the purported amount of the tax due.

10 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	2/11/2020	19-22395	US LEC of Pennsylvania LLC	8018	\$ 1,122,880.33
--	-----------	----------	----------------------------	------	-----------------

Reason: No interest is due because of other overpayments made by US LEC. Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax or are not properly categorized as receipts from the provision of telephone messages. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectable accounts/bad debts. Windstream objects because the underlying assessments treat Windstream differently than other similarly situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States.

11 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22433	Windstream Communications, LLC	1413	\$ 144,992.63
--	-----------	----------	--------------------------------	------	---------------

Reason: Interest is not allowed because overpayments exceed the amount of the tax due

12 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22449	Windstream KDL, LLC	1423	\$ 135,419.73
--	-----------	----------	---------------------	------	---------------

Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States. Windstream objects as this company derives receipts only from the provision of wholesale telecommunications service, as such all receipts qualify for the resale exclusion from tax.

Windstream Finance, Corp. 19-22397
 Twentieth Omnibus Claims Objection
 Schedule 1 - No Liability Claims

NAME	DATE FILED	CASE NUMBER	DEBTOR	CLAIM #	ASSERTED CLAIM AMOUNT
13 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22452	Windstream D&E Systems, LLC	1434	\$ 74,311.65

Reason: Windstream submits that it made overpayments in 2012 and 2013 as set forth in Column K of Exhibit 1 to the Wagner Declaration. Windstream is willing to concede tax due per the proof of claim. No interest should be due given the fact that the overpayments far exceed the amount of the tax due. The amount of overpayment is based on the calculations set forth in the Wagner Declaration.

14 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22487	Windstream Buffalo Valley, Inc.	1417	\$ 61,671.22
--	-----------	----------	---------------------------------	------	--------------

Reason: The amount of the tax is reduced because of tax paid. No interest is due on such claim because of overpayments.

15 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	5/13/2019	19-22500	Windstream Cavalier, LLC	1419	\$ 6,600.00
--	-----------	----------	--------------------------	------	-------------

Reason: No tax is due because company is not a provider of telecommunications service because the Secretary of State has not certificated it to provide telecommunications services.

16 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	8/13/2019	19-22505	Windstream Pennsylvania, LLC	7335	\$ 20,167,462.44
--	-----------	----------	------------------------------	------	------------------

Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and United States. Interest has been calculated as set forth in the Wagner Declaration.

TOTAL \$ 37,073,676.68

Schedule 2

Substantively Duplicate Claims

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

19-22397-rdd Doc 184 Filed 08/31/21 Entered 08/31/21 15:27:47 Pg 39 of 71

Windstream Finance, Corp. 19-22397
Twentieth Omnibus Claims Objection
Schedule 2 - Substantively Duplicate Claim

21-07099-rdd Doc 8-13 Filed 11/23/21 Entered 11/23/21 17:29:16 Exhibit 10

Schedule 3

Claims to be Modified - Amount

Main Document

The basis for the objection to each claim listed on this schedule may be found on pages 8-10 of the Objection.

MODIFIED CLAIMS

ASSERTED CLAIMS

NAME	CLAIM#	DEBTOR	PRIORITY STATUS	AMOUNT	DEBTOR	PRIORITY STATUS	AMOUNT
1 PA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128	8737	Windstream Business Holdings, LLC	Priority	\$18,669.81	Windstream Business Holdings, LLC	Priority	\$0.00
		Windstream Business Holdings, LLC	Secured	\$35,839.17	Windstream Business Holdings, LLC	Secured	\$24,753.58
		Subtotal		\$54,508.98	Subtotal		\$24,753.58
Reason: Claim filed after the bar date as to the 2016 tax year. Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States.							
2 PA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128	8739	Windstream D&E, Inc.	Priority	\$66,372.84	Windstream D&E, Inc.	Priority	\$0.00
		Windstream D&E, Inc.	Secured	\$3,969,638.54	Windstream D&E, Inc.	Secured	\$66,422.12
		Subtotal		\$4,036,011.38	Subtotal		\$66,422.12
Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States. Interest calculated based on ratio of POC interest to POC tax applied to agreed amount of \$648k less overpayments of \$66k.							
3 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1420	McLeodUSA Telecommunications Services, L.L.C.	Priority	\$8,659.80	McLeodUSA Telecommunications Services, L.L.C.	Priority	\$0.00
		McLeodUSA Telecommunications Services, L.L.C.	Secured	\$128,730.90	McLeodUSA Telecommunications Services, L.L.C.	Secured	\$54,168.97
		McLeodUSA Telecommunications Services, L.L.C.	Unsecured	\$651.73	McLeodUSA Telecommunications Services, L.L.C.	Unsecured	\$0.00
		Subtotal		\$138,042.43	Subtotal		\$54,168.97
Reason: Agreed to tax due on claim. Interest amount reduced by proportion of overpayments to tax due.							
4 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1428	CoreComm-ATX, Inc.	Secured	\$4,048,631.86	CoreComm-ATX, Inc.	Secured	\$983,834.35
Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects to the claim to the extent it is based on erroneous increases to the reported taxable receipts based on reconciliations to the reported corporation tax sales apportionment factor. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States.							

MODIFIED CLAIMS

ASSERTED CLAIMS

NAME	CLAIM#	DEBTOR	PRIORITY STATUS	AMOUNT	DEBTOR	PRIORITY STATUS	AMOUNT
5 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1431	PaeTec Communications, LLC	Secured	\$321,987.38	PaeTec Communications, LLC	Secured	\$255,243.79
		PaeTec Communications, LLC	Unsecured	\$0.02	PaeTec Communications, LLC	Unsecured	\$0.02
		Subtotal		\$321,987.40	Subtotal		\$255,243.79
Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectable accounts/bad debts. Windstream objects to the claim to the extent it is based on erroneous increases to the reported taxable receipts based on reconciliations to the reported corporation tax sales apportionment factor. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States.							
6 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1432	US LEC Communications LLC	Secured	\$20,791.87	US LEC Communications LLC	Secured	\$1,712.72
Reason: No interest is due because of other overpayments made by US LEC. Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectable accounts/bad debts. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States.							
7 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1435	Windstream Norlight, LLC	Secured	\$7,946.04	Windstream Norlight, LLC	Secured	\$4,900.72
Reason: This modification reflects that no interest is due on account of this claim because of overpayments made by US LEC and Windstream Buffalo.							
8 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1546	Conversent Communications of Pennsylvania, LLC	Secured	\$7,667.33	Conversent Communications of Pennsylvania, LLC	Secured	\$186.83
Reason: Windstream objects as no tax is due because company requested to discontinue its telecommunications certification with the Pennsylvania Public Utilities Commission and the request was granted in May 2014.							
9 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1549	Deltacom, LLC	Secured	\$72,678.45	Deltacom, LLC	Secured	\$2,437.68

Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectable accounts/bad debts. Windstream objects to the claim to the extent it is based on the Department's erroneous finding that Windstream has not filed all necessary returns. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States.

Twentieth Omnibus Claims Objection
Schedule 3 - Claims to be Modified - Amount

MODIFIED CLAIMS

ASSERTED CLAIMS				MODIFIED CLAIMS			
NAME	CLAIM#	DEBTOR	PRIORITY STATUS	AMOUNT	DEBTOR	PRIORITY STATUS	AMOUNT
10 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128-0946	1552	Earthlink Business, LLC	Secured	\$595,632.40	Earthlink Business, LLC	Secured	\$367,021.32
Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects to the claim to the extent it is based on erroneous increases to the reported taxable receipts based on reconciliations to the reported corporation tax sales apportionment factor. Windstream objects because the Department has failed to provide a detailed basis for assessment, denying Windstream the ability to fairly challenge the assessment in contravention of the protections afforded taxpayers by the constitutions of Pennsylvania and the United States. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States.							
11 PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY DIVISION PO BOX 280946 HARRISBURG, PA 17128	7535	Windstream Conestoga, Inc.	Priority	\$969,907.95	Windstream Conestoga, Inc.	Priority	\$0.00
		Windstream Conestoga, Inc.	Secured	\$4,134,246.07	Windstream Conestoga, Inc.	Secured	\$102,544.05
		Windstream Conestoga, Inc.	Unsecured	\$54,165.39	Windstream Conestoga, Inc.	Unsecured	\$0.00
		Subtotal	Subtotal	\$5,158,319.41	Subtotal	Subtotal	\$102,544.05
Reason: Windstream objects because the company has been assessed on receipts that are statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages. Windstream objects because the underlying assessments treat Windstream differently than other similarly-situated taxpayers, denying Windstream the protections offered by the constitutions of Pennsylvania and the United States. Interest has been calculated as described in the Wagner Declaration.							
TOTAL				\$ 14,462,217.55	TOTAL		\$ 1,863,226.77

Page 4 of 52
Entered 11/23/21 17:29:16

Exhibit 10

Schedule 4

Claims to be Modified - Amount and Priority

Main Document

The basis for the objection to each claim listed on this schedule may be found on pages 8-20 of the Objection.

Schedule 4 - Claim to be Modified - Amount, Reclassify

ASSERTED CLAIMS				MODIFIED CLAIMS		
NAME	CLAIM#	DEBTOR	PRIORITY STATUS	AMOUNT	DEBTOR	PRIORITY STATUS AMOUNT
1 CITY OF LINCOLN, NEBRASKA CITY OF LINCOLN CITY ATTORNEY STEVEN HUGGENBERGER 555 S. 10TH ST. LINCOLN, NE 68508-3997	8651	Windstream Nebraska, Inc.	Priority	\$1,929,443.00	Windstream Nebraska, Inc.	Priority \$0.00
					Windstream Nebraska, Inc.	Unsecured \$413,481.69
					Subtotal	\$413,481.69
Reason: The modified amount reflects an adjustment per a review of the claimant's proof of claim, the documents attached thereto, and a reasonable review of the Debtors' books and records. The modified priority reflects that, according to Debtors' books and records and/or documentation filed with the proof of claim, the claim is unsecured and does not qualify for priority status.				TOTAL	TOTAL	\$ 413,481.69

Exhibit B

Wagner Declaration as to the Tax Claims

Stephen E. Hessler, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Brad Weiland (admitted *pro hac vice*)
John R. Luze (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
WINDSTREAM FINANCE, CORP., <i>et al.</i> , ¹	)	Case No. 19-22397 (RDD)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered
	)	under Lead Case: Windstream
	)	Holdings, Inc., Case No. 19-22312)

**DECLARATION OF SHANNON WAGNER
IN SUPPORT OF REORGANIZED DEBTORS’
TWENTIETH OMNIBUS OBJECTION TO THE NO LIABILITY CLAIMS,
SUBSTANTIVELY DUPLICATE CLAIMS, AND CLAIMS TO BE MODIFIED**

I, Shannon Wagner, hereby declare under penalty of perjury:

1. I submit this declaration (the “Declaration”) in support of the *Reorganized Debtors’ Twentieth Omnibus Objection to the No Liability Claims, Substantively Duplicate Claims, and Claims to be Modified* (the “Objection”) filed by Windstream Finance, Corp., et al. and its debtor

¹ The last four digits of the Reorganized Debtor Windstream Finance, Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration was granted, a complete list of the reorganized 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 Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

and reorganized debtor affiliates (collectively, the “Debtors” or “Reorganized Debtors”) solely as to the Tax Claims (as defined in the Objection).

2. My job title is Director-Tax Accounting for the Reorganized Debtors. I have direct responsibility for reviewing and evaluating state and local tax obligations of the Reorganized Debtors. I am generally familiar with the Reorganized Debtors’ day-to-day operations, business, financial affairs and books and records.

3. I have been involved in overseeing audits, assessments and claims against various Debtors by the Pennsylvania Department of Revenue (the “Department”) as well as prepayments and overpayments made by various Debtors to the Department. I have also reviewed statements of account prepared by the Department that show amounts of payments to the Department by various Debtors.

4. I was involved in overseeing an audit of Windstream Nebraska, Inc., one of the Reorganized Debtors, relating to City of Lincoln, Nebraska occupation tax, conducted by contracted third-party auditor Garth Ashpugh on behalf of the City of Lincoln (the “City”) for the period of January 1, 2013 through April 30, 2017 (the “Lincoln Audit”).

5. All matters set forth in this Declaration are based upon (a) my personal knowledge, (b) my review of relevant documents, (c) my various investigations of the activities and businesses of the Debtors and Reorganized Debtors, (d) my review of the Debtors’ or Reorganized Debtor’s respective books and records (the “Books and Records”), (e) my work in connection with the Lincoln Audit, (f) my review of the Tax Claims (as defined in the Objection), (g) my review of the Objection filed contemporaneously herewith and the schedules attached thereto, and (h) as to matters involving United States bankruptcy law or rules or other applicable laws, my reliance on

the advice of counsel or other advisors to the Reorganized Debtors. If called upon to testify, I could and would testify competently to the facts set forth herein.

A. Pennsylvania Claims.

6. On September 4, 2012, Debtor Windstream Pennsylvania made a prepayment to the Department of gross receipts taxes of \$4,408.235. The Department has acknowledged receipt of that amount. That amount is reflected in Column I of **Exhibit 1** attached hereto.

7. I have carefully reviewed the Statements of Account prepared by the Department for the various Debtors. Based upon my review, I began discussions with representatives of the Department to determine the amount of overpayments of the gross receipts taxes made by Debtors. Through conversations and emails up to and including August 8, 2021, the Department's representative informed me that records of the Department reveal that the amount of pre-petition overpayments available to the various debtors is as set forth in Column J of **Exhibit 1** attached hereto. A pre-petition overpayment is a payment made prior to the commencement of the bankruptcy for a tax year beginning prior to the petition in bankruptcy. The Debtors filed their chapter 11 bankruptcy petitions on February 25, 2019, and the pre-petition overpayments relate to payments for tax years beginning prior to that date.

8. I am in agreement with the Department's calculations of the amount of pre-petition credits set forth in Column J of **Exhibit 1** attached hereto based upon my review of the Debtors' records, with two exceptions as recited in the paragraphs below.

9. First, the amounts set forth in Column J of **Exhibit 1** attached hereto do not include any of the post-petition credits described in **Exhibit 2** attached hereto, which is a schedule I prepared from the Debtors' records. The Post-Petition Credits described in **Exhibit 2** comprise all credits, pre-payments of tax, and overpayments from previous tax years rolled over or applied to

tax years not yet concluded as of the February 25, 2019 petition date. Based on the Debtors' Books and Records, the total amount of Post-Petition Credits available is \$15,669,699.72.

10. Second, Column J of Exhibit 1 attached hereto does not contain any pre-petition overpayments made by Debtor Windstream D&E Systems, LLC. Based on my review of the records of Windstream D&E Systems, LLC, I believe the amount of overpayments and thus the pre-payment credits are \$563,793, attributable to overpayments made in various years, all as set forth in Exhibit 3 attached hereto. I have prepared Exhibit 3 from the records of Windstream D&E System, LLC, and based on information provided by the Department.

11. Column L of Exhibit 1 shows the application of the Pre-Petition Credits, including the prepayment by Windstream Pennsylvania (shown in Column I of Exhibit 1), the pre-petition overpayments agreed to by the Department (shown in Column J of Exhibit 1), and the additional pre-petition overpayments relating to Windstream D&E Systems LLC (shown in Exhibit 3 and in Column K of Exhibit 1). For those entities in which Column L of Exhibit 1 shows a net overpayment, the Debtors have applied those credits to reduce the liability on Claim Nos. 1428, 7535, and 8739, as shown in Column N of Exhibit 1.

B. Claim No. 8651.

12. I understand that, on or about August 26, 2019, the City filed, and I have since reviewed, Claim No. 7511, which asserted a claim against Windstream Holdings, Inc. for the City of Lincoln occupational tax in an unidentified amount based upon the then-pending Lincoln Audit.

13. I further understand that, on or about October 13, 2020, after the August 26, 2019 bar date for claims by governmental entities, the City filed Claim No. 8651, which purported to amend Claim No. 7511 and to assert a claim against Windstream Nebraska, Inc., a different debtor entity than Windstream Holdings, Inc., which had been the subject of Claim No. 7511. Claim No. 8651 was based on the City audit. Claim No. 8651 included an analysis showing the auditor's

calculation, as of October 2020, of occupation tax, penalty and interest due, in the total amount of \$1,929,442.82.

14. Based upon the schedule attached to Claim No. 8651, and in the course of the Lincoln Audit, the Reorganized Debtors became aware that the auditor was taking the position that the occupation tax itself, which Windstream Nebraska passed on to its customers as permitted in the Lincoln Municipal Code, constituted taxable gross receipts subject to the occupation tax. This position came as a surprise to the Reorganized Debtors, as it amounted to a tax upon a tax. In calculating the tax to be passed through to customers and remitted to the City, Reorganized Debtors' tax department had consulted with Avalara, a leading national provider of state tax compliance solutions, and had been informed that no tax should be charged to customers on the taxes permitted to pass through.

15. Subsequent to the filing of Claim No. 8651, the Reorganized Debtors continued to work with third-party auditor Garth Ashpaugh, who was working on behalf of the City, to provide additional information to inform the Lincoln Audit.

16. On or about July 1, 2021, third-party auditor Garth Ashpaugh shared revised schedules with the Reorganized Debtors. The revised schedules reduced the total amount claimed from \$1,929,442.82 to \$1,337,123.78. This amount consisted of \$555,025.52 of occupation tax liability, \$754,346.98 of interest calculated through July 31, 2021, and \$27,751.28 of penalty. More than 50% of the additional tax calculated by the auditor can be attributed to the imposition of tax on tax – that is, the imposition of occupation tax on the charges Windstream Nebraska passed through to its customers for the occupation tax imposed on charges for telecommunications services. The auditor's revised schedule of proposed liability, as provided to the Reorganized Debtors on July 1, 2021 (the "July 1, 2021 Schedule"), is attached as **Exhibit 4** to this Declaration.

17. During the claims reconciliation process, the Reorganized Debtors have conducted, and continue to conduct, a review of the claims filed in these chapter 11 cases, in order to identify both valid claims and claims to which the Reorganized Debtors would object. I am aware that the Order would, if entered by the Court, modify Claim No. 8651 to a general unsecured claim reduced total amount of \$413,481.69, consisting of \$198,779 of occupation tax and \$214,702.34 of interest through the February 25, 2019 date of the Reorganized Debtors' chapter 11 petition in bankruptcy.

C. Objection to Claim No. 8651 Against the Audited Debtors.

18. The auditor's proposed calculation of liability is based upon the auditor's determination that the following categories of revenues are taxable gross receipts subject to the Lincoln occupation tax: (1) Identified "Y" Revenue (these are charges for telecommunications services); (2) USF Revenue; (3) E911 Revenue; (4) Late Payment Revenue; (5) Returned Check Charge; (6) Voicemail Revenue; (7) Telecom Relay Surcharge; and (8) Occupation Tax Charges.

19. The Reorganized Debtors agree with the auditor that categories 1 through 3, listed in paragraph 18 above (identified "Y" Revenue, USF Revenue; E911 Revenue; and Charges for the Occupation Tax), are taxable gross receipts subject to Lincoln's occupation tax. As set forth in the Objection, however, the Reorganized Debtors contend that none of the receipts in categories 4-8 (Late Payment Revenue; Returned Check Charge; Voicemail Revenue; Telecom Relay Surcharge) are taxable gross receipts for purposes of the occupation tax. The spreadsheet attached hereto as **Exhibit 5** (the "Revised Schedule") recalculates the total amount of occupation tax due for each of the periods in the Lincoln Audit once the revenues for Late Payments, Returned Check Charges, Voicemail Revenue and Telecom Relay Surcharge are correctly treated as not taxable under the occupation tax. The result is that the Debtors actually overpaid the occupation tax in each of the years 2015, 2016 and 2017, while still owing additional tax for the years 2013 and

2014. In all the total amount of additional liability for the occupation tax during the audit period is \$198,779.36.

20. The Reorganized Debtors also recognize that interest is owed on additional occupation tax, however, the Reorganized Debtors contend that any claims for interest accruing after the petition date are claims for unmatured interest and must be disallowed under section 502(b)(2) of the Bankruptcy Code. The correct amount of interest through the petition date, as shown on the Revised Schedule, is \$214,702.34.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: August 31, 2021

Respectfully submitted,

/s/ Shannon Wagner

Name: Shannon Wagner

Title: Director Tax-Accounting
Reorganized Debtors

Exhibit 1

Pennsylvania Claims - Summary

WINDSTREAM HOLDINGS, INC. AND ALL SUBSIDIARIES
PENNSYLVANIA DEPARTMENT OF REVENUE BANKRUPTCY CLAIMS FILED
GROSS RECEIPTS TAX AND INCOME/FRANCHISE TAXES

DEBTORS' SUMMARY OF CLAIMS, OBJECTIONS TO CLAIMS, AND DETERMINATION OF THE REDUCED AMOUNTS

A	B	C	D	E	F	G	H	I	J	K	L	M	N
Debtor Name	Claim #	Tax Type	Amount per Claim	Tax on Claim	Interest on Claim	Windstream Agreed Gross Tax Due	Interest On-Agreed Tax Due	GRT Prepayment on April 4, 2012	Department's Calculation of Overpayment's As of 8/1/2021 To Which Windstream Agrees	Additional Overpayments Claimed by Windstream	Net Amount Due (Overpayment by Windstream is per entries)	Windstream's Objections to the Claim	Amount Claim Reduced to
Cavalier Telephone Mid-Atlantic, LLC	7128 (superseding 1419 and 2178)	Gross Receipts	75,250.75	41,682.00	8,507.13	20,841.00	-	-	184,384.00	-	(163,543.00)	Windstream objects to the claim because the receipts were not taxable, but is willing to compromise at 50% of the tax due. No interest due from Windstream on tax due because the amount of overpayments far exceeded the tax due.	zero
Cavalier Telephone, L.L.C. (2013 Estimated liability of \$1000 tax and \$300 penalty)	1685	Gross Receipts	3,300.00	3,000.00	-	-	-	-	-	-	-	Windstream objects to the claim because the company is not a provider of telecommunications services, since the Secretary of State has not certified it to provide telecommunications services. In addition, penalty is not a priority claim.	zero
Conversant Communications of Pennsylvania, LLC	1546	Gross Receipts	7,667.33	6,791.00	1,86.83	-	1,86.83	-	-	-	1,86.83	Windstream objects to the claim because company requested to discontinue its telecommunications certification with the Pennsylvania Public Utilities Commission and the request was granted in May 2014.	186.83
ComComm-ATX, Inc. (Interest Based on ratio of interest/tax in POC)	1428	Gross Receipts	4,048,602.77	3,520,837.66	526,163.38	1,299,054.00	194,858.10	-	-	-	1,493,932.10	Windstream objects because the company has been assessed on receipts that are a statutorily excluded from tax. Windstream objects because the company has been assessed on receipts not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectible accounts/hard debts. Windstream objects to the claim to the extent it is based on the Department's erroneous finding that the company was not a provider of telecommunications services, since the underlying assessments treat Windstream differently than other similarly situated taxpayers denying Windstream the protections offered by the Pennsylvania and United States Constitutions.	983,834.35
ComComm-ATX, Inc.	1428	Income/Franchise	29.09	-	29.09	-	-	-	-	-	-	Windstream objects because the company has been assessed on receipts that are a statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectible accounts/hard debts. Windstream objects to the claim to the extent it is based on the Department's erroneous finding that the company was not a provider of telecommunications services, since the underlying assessments treat Windstream differently than other similarly situated taxpayers denying Windstream the protections offered by the Pennsylvania and United States Constitutions.	zero
Dehacom, LLC	1549	Gross Receipts	71,678.45	65,779.00	5,411.45	9,771.30	1,953.38	-	9,287.00	-	2,437.68	Windstream objects because the company has been assessed on receipts that are a statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects to the claim to the extent it is based on erroneous increases to the reported taxable receipts based on reconciliations to the reported corporation tax sales apportionment factor. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectible accounts/hard debts. Windstream objects to the claim to the extent it is based on the Department's erroneous finding that the company was not a provider of telecommunications services, since the underlying assessments treat Windstream differently than other similarly situated taxpayers denying Windstream the protections offered by the Pennsylvania and United States Constitutions.	2,437.68
Earthlink Business, LLC interest based on ratio of interest to tax in POC	1552	Gross Receipts	593,939.92	520,834.28	65,109.79	-	-	-	-	-	-	Windstream objects because the company has been assessed on receipts that are a statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects to the claim to the extent it is based on erroneous increases to the reported taxable receipts based on reconciliations to the reported corporation tax sales apportionment factor. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectible accounts/hard debts. Windstream objects to the claim to the extent it is based on the Department's erroneous finding that the company was not a provider of telecommunications services, since the underlying assessments treat Windstream differently than other similarly situated taxpayers denying Windstream the protections offered by the Pennsylvania and United States Constitutions.	zero
Earthlink Business, LLC	1552	Income/Franchise	186.15	151.00	35.15	5,432.00	-	-	11,032.00	-	367,031.32	No objection to tax but objection to interest because the amount of the overpayment exceeds the tax due.	367,031.32
Mayacomm		Income/Franchise disallowed per 9/21/20 claims report	-	-	-	-	-	-	-	-	-	Claim disallowed.	zero
McGraw-Hill Information Services LLC	1154	Gross Receipts	128,730.90	104,833.00	24,097.90	104,833.00	15,099.97	-	65,564.00	-	54,168.97	Agreed to tax due on claim. Interest amount reduced by proportion of overpayments to tax due.	54,168.97
McGraw-Hill Telecommunications Services, L.L.C.	1420	Gross Receipts	-	-	-	-	-	-	-	-	-	Windstream objects because the company has been assessed on receipts that are a statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectible accounts/hard debts. Windstream objects to the claim to the extent it is based on erroneous increases to the reported taxable receipts based on reconciliations to the reported corporation tax sales apportionment factor. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectible accounts/hard debts. Windstream objects to the claim to the extent it is based on the Department's erroneous finding that the company was not a provider of telecommunications services, since the underlying assessments treat Windstream differently than other similarly situated taxpayers denying Windstream the protections offered by the Pennsylvania and United States Constitutions.	zero
ParTel Communications, LLC	1431	Gross Receipts	321,887.38	271,125.13	50,662.25	215,119.43	39,924.36	-	-	-	255,243.79	Not certified to provide telecommunications service during at least 1/2 the period so no tax due on gross receipts. No interest is due since the amount of the overpayments exceed the tax due.	255,243.79
PAETEC, LLC	1422	Gross Receipts	23,350.00	22,000.00	-	11,000.00	-	-	17,552.50	-	(6,562.50)	Not certified for tax due. Only claim is by Windstream for using amounts.	zero
Tek America		Gross Receipts	-	-	-	-	-	-	12,475.00	-	(12,475.00)	No tax due because company is not a provider of telecommunications service, since the Secretary of State has not certified it to provide telecommunications services.	zero
The Other Phone Company, LLC	1426	Gross Receipts	8,857.00	8,000.00	27.00	-	-	-	-	-	-	Windstream objects because the company has been assessed on receipts that are a statutorily excluded from tax. Windstream objects because the company has been assessed on receipts that are not properly categorized as receipts from the provision of telephone messages and are therefore not taxable. Windstream objects because the company was denied a deduction from taxable gross receipts for uncollectible accounts/hard debts. Windstream objects to the claim to the extent it is based on the Department's erroneous finding that the company was not a provider of telecommunications services, since the underlying assessments treat Windstream differently than other similarly situated taxpayers denying Windstream the protections offered by the Pennsylvania and United States Constitutions.	zero

[illegible]

Exhibit 2

Pennsylvania Claims - Post-Petition Credits

19-22397-rdd	Doc 184	Filed 08/31/21	Entered 08/31/21 15:27:47	Main Document
				Summary
				pgs 58-67 Mon Credits

19-22397-rdd	Doc 184	Filed 08/31/21	Entered 08/31/21 15:27:47	Main Document
			Summary	Summary
			Page 59 of 71	Mon Credits

19-22397-rdd	Doc 184	Filed 08/31/21	Entered 08/31/21 15:27:47	Main Document
			Summary	pg 60 of 71
			Mon Credits	

19-22397-rdd	Doc 184	Filed 08/31/21	Entered 08/31/21 15:27:47	Main Document
			Summary	pg 6 of 7
			Mon Credits	

Exhibit 3

Pennsylvania Claims - Credits for Windstream D&E Systems, LLC

Type	Amount
Held Overpayments - 2014	132,759.00
Held Overpayments - 2015	194,831.00
Held Overpayments - 2016	193,605.00
Held Overpayments - 2017	193,241.00
Used/Cleared Overpayments - 2018	(134,970.00)
Held Overpayments - 2018	384,596.00
Used/Cleared Overpayments - 2019	(400,269.00)
<i>Total</i>	<i>563,793.00</i>

Exhibit 4

Claim No. 8651 - July 1, 2021 Schedule

Exhibit 5

Claim No. 8651 - Revised Schedule

Adjusted Total Amount Due -- per Windstream analysis and Objection to Claim 8651

Tax Month	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Total	Additional Amount Due	12% Interest from Payment Date to 02/25/2019	5% Penalty on Additional Amount Due
Payment Date	3/7/2013	3/28/2013	4/30/2013	5/23/2013	6/21/2013	7/31/2013	8/30/2013	9/30/2013	10/31/2013	11/27/2013	12/16/2013	1/28/2014				
Posted Date	3/11/2013	4/1/2013	5/28/2013	6/24/2013	7/24/2013	8/5/2013	9/3/2013	10/2/2013	11/4/2013	12/2/2013	12/20/2013	1/31/2014				
Total	166,775.92	162,522.97	160,356.36	160,524.77	161,277.95	159,882.86	164,544.59	163,403.00	160,714.28	159,025.66	157,308.64	156,599.25	171,822.39			
A&S Calculated Amount Due																
Error Rate																
Additional Amount Due	16,212.42	15,798.99	15,588.37	15,604.74	15,677.96	15,542.34	15,995.51	15,884.53	15,623.16	15,459.01	15,292.10	15,223.14	187,902.25			
12% Interest from Payment Date 7/31/21	16,878.44	16,227.25	15,671.63	15,453.33	15,231.40	14,701.30	14,825.98	14,414.29	13,876.42	13,473.94	13,151.12	12,696.30	176,601.60			
5% Penalty on Additional Amount Due	810.62	789.95	779.42	780.24	783.90	777.12	799.78	794.23	781.16	777.95	764.60	761.16	9,395.11			
Total Due	33,901.48	32,816.19	32,039.42	31,838.50	31,693.26	31,020.76	31,621.26	31,093.05	30,280.74	29,705.90	29,207.82	28,680.59	373,898.97			
Tax Month	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Total			
Payment Date	2/28/2014	3/26/2014	4/28/2014	6/3/2014	6/24/2014	7/30/2014	8/20/2014	9/16/2014	10/24/2014	11/20/2014	12/19/2014	1/27/2015				
Posted Date	3/4/2014	3/31/2014	5/1/2014	6/3/2014	6/27/2014	8/6/2014	9/2/2014	9/19/2014	10/28/2014	11/25/2014	12/24/2014	1/30/2015				
Total	154,823.04	155,398.07	156,254.08	160,187.04	160,142.08	159,067.28	159,576.14	158,556.81	157,197.55	149,694.67	144,892.26	144,876.04	153,840.39			
A&S Calculated Amount Due																
Error Rate																
Additional Amount Due	9,579.83	9,615.41	9,668.38	9,911.74	9,908.95	9,842.45	9,873.94	9,810.86	9,726.76	9,262.51	8,965.36	8,964.35	115,130.55			
12% Interest from Payment Date 7/31/21	7,812.44	7,693.60	7,549.11	7,532.47	7,410.96	7,159.80	7,065.93	6,872.78	6,609.52	6,157.25	5,818.80	5,690.75	83,313.41			
5% Penalty on Additional Amount Due	478.99	480.77	483.42	495.59	495.45	492.12	493.70	490.54	486.34	463.13	448.27	448.22	5,756.53			
Total Due	17,871.26	17,789.79	17,700.91	17,939.79	17,815.36	17,474.38	17,433.57	17,174.19	16,822.62	15,882.89	15,232.42	15,043.32	204,200.49			
Tax Month	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Total			
Payment Date	2/28/2015	3/25/2015	4/27/2015	5/22/2015	6/19/2015	7/24/2015	8/28/2015	9/24/2015	10/23/2015	11/23/2015	12/14/2015	1/29/2016				
Posted Date	3/2/2015	3/30/2015	5/1/2015	5/26/2015	6/23/2015	7/27/2015	8/31/2015	9/28/2015	10/27/2015	11/25/2015	12/18/2015	2/4/2016				
Total	145,643.88	144,568.88	145,373.94	144,994.76	143,409.77	140,785.46	144,448.62	143,702.39	141,717.23	140,526.75	139,486.23	138,598.51	134,136.86			
A&S Calculated Amount Due																
Error Rate																
Additional Amount Due	(4,688.45)	(4,653.85)	(4,679.76)	(4,667.56)	(4,616.54)	(4,532.06)	(4,649.98)	(4,625.96)	(4,562.05)	(4,523.73)	(4,490.23)	(4,461.65)	(55,151.81)			
12% Interest from Payment Date 7/31/21	(2,875.34)	(2,783.23)	(2,718.43)	(2,651.24)	(2,556.25)	(2,429.31)	(2,411.21)	(2,336.98)	(2,239.86)	(2,152.99)	(2,091.67)	(1,980.68)	(29,227.17)			
5% Penalty on Additional Amount Due	(234.42)	(232.69)	(233.99)	(233.38)	(230.83)	(226.60)	(232.50)	(231.30)	(228.10)	(226.19)	(224.51)	(223.08)	(2,757.59)			
Total Due	(7,798.22)	(7,669.77)	(7,632.18)	(7,552.17)	(7,403.61)	(7,187.97)	(7,293.68)	(7,194.23)	(7,030.01)	(6,902.90)	(6,806.42)	(6,665.42)	(87,136.58)			
Tax Month	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Total			
Payment Date	2/19/2016	3/18/2016	4/15/2016	5/13/2016	6/17/2016	7/26/2016	8/19/2016	9/14/2016	10/27/2016	11/18/2016	12/22/2016	1/20/2017				
Posted Date	2/23/2016	3/21/2016	4/19/2016	5/16/2016	6/21/2016	7/29/2016	8/23/2016	9/22/2016	10/31/2016	11/21/2016	12/27/2016	1/23/2017				
Total	139,711.82	137,717.33	137,346.65	136,147.43	136,777.01	135,103.82	137,437.46	139,889.60	135,888.86	135,152.89	134,877.03	132,364.74	129,622.63			
A&S Calculated Amount Due																
Error Rate																
Additional Amount Due	(2,894.31)	(2,852.99)	(2,845.31)	(2,820.47)	(2,833.51)	(2,798.85)	(2,847.20)	(2,898.00)	(2,815.11)	(2,799.87)	(2,794.15)	(2,742.11)	(33,941.89)			
12% Interest from Payment Date 7/31/21	(1,256.27)	(1,201.03)	(1,160.94)	(1,114.59)	(1,074.74)	(1,012.65)	(999.82)	(984.50)	(903.66)	(872.24)	(829.93)	(780.89)	(12,191.26)			
5% Penalty on Additional Amount Due	(144.72)	(142.65)	(142.27)	(141.02)	(141.68)	(139.94)	(142.36)	(144.90)	(140.76)	(139.99)	(139.71)	(137.11)	(1,697.09)			
Total Due	(4,295.30)	(4,196.68)	(4,148.52)	(4,076.09)	(4,049.93)	(3,951.45)	(3,989.38)	(4,027.39)	(3,859.53)	(3,812.10)	(3,763.79)	(3,600.10)	(47,830.25)			
Tax Month	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Total			
Payment Date	2/24/2017	3/24/2017	4/28/2017	5/22/2017	6/19/2017	7/26/2017	8/23/2017	9/20/2017	10/18/2017	11/16/2017	12/14/2017	1/11/2018				
Posted Date	2/24/2017	3/28/2017	5/2/2017	5/26/2017	6/26/2017	7/26/2017	8/23/2017	9/20/2017	10/18/2017	11/16/2017	12/14/2017	1/11/2018				
Total	131,895.20	131,142.51	128,262.36	126,643.39												
A&S Calculated Amount Due																
Error Rate																
Additional Amount Due	(2,732.38)	(4,221.64)	(4,128.92)	(4,076.81)									(15,159.74)			
12% Interest from Payment Date 7/31/21	(738.15)	(1,091.58)	(1,008.45)	(956.05)									(3,794.24)			
5% Penalty on Additional Amount Due	(136.62)	(211.08)	(206.45)	(203.84)									(757.99)			
Total Due	(3,607.15)	(5,524.30)	(5,343.82)	(5,236.70)									(19,711.97)			
Total													413,481.69			0.00
Petition Date																

Exhibit C

Bixler Declaration as to Claims Subject to the Objection Other than the Tax Claims

Stephen E. Hessler, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

James H.M. Sprayregen, P.C.
Ross M. Kwasteniet, P.C. (admitted *pro hac vice*)
Brad Weiland (admitted *pro hac vice*)
John R. Luze (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
WINDSTREAM FINANCE, CORP., <i>et al.</i> , ¹	)	Case No. 19-22397 (RDD)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered
	)	under Lead Case: Windstream
	)	Holdings, Inc., Case No. 19-22312)

**DECLARATION OF HOLDEN BIXLER
IN SUPPORT OF REORGANIZED DEBTORS’
TWENTIETH OMNIBUS OBJECTION TO THE NO LIABILITY CLAIMS,
SUBSTANTIVELY DUPLICATE CLAIMS, AND CLAIMS TO BE MODIFIED**

I, Holden Bixler, declare under penalty of perjury:

1. I am a Managing Director at Alvarez & Marsal North America, LLC (“A&M”).
Windstream Finance, Corp. and its affiliates (before the effective date of their chapter 11 plan,²
collectively, the “Debtors” and, after the effective date of their chapter 11 plan, collectively,

¹ The last four digits of the Reorganized Debtor Windstream Finance, Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration was granted, a complete list of the reorganized 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 Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

² The Debtors emerged from chapter 11 on September 21, 2020, as set forth in the *Notice of (I) Entry of Confirmation Order, (II) Occurrence of Effective Date, and (III) Related Bar Dates* [Docket No. 2527].

the “Reorganized Debtors”) retained A&M and its subsidiaries, affiliates, agents, and independent contracts as financial advisors in connection with the above-captioned chapter 11 cases.

2. As part of my current position, I am responsible for assisting the Reorganized Debtors with certain claims management and reconciliation matters. I am generally familiar with the Debtors’ day-to-day operations, financing arrangements, business affairs, and books and records that reflect, among other things, the Debtors’ liabilities and the amounts thereof owed to their creditors as of the Petition Date.

3. I have read the *Reorganized Debtors’ Twentieth Omnibus Objection to the No Liability Claims, Substantively Duplicate Claims, and Claims to be Modified* (the “Objection”) filed contemporaneously herewith and am, directly or indirectly through the Reorganized Debtors’ advisors and personnel, familiar with the information contained therein and the schedules attached thereto.³ The scope of this declaration (the “Bixler Declaration”) shall include all claims subject to the Objection other than the Tax Claims.

4. I am authorized to submit this declaration in support of the Objection as to all claims subject to the Objection other than the Tax Claims. All matters set forth in this Declaration are based on (a) my personal knowledge, (b) my review of relevant documents, (c) my view based on my experience and knowledge of the Debtors and the Debtors’ operations, books and records, and personnel, (d) information that the Debtors and others supplied to me at the Debtors’ request, or (e) as to matters involving bankruptcy law or rules or other applicable laws, my reliance on the advice of counsel or other advisors to the Reorganized Debtors. If called upon to testify, I could and would testify competently to the facts set forth herein.

³ Capitalized terms used in this Bixler Declaration and not defined have the meanings given to such terms elsewhere in the Objection.

5. I believe to the best of my knowledge and experience and based on information that I have been able to ascertain after reasonable inquiry that considerable time and resources have been expended to ensure a high level of diligence in reviewing and reconciling the proofs of claim filed against the Debtors in these chapter 11 cases.

A. No Liability Claims.

6. A&M along with the Reorganized Debtors have thoroughly reviewed the No Liability Claims and the supporting documentation thereto. The Reorganized Debtors have determined that the No Liability Claims either seek recovery for unsubstantiated amounts for which the Debtors are not liable or are inconsistent with the Debtors' books and records for the reasons stated on Schedule 1 to the Order.

7. Thus, I believe the No Liability Claims listed on Schedule 1 should be disallowed and expunged in their entirety.

B. Substantively Duplicate Claims.

8. A&M along with the Reorganized Debtors have thoroughly reviewed the Substantively Duplicate Claims and the supporting documentation thereto. The Reorganized Debtors have determined that the "Claims to be Disallowed" listed on Schedule 2 to the Order are substantively duplicative of another proof of claim because they either assert the same underlying liability as or included within the corresponding "Remaining Claim." Specifically, the holder of each Substantively Duplicate Claim filed a subsequent proof of claim to change the Debtor entity against which the claim was asserted, but the underlying obligations in the corresponding proof of claim remained the same. Each Substantively Duplicate Claim was identified because there is no material difference between the original and subsequently-filed proofs of claim. Accordingly, I believe the Substantively Duplicate Claims should be disallowed and expunged in their entirety.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: August 31, 2021

Respectfully submitted,

/s/ Holden Bixler

Name: Holden Bixler

Title: Managing Director

Alvarez & Marsal North America, LLC

Exhibit 11

Counsel to CMN-RUS, Inc.

In re:	Chapter 11
WINDSTREAM HOLDINGS, INC., <i>et al.</i> ,	Case No. 19-22397 (RDD) ¹
Debtors.	Jointly Administered

CMN-RUS, Inc. (“CMN”) hereby responds (the “Response”) to the *Debtors’ Twentieth Omnibus Objection to Claims* (the “Omnibus Objection”) (Docket No. 184), filed on August 31, 2021 by Debtors.² In support of this Response,³ CMN states as follows:

² The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of Debtors 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.



SUMMARY OF VARIOUS CLAIMS AND OBJECTIONS

1. The Debtors seek to disallow two of CMS's Proof of Claims: (i) an unsecured claim in the amount of \$100,933.36 (Claim No. 8713) (the "Post-Petition Power/Rack Space Claim") and is duplicative of an earlier administrative claim motion filed by CMN;⁴ and (ii), an unliquidated claim for rejection damages arising out of the Debtors rejection of a Fiber Transport Services/Dark Fiber Rights Exchange Agreement. (Claim No. 8710) (the "Rejection Claim" and with the Post-Petition Power/Rack Space Claim, the "Claims") both as "No Liability" Claims in the 20th Omnibus Objection. The Declarations attached to the Omnibus Response do not address the Claims directly.

2. The Debtors have previously sought to disallow CMS's Proof of Claim No. 5161, an unsecured claim in the amount of \$432,439.00 (the "Pre-Petition Power/Rack Space Claim"), which is listed on Schedule 1 to the Sixth Omnibus Objection (Docket No. 5161) , on the grounds that "Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant." *See* Sixth Omnibus Objection, ¶ Schedule 4, line 45 page 58 of 92. CMN objected to the Debtors' Sixth Omnibus Objection on the grounds that a mere books and records objection is not sufficient to rebut the *prima facie* validity of the Pre-Petition Power/Rack Space Claim. *See Docket No. 2379.*

3. The Reorganized Debtors have raised a similar objection to the Claims, stating it is not listed on the books and records of the Debtors and the liability remains unliquidated. As such, the Twentieth Omnibus Objection also does not rebut the *prima facie* validity of the Rejection Claim. As to the Post-Petition Power-Rack Space Claim, the Reorganized Debtors also seek to

⁴ *See CMN-RUS, Inc.'s Motion for Allowance of Administrative Claim For Post-Petition Services and Immediate Payment Thereof* (the "Admin Motion") (Docket # 2584). The Post-Petition Power/Rack Space Claim was filed out an abundance of caution in case the Admin Motion was denied administrative status.

claim offsets against CMN for claims some of which are over 10 years old that were disputed long ago by CMN, and until recently seemingly dropped by the Reorganized Debtors. Also, the Reorganized Debtors argue that they incorrectly paid CMN for rack space in Evansville Indiana (even though the payments made were called for under contract), and thus should be offset as a result of the Debtors' unilateral mistake. CMN disputes the validity of these defenses on both a factual and legal basis—but these are clearly affirmative defenses, which are factual in nature and will require discovery before they are adjudicated.

BACKGROUND

4. The Debtors commenced their respective cases under chapter 11 of the Bankruptcy Code on February 25, 2019. (the "Petition Date").

5. On June 26, 2020, the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), entered an order [Docket No. 2243] confirming the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc. et al., Pursuant to Chapter 11 of the Bankruptcy Code (Technical Modifications) [Docket No. 2201].

6. The Effective Date of the Plan occurred on September 21, 2020. [Docket No. 2527].

7. The Post-Petition Power/Rack Space Claim and the Rejection Claim are valid claims. The Post-Petition Power/Rack Space Claim contains a description of the charges and listing of the invoice dates and amounts, and contains copies of the multiple invoices referenced therein (collectively, the "Invoices"), as well as the applicable contracts between CMN and the Debtors, i.e. the Collocation and Maintenance Agreement and Rack Space Swap Agreement (the "Contracts").

8. Similarly, the Rejection Claim is filed for the Debtors rejection of a Fiber Transport

Services/Dark Fiber Rights Exchange Agreement, a copy of which is attached to the Rejection Claim, along with the procedural history of the claim and the Debtors rejection thereof. Additionally, CMN included its proposal for calculation of damages flowing from the rejection even though it is unliquidated. Thus, it also meets the *prima facie* requirements for a claim, and the Reorganized Debtors have not rebutted the validity of the Rejection Claim.

LEGAL ARGUMENT

A. The Debtors Have Failed to Rebut the *Prima Facie* Validity and Amount of the Claim as Evidenced by the Proof of Claim

9. Pursuant to section 502 of the Bankruptcy Code, a proof of claim filed in a bankruptcy proceeding is deemed allowed unless a party in interest objects. 11 U.S.C. § 502(a); *see also In re Gran*, 964 F.2d 822, 827 (8th Cir. 1992).

10. Pursuant to Bankruptcy Rule 3001(f), the filing of a proof of claim constitutes *prima facie* evidence of its amount and validity. Fed. R. Bankr. P. 3001(f); *see also In re Be-Mac Transport Co., Inc.*, 83 F.3d 1020, 1025 (8th Cir. 1996); *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173 (3rd Cir. 1992); *In re Fidelity Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988); *In re Smurfit-Stone Container Corp.*, 2011 Bankr. LEXIS 58 (Bankr. D. Del. 2011). “A properly executed proof of claim constitutes *prima facie* evidence of its validity, and parties objecting to a claim bear the burden of going forward to meet, overcome or, at minimum, equalize the valid claim....” *In re Gridley*, 149 B.R. 128, 132 (Bankr. S.D. 1992); *see also In re Be-Mac Transport*, 83 F3d at 1025 (8th Cir. 1996); *In re Chateaugay Corp.*, 154 B.R. 29, 32 (Bankr. S.D.N.Y. 1993)

11. Pursuant to the express language of Bankruptcy Rule 3001(f), “[a] party objecting to a claim has the initial burden of presenting a substantial factual basis to overcome the *prima facie* validity of a proof of claim [and] [t]his evidence must be of a probative force equal to that of the creditor’s proof of claim.” *In re Hinkely*, 58 B.R. 339, 348 (Bankr. S.D. Tex. 1986), *aff’d*, 89

B.R. 608 (S.D. Tex. 1988), *aff'd* 879 F.2d 859 (5th Cir. 1989), citing *In Re Globe Parcel Service, Inc.*, 71 B.R. 323 (E.D. Pa. 1987) (emphasis added); accord *In re Allegheny*, 954 F.2d at 173; *In re Bennett*, 83 B.R. 248, 252 (Bankr. S.D.N.Y. 1988) (the debtor, as the objecting party, must go forward and produce sufficient evidence to rebut the claimant's *prima facie* case). The *prima facie* validity of a proof of claim is “strong enough to carry over a mere formal objection without more.” *In re Schlehr*, 290 B.R. 387, 395 (Bankr. D. Mont. 2003). Where a debtor simply makes a *pro forma* objection without any evidentiary support, a court may summarily overrule such objections. See e.g., *Garner v. Shier (In re Garner)*, 246 B.R. 617, 620, 623 (B.A.P. 9th Cir. 2000). Indeed, “[t]o overcome this *prima facie* evidence, the objecting party must come forth with evidence which, if believed, would refute at least one of the allegations essential to the claim.” *In re Reilly*, 245 B.R. 768, 773 (B.A.P. 2d Cir. 2000).

12. In *Garner*, the debtor objected to a proof of claim by merely asserting that “there is no obligation to pay . . . and there are no written documents or other competent evidence of any valid obligations owed . . .” *Garner*, 246 at 620. Moreover, the debtor failed to offer any evidence at the hearing in support of such assertions. *Id.* Consequently, the *Garner* Bankruptcy Court held that the debtor did not fulfill its burden of producing competent evidence rebutting the presumption of validity afforded the proof of claim. *Id.*

13. CMN’s proof of claim includes copies of the underlying Invoices evidencing the validity and amount of the Claim and the signed copies of the Contracts supporting the Invoices. The Invoices from CMN are each itemized and are easily identified by the Debtor’s name, the invoice number, the invoice date, and the invoice amount. This information should have been more than sufficient to allow the Debtors to locate some record of these transactions with CMN in the Debtors’ books and records. The Invoices and Contracts are clearly sufficient to support

CMN's Claim. As a result, the Debtors' Objection to Claim should be overruled.

14. The situation before this Court, essentially, is no different than the situation presented to the *Garner* court. Here, the Debtors have failed to submit any "substantial factual" evidence satisfying the Debtors' burden to overcome the *prima facie* presumption of validity of the existence of the Claim or its amount as set forth in the Claim. Simply put, the Debtors' Omnibus Objection does not address with particularity (except in a conclusory fashion) the underlying facts supporting the Claim. Instead, the Omnibus Claims Objection merely states that "Pursuant to the Debtors' books and records, no amounts are due and no liability exists for this claimant." See Omnibus Objection, ¶ Schedule 4, line 45 page 58 of 92.

15. Standing alone, the Omnibus Objection does not satisfy the Debtors' burden of adducing "substantial factual" evidence rebutting any element of the Claim. *In re Williams*, No. 92-50546, 1994 WL 329328, *3 (Bankr. S.D. Ga. March 30, 1994) (merely disagreeing with the amount of a claim cannot rise to the level of producing evidence equal to the weight given to the claim itself as is necessary to rebut the presumption of *prima facie* validity). As in *Garner*, the Debtors in this case have merely asserted that there is "no liability for this claimant." See *Garner*, 246 B.R. at 620. This conclusory statement certainly does not overcome the *prima facie* evidence set forth in Claim which, "if believed, would refute at least one of the allegations essential to the claim." *In re Reilly*, 245 B.R. 768, 773 (2nd Cir. 2000). Where a debtor simply makes a *pro forma* objection without competent evidentiary support, a court should summarily overrule such objections. See *Garner*, 246 B.R. at 623. Under these circumstances, the *prima facie* validity of the Claim is "strong enough to carry over a mere formal objection without more." *In re Schlehr*, 290 B.R. at 395.

B. The Defenses Raised By the Reorganized Debtors are Affirmative Defenses on Which They Have the Burden of Proof and Which Need Discovery

16. The Reorganized Debtors have raised an affirmative defense of offset or setoff that the Reorganized Debtors are owed certain power payments for a facility in Indianapolis. Secondly, the Reorganized Debtors claim the affirmative defense that CMN owes the Reorganized Debtors for return of inadvertent payments made by the Debtors on account of racks in Evansville, Indiana that the Reorganized Debtors claim were supposed to be free of charge. Thus, raising mistake and offset as affirmative defenses to the Post-Petition/Power Rack Space Claim.

17. The Collocation and Maintenance Agreement, Rack Space Swap Agreement and the Fiber Transport Services/Dark Fiber Rights Exchange Agreement are governed under Indiana law.⁵ Under Indiana law, offset is an affirmative defense. *See Allen v. Int'l Truck & Engine Corp.*, 2017 WL 1382610, at 5 (S.D. Ind. Apr. 18, 2017) (defendant employer bore the burden of proving affirmative defense of offset in employment case) *Travelers Cas. & Sur. Co. of Am. v. Consol. City of Indianapolis, Ind.*, , 2014 WL 5509312, at 8 n.6 (S.D. Ind. Oct. 31, 2014) (offset raised as affirmative defense, instead of affirmative claim) *See also* § 19:23. Setoff, Def Against a Prima Facie Case § 19:23 (Rev ed) (“Reduction or offset of damages is an affirmative defense that must be pleaded and proved.”). The Reorganized Debtors bear the burden to prove their offset or setoff, which is subject to discovery in this case.

18. Reorganized Debtors assertion that amounts are owed by CMN regarding the Indianapolis facility is negated by the facts that neither the Debtors nor Reorganized Debtors have

⁵ *See* Section 20 of the Collocation and Maintenance Agreement and Rack Space Swap Agreement and Section 26 of the Fiber Transport Services/Dark Fiber Rights Exchange Agreement providing that Indiana law governs. To the extent that New York law controls, offset is also an affirmative defense. *See In re Gaulsh*, 602 B.R. 849, 854 (Bankr. S.D.N.Y. 2019).

invoiced CMN for such amounts since December 2016.⁶ Despite a joint audit between the parties in 2018, that the Reorganized Debtors did not dispute, the Reorganized Debtors never raised these issues again until long after CMN filed its claims. CMN asserts all defenses to that offset or setoff, including waiver, estoppel, laches, statute of limitations, failure to mitigate, and reserves its rights to assert others.

19. Reorganized Debtors also assert that amounts owed by the Debtors under the Post-Petition Power/Rack Space Claim should be offset by amounts paid as a result of a unilateral mistake by the pre-petition Debtors in executing an amendment to the Collocation and Maintenance Agreement. This is also an affirmative defense in which the Reorganized Debtors bear the burden of proof. *See Mirabal v. Gen. Motors Acceptance Corp.*, 576 F.2d 729, 733 (7th Cir. 1978) (“At trial it was the defendants who had the burden of establishing their affirmative defense of a bona fide mistake.”) Thus, Reorganized Debtors bear the burden of proof as to this defense, which is clearly factual and subject to discovery by CMN.

20. The mistake argued by Reorganized Debtors deals with a license to provide a certain number of racks used by the Reorganized Debtors in Evansville, Indiana. Notably, under Indiana law a contract cannot be avoided for mistake unless there has been a mutual mistake or a unilateral mistake accompanied by fraud or inequitable conduct by the counter-party. As stated by one Indiana Court:

“a contract generally may not be avoided for unilateral mistake unless the mistake was induced by the misrepresentation of the opposite party. [citation omitted]. Thus, equity has jurisdiction in only two well-defined situations: (1) where there is a mutual mistake; or (2) where there has been a mistake by one party, accompanied by fraud or inequitable conduct by the remaining party. *Plumlee v. Monroe Guar.*

⁶ The last invoice presented to CMN by the Reorganized Debtors was in December 2016 and was for power supplied as far back as 2010. CMN disputed the charges in 2017. The Reorganized Debtors reduced the amount of the invoice, but CMN again disputed the amounts. The parties engaged in a joint audit, after completed the Reorganized Debtors never raised these issues again until CMN filed its claims, nor have they invoiced CMN for any additional amounts.

Ins. Co., 655 N.E.2d 350, 356 (Ind.Ct.App.1995) (discussing reformation of a contract), *reh'g denied, trans. denied*. However, equitable relief is not available if the mistake is a mistake of law. *Estate of Spry v. Greg & Ken, Inc.*, 749 N.E.2d 1269, 1275 (Ind.Ct.App.2001), *reh'g denied*. Equity should not intervene “where the complaining party failed to read the instrument, or, if he read it, failed to give heed to its plain terms.” *Id.* (quoting *Gierhart v. Consol. Rail Corp.-Conrail*, 656 N.E.2d 285, 287 (Ind.Ct.App.1995)).

Mid-States Gen. & Mech. Contracting Corp. v. Town of Goodland, 811 N.E.2d 425, 435 (Ind. Ct. App. 2004). First, there is no mutual or unilateral mistake. Reorganized Debtors contracted for a specific amount of rack space, which CMN provided. It is immaterial if it was fully used or not under the terms of the agreement. Second, Reorganized Debtors’ own records show they in fact use/used several of the racks they claim they mistakenly contracted for. Thus, there is no valid affirmative defense to the Post-Petition Power/Rack Space Claim.

21. Lastly, the Reorganized Debtors have not supported the objection to the Rejection Claim. The Debtors rejected the Fiber Transport Services/Dark Fiber Rights Exchange Agreement and pursuant to 11 U.S.C. § 365(g) that operates as a pre-petition breach of that agreement. CMN attached the applicable agreement to the Rejection Claim. Thus, the only issue in relation to the Rejection Claim is damages. CMN has provided backup and a formula for its proposed damages in the Rejection Claim. Thus, it satisfies the *prima facie* validity standard and has not been rebutted by the Reorganized Debtors.

Reservation of Rights and Discovery

22. As such, because of Debtors failure to rebut the *prima facie* validity of the Rejection Claim and the Post-Petition Power/Rack Space Claim, CMN reserves and any all rights to produce subsequent evidence, testimony, legal arguments and seek discovery from Debtors regarding any objections and grounds thereof to the Claims. CMN asserts the right to discovery, and to take discovery against the Reorganized Debtors.

23. CMN and the Reorganized Debtors have engaged in efforts to settle the Claims and defenses thereto. There are numerous emails and exchanges supporting the Claims and rebutting the affirmative defenses asserted. CMN does not waive the right to produce additional documents to the Reorganized Debtors. Pursuant to the Procedures for Filing and Serving Omnibus Claims Objections, CMN has determined that if a settlement is not reached, discovery will be necessary and that this Response is notice that the scheduled hearing will be treated as a scheduling conference. The Parties are still engaged in settlement discussions, and this Response was necessitated by the applicable deadline and CMN intends to continue with good faith settlement discussions.

24. The designated attorney for contact and authority to resolve this matter is: Andrew J. Nazar, Polsinelli PC. (816) 395-0641, anazar@polsinelli.com. CMN reserves the right to designate others on its behalf as well.

WHEREFORE, CMN seeks entry of an order denying the Omnibus Objection to the extent that it seeks disallowance of the Claims and such other and further relief as may be deemed just and proper under the circumstances.

Dated: Kansas City, Missouri
September 22, 2021

POLSINELLI PC

/s/ Andrew J. Nazar

Jeremy R. Johnson (Bar No. 4307617)
600 3rd Avenue, 42nd Floor
New York, New York 10016
(212) 684-0199
jeremy.johnson@polsinelli.com

Andrew J. Nazar (admitted pro hac vice)
900 West 48th Place, Suite 900
Kansas City, Missouri 64112
(816) 753-1000
anazar@polsinelli.com

Counsel for CMN-RUS, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing response was filed with the Bankruptcy Court and served on all parties registered to receive notice via CM/ECF on September 23, 2021. Copies of the foregoing document were also served via overnight mail and email transmission, on the individuals listed below.

Counsel to Debtors

Stephen E. Hessler, P.C.
Neda Davanipour
Spencer Caldwell-McMillan
Christopher Ceresa
Trudy Smith
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
601 Lexington Avenue
New York, NY 10022

Via ECF: shessler@kirkland.com

Counsel for Committee

Lorenzo Marinuzzi
Todd M. Goren
Jennfer L. Marines
Erica J. Richards
Morrison & Foerster LLP
250 West 55th St.
New York, NY 10019

Via ECF: lmarinuzzi@mofo.com

The Hon. Robert D. Drain
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4140

Via Overnight Mail

Counsel to Debtors

Ross M. Kwasteniet, P.C.
Brad Weiland
John R. Luze
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
300 North LaSalle Street
Chicago, IL 60654

Via Overnight Mail

Office of the U.S. Trustee

Attn: Paul K. Schwartzberg and
Serene Nakano
U.S. Federal Office Building
201 Varick St., Suite 1006
New York, NY 10014

Via Overnight Mail

Dated: September 22, 2021

/s/ Andrew J. Nazar
Andrew J. Nazar

Exhibit 12

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

In re:)	
	)	Chapter 11
)	
WINDSTREAM FINANCE CORP., <i>et al.</i> , ¹	)	Case No. 19-22397 (RDD)
)	
Reorganized Debtors.	)	(Formerly Jointly Administered under
	)	Lead Case: Windstream Holdings, Inc.,
	)	Case No. 19-22312)
)	
WINDSTREAM KDL, LLC)	
)	
Plaintiff,	)	Adversary Proceeding
)	
v.	)	Case No. 21-_____ (RDD)
)	
CMN-RUS, INC.)	
)	
Defendant.)	

ORIGINAL COMPLAINT

The above-captioned debtors (the “Debtors”), as reorganized pursuant to and under the Plan (defined below) (collectively, the “Reorganized Debtors”), bring this Original Complaint against CMN-RUS, Inc. (“CMN”), seeking (1) reimbursement for excess payments by Windstream KDL, LLC (“Windstream KDL”) to CMN, (2) payment for CMN’s use of Windstream KDL’s Indianapolis site racks and power, and (3) payment for CMN’s outstanding invoices for fiber optic cable installation on a third-party’s utility pole network through Windstream KDL’s private contract with that third party, and respectfully alleges as follows:

¹ The last four digits of Reorganized Debtor Windstream Finance Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors 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 Reorganized Debtors’ claims and noticing agent at <http://www.kcellc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these Chapter 11 Cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

NATURE OF THE ACTION

1. On February 25, 2019, the Debtors filed voluntary petitions for relief under title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”). CMN submitted to the Bankruptcy Court its proof of claims, to which certain Debtors have objected, all of which is set forth in detail below. In pursuing some of these claims, however, CMN has not accounted for its own outstanding debts owed to Windstream KDL.

2. Prior to the filing of the bankruptcy petitions, Windstream KDL and CMN had entered into a number of contractual agreements for services that include the provision of rack space and power to each party’s benefit. Both Windstream KDL and CMN have used and continue to use rack space and power to deliver services to their respective customers. In general, the parties enjoy these services, which are mutually beneficial, in consideration for the provision of rack space and power at one another’s facilities.

3. Despite these contractual agreements, CMN overcharged Windstream KDL for excess rack space that Windstream KDL did not utilize. Based on information known to date, Windstream KDL inadvertently overpaid \$896,703.32 for services in Evansville, Indiana, that CMN did not provide or that should have been provided without charge, per the agreements. CMN therefore materially breached the parties’ agreement that CMN would provide free rack services to Windstream KDL in Evansville, Indiana, subject to certain power overages provisions.

4. In consideration of CMN’s provision of free rack space and power to Windstream KDL in Evansville, Windstream KDL provided CMN with free rack space and power at its Indianapolis, Indiana facility. Based on information known to date, CMN accrued \$259,747.51 in power overages and \$382,000 in rack space charges for sixteen racks (i.e., a number in excess of

the 10 racks to be provided free of charge per the parties' agreement) at the Indianapolis facility since 2008. Windstream KDL is entitled to payment from CMN for those accrued fees.

5. Finally, CMN is indebted to Windstream KDL for outstanding invoices for services Windstream KDL provided that are related to a third-party contract owned by Windstream KDL. Windstream KDL contracted with affiliates of third-party Duke Energy Corporation ("Duke Power") to have the right to attach fibers to Duke Power's network of poles, and CMN contracted with Windstream KDL to access that network. CMN is contractually obligated to pay for the installation of its fiber optic cables in Duke Power's network of utility poles through Windstream KDL. Based on information known to date, CMN has an outstanding balance of \$329,001.72 related to those services.

PARTIES

6. Windstream KDL is a limited liability company organized under the laws of the Commonwealth of Kentucky with its headquarters in the State of Arkansas. It is a leading provider of advanced network communications and technology solutions for consumers, businesses, enterprise organizations, and wholesale customers across the United States. Windstream KDL provides these solutions across a range of services including cloud computing, integrated voice and data services, internet security services, and consumer video services.

7. Upon information and belief, CMN is a corporation organized under the laws of the State of Indiana with its headquarters in the State of Indiana. It is engaged in, among other things, fiber optic communication services, and it offers internet, telephone, television, and data communication services. CMN's registered agent for service of process in Indiana is National Registered Agents, Inc., 334 North Senate Avenue, Indianapolis, IN 46204.

JURISDICTION AND VENUE

8. This Court has jurisdiction over these proceedings pursuant to 28 U.S.C. § 1334.
9. This Court has personal jurisdiction over CMN under Rule 7004(f) of the Federal Rule of Bankruptcy Procedure (the “Bankruptcy Rules”).
10. This adversary proceeding constitutes a “core” proceeding as defined in 28 U.S.C. § 157(b)(2)(A), (B) and (C). In the event that this or any other appropriate Court finds any part of this adversary proceeding to be “non-core,” Windstream KDL consents to the entry of final orders and judgments by this Court, pursuant to Rule 7008 of the Bankruptcy Rules.
11. Venue is proper under 28 U.S.C. §§ 1408 and 1409 because this adversary proceeding arises under and in connection with a bankruptcy case pending in this district.
12. This adversary proceeding is initiated under Bankruptcy Rule 7001(1) and (9), and 28 U.S.C. § 2201.

RELEVANT BACKGROUND

I. The Contracts

13. Throughout the tenure of their relationship, the parties have executed multiple agreements related to the provision of rack space, power, and shared infrastructure. Relevant here are the following agreements:

- a. the Collocation and Maintenance Agreement and its amendments (the “Collocation Agreement,” attached as Exhibit 1),
- b. the Rack Space Swap Agreement (the “Rack Swap Agreement,” attached as Exhibit 2).
- c. the Pole Attachment Rights/Dark Fiber Rights Exchange Agreement (the “Duke Power Agreement”),
- d. the Fiber Transport Services/Dark Fiber Rights Exchange Agreement (attached as Exhibit 3),
- e. the DWDM Capacity and Maintenance Agreement, and

f. the Fiber Exchange Agreement.

A. The Collocation Agreement

14. The parties entered the Collocation Agreement, with an effective date of February 7, 2005, for the purpose of Windstream KDL providing certain maintenance services. Collocation Agreement §§ 1, 3. In exchange for providing the maintenance services, Windstream KDL would receive a license from CMN to use its facilities. Collocation Agreement §§ 2, 7. In particular, CMN agreed to provide licenses for five racks and a power allotment at no additional charge to Windstream KDL at its Evansville facility (among other facilities). Collocation Agreement § 2 & Ex. A.

15. If Windstream KDL utilized more than the racks allotted under this agreement at any facility, CMN would be allowed to charge Windstream KDL \$500 per additional rack. Collocation Agreement § 4. Similarly, if Windstream KDL consumed additional power beyond its allotment, the parties created a formula for that cost coverage. Collocation Agreement § 4.

B. The Rack Swap Agreement

16. The parties also entered the Rack Swap Agreement for the purpose of providing each party with free rack space and 30 amps of power per rack at each other's respectively owned facility. Rack Swap Agreement § 1. Windstream KDL was entitled to ten racks and 300 amps of power at no additional charge at CMN's Evansville facility; CMN, in turn, was entitled to ten racks and 300 amps of power at Windstream KDL's Indianapolis facility. Rack Swap Agreement § 2. For any additional power used beyond the provided 300 amps, the parties agreed to a formula for determining that cost coverage. Rack Swap Agreement § 2.

17. In sum, under the Collocation Agreement and the Rack Swap Agreement, Windstream KDL was entitled to (and it was the intent of the parties that Windstream KDL have) free use of fifteen racks and a power allotment without charge from CMN.

C. The Duke Power Agreement

18. Finally, the parties entered into the Duke Power Agreement on February 7, 2005, for the purpose of CMN accessing Duke Power's utility poles in order to locate fiber optic cables on those poles through Windstream KDL's separate contract with Duke Power. Duke Power Agreement § 1.

19. Windstream KDL had contracted with Duke Power to access its utility poles for Windstream KDL's fiber optic cable. Duke Power Agreement § 1 & Ex. A. CMN wanted access to Duke's utility pole network as well and agreed to pay Windstream KDL a premium to piggyback off of its contract with Duke Power. Duke Power Agreement § 4. CMN notified Windstream KDL when it wanted to locate fiber optic cable along Duke's utility poles; if approved, Windstream KDL oversaw the installation and charged CMN all costs for said installation as well as an overhead allocation equal to 15% of the total costs. Duke Power Agreement § 4.

II. The Breaches

20. First, since December 2012 and continuing through September 2021, CMN has billed Windstream KDL \$1,008,687.32 for excess rack space in connection with CMN's Evansville facility. These charges were billed to Windstream KDL without accounting for the fifteen free rack spaces provided under the Collocation Agreement and the Rack Swap Agreement.

21. Based upon information and belief, Windstream KDL has used fewer than fifteen racks at the Evansville facility at all relevant times. And despite inadvertently paying those charges in full through September 2020 (in the amount of \$896,703.32), Windstream KDL disputes those charges in the amount of \$1,008,687.32 and demands a refund of \$896,703.32.

22. Second, based upon information and belief, CMN occupies sixteen racks of space at Windstream KDL's Indianapolis facility, eleven since 2008, followed by the addition of five

racks from 2009 through 2013.² This usage was in excess of the ten licensed racks under the Rack Swap Agreement. Thus, CMN has accrued \$382,000 in rack space fees at the Indianapolis facility.

23. Third, based upon information and belief, CMN has also accumulated power overages at Windstream KDL's Indianapolis facility since 2008, totaling \$259,747.51.

24. Fourth, Duke Power filed a proof of claim in Debtors' bankruptcy proceedings totaling \$1,134,043.69. *See* Claim No. 7261. Debtors obtained a reduction in the amounts owed to Duke Power to \$441,393.00 (the "Duke Settlement Payment"). In connection with that negotiated reduction, Debtors and CMN agreed that CMN would pay directly to Windstream KDL \$200,000.00 (the "CMN Settlement Payment") of the Duke Settlement Payment to account for fourteen of CMN's invoices that were encompassed by Duke's proof of claim against Windstream KDL. CMN has not yet paid Windstream KDL that settlement amount.

25. Fifth, based upon information and belief, CMN also owes Windstream KDL \$129,001.72 for outstanding invoices that are unrelated to the CMN Settlement Payment but that arise out of the Duke Power Agreement. CMN has failed to pay Windstream KDL for those services rendered.

III. The Plan, the CMN Proofs of Claim and the Claim Objections

A. The Plan

26. On April 1, 2020, the Debtors filed the *Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc., et al., Pursuant to Chapter 11 of the Bankruptcy Code* (as subsequently amended, the "Plan") [Docket No. 2243-1].

27. On June 26, 2020, the Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming the First Amended Joint Chapter 11 Plan of Reorganization of Windstream*

² These five racks were added on or about 6/10/2009, 8/15/2011, 5/7/2012, 7/24/2012, and 11/22/2013.

Holdings, Inc. et al., Pursuant to Chapter 11 of the Bankruptcy Code, confirming the Debtors' Plan [Docket No. 2243].

28. The Plan became effective on September 21, 2020 (the "Effective Date") [Docket No. 2527].

29. Pursuant to Article I.A.38 of the Plan, the deadline for objecting to Claims (as defined in the Plan), the "Claims Objection Deadline," "shall be on the date that is the later of (a) 180 days after the Effective Date and (b) such later date as may be fixed by the Bankruptcy Court." Based on the provisions of the Plan, the current Claims Objection Deadline is December 15, 2021 [Docket No. 199].

B. The CMN Proofs of Claim and the Claim Objections

30. CMN filed various pre- and post-petition proofs of claim against the Debtors. Specifically, CMN filed a pre-petition claim in the amount of \$432,439.00 (Claim No. 5161 against Windstream KDL), a pre-petition claim in an unliquidated amount (Claim No. 8710 against Windstream KDL), and a post-petition claim in the amount of \$100,933.36 (Claim No. 8713 against Windstream KDL).

31. On July 17, 2020, and in compliance with the *Order (I) Approving (A) Omnibus Claims Objection Procedures, (B) Omnibus Substantive Claims Objections and Form of Notice, and (C) Satisfaction Procedures and Form of Notice and (II) Waiving Bankruptcy Rule 3007(e)(6)* (the "Order Approving Omnibus Claims Objection Procedures") [Docket No. 1141], the Debtors filed the *Sixth Omnibus Objection to Amended Claims, Cross-Debtor Duplicate Claims, Equity Interest Claims, and No Liability Claims* (the "Sixth Omnibus Objection") [Docket No. 2317], which included an objection to Claim 5161 "because, among other reasons, the Debtors are unable to reconcile each purported liability with their books and records." *See* Sixth Omnibus Objection, ¶ 1. The Sixth Omnibus Objection further provides that the Debtors object to the claims listed on

Schedule 4 to the proposed order, which includes Claim 5161, because “the Debtors and their advisors have determined that such claims seek to recover amounts for which the Debtors are not liable.” *Id.* at ¶ 15. As set forth on Schedule 4 to the proposed order, “[p]ursuant to the Debtors’ books and records, no amounts are due and no liability exists for this claimant.” *Id.* at Schedule 4, p. 7.

32. On August 7, 2020, CMN filed its response to the Sixth Omnibus Objection [Docket No. 2379] in which CMN asserts that the Sixth Omnibus Objection should be denied.

33. On August 31, 2021, and in compliance with the Order Approving Omnibus Claims Objection Procedures, the Debtors filed the *Twentieth Omnibus Objection to the No Liability Claims, Substantively Duplicative Claims, and Claims to Be Modified* (the “Twentieth Omnibus Objection”) [Docket No. 184], which included objections to Claim 8710 and 8713 “because each purported liability cannot be reconciled with the Debtors’ books and records” *See* Twentieth Omnibus Objection, ¶ 1. The Twentieth Omnibus Objection further provides that the Debtors object to the claims listed on Schedule 1 to the proposed order, which includes Claim 8710 and Claim 8713, because “the Reorganized Debtors and their advisors have determined that such claims seek to recover amounts for which the Debtors are not liable” and such claims are “inconsistent with the Debtors’ books and records.” *Id.* at ¶¶ 11 and 13. As set forth on Schedule 1 to the proposed order, the Reorganized Debtors provide the following additional grounds for objecting:

Claim 8710. Pursuant to the Debtors’ books and records, no amounts are due and no liability exists for this claimant. This claim remains unliquidated as of the date hereof.

Claim 8713. Pursuant to the Debtors’ books and records, no amounts are due and no liability exists for this claimant. This claim alleges obligations related to power charges for facilities in Wolcott, Marion, and Seymour. However, the claimant owes the Reorganized Debtors on account of certain power payments for a facility in Indianapolis. In addition, the claimant owes the Reorganized Debtors for inadvertent payments the

Debtors made on account of fifteen (15) racks in Evansville that were to be free of charge pursuant to certain contract amendment(s). The Reorganized Debtors have provided materials for the claimant's review, including calculations.

Id. at Schedule 1, p. 1.

34. On September 22, 2021, CMN filed its response to the Twentieth Omnibus Objection [Docket No. 189] in which CMN asserts that the Twentieth Omnibus Objection should be denied.

CAUSES OF ACTION

COUNT I

(Breach of Contract: Overcharges as to Collocation Agreement and Rack Space Agreement)

35. Windstream KDL incorporates and realleges each of the allegations in the foregoing paragraphs as if set forth fully herein.

36. Windstream KDL performed all of its obligations under the Collocation Agreement and the Rack Swap Agreement.

37. CMN, however, has breached the Collocation Agreement and Rack Swap Agreement. CMN has, among other things, (a) overcharged Windstream KDL \$1,008,687.32 (through September 2021) for the provision of rack space in Evansville that should have been free to Windstream KDL, and (b) refused to issue a refund for Windstream KDL's inadvertent overpayment of \$896,703.32 despite being unjustly enriched by funds CMN did not earn.

38. These breaches violate at least Section 3 of the Collocation Agreement and Section 2 of the Rack Swap Agreement and have interfered with Windstream KDL's contractual right to free access to fifteen racks and power at CMN's Evansville facility.

39. Windstream KDL has satisfied all conditions precedent to seeking relief under the Collocation Agreement, including Section 18 thereof, and the Rack Swap Agreement,

including Section 14 thereof.

40. Windstream KDL has suffered and continues to suffer damages as a result of the breaches of contract.

41. Windstream KDL, therefore, is entitled to (i) a declaration that CMN breached the Collocation Agreement and Rack Swap Agreement, and (ii) monetary damages and/or offset or recoupment of monetary damages CMN is pursuing against Windstream KDL in CMN's proofs of claim.

42. Windstream KDL may claim greater damages once it better learns through discovery how CMN calculated certain invoiced charges.

**COUNT II
(Unjust Enrichment)**

43. Windstream KDL incorporates and realleges each of the allegations in the foregoing paragraphs as if set forth fully herein.

44. As a result of the conduct described in Count I, CMN has been unjustly enriched at the expense of Windstream KDL.

45. CMN has charged \$1,008,687.32 (through September 2021) and Windstream KDL inadvertently paid \$896,703.32 for rack space in connection with the Evansville facility. Those charges did not account for the fifteen racks provided to Windstream KDL under the Collocation Agreement and Rack Swap Agreement.

46. Windstream KDL disputed \$896,703.32 of those charges because CMN accepted payment for services it did not perform, but CMN refused to refund \$896,703.32 of those charges.

47. Windstream KDL has satisfied all conditions precedent to seeking relief under Collocation Agreement and Rack Swap Agreement.

48. Windstream KDL has suffered and continues to suffer damages as a result of CMN's unjust enrichment at the expense of Windstream KDL.

49. CMN should be required to disgorge the improper benefits that they unjustly obtained at the expense of Windstream KDL.

50. Windstream KDL, therefore, is entitled to monetary damages and/or offset or recoupment of monetary damages CMN is pursuing against Windstream KDL in CMN's proofs of claim.

51. Windstream KDL may claim greater damages once it better learns through discovery how CMN calculated certain invoiced charges.

COUNT III
(Declaratory Judgment – Evansville Facility Racks)

52. Windstream KDL incorporates and realleges each of the allegations in the foregoing paragraphs as if set forth fully herein.

53. A substantial controversy exists as to the parties' rights and obligations under the Collocation Agreement and Rack Space Agreement.

54. Windstream KDL therefore seeks the following declarations:

- a. Under the Collocation Agreement and the Rack Space Agreement, Windstream is entitled to licenses to 15 racks free of charge in CMN's Evansville facility.
- b. CMN invalidly charged \$1,008,687.32 for excess rack space in connection with CMN's Evansville facility for the time period of December 2012 to September 2021, and such amount is not due and owing to CMN.

COUNT IV
(Breach of Contract – Overdue Invoices for Rack Space and Power)

55. Windstream KDL incorporates and realleges each of the allegations in the foregoing paragraphs as if set forth fully herein.

56. Windstream KDL performed all of its obligations under the Rack Swap

Agreement.

57. CMN, however, has breached the Rack Swap Agreement. CMN has, among other things: (a) utilized sixteen racks at Windstream KDL's Indianapolis facility and accumulated \$382,000 of unpaid rack space fees, and (b) incurred power overages at Windstream KDL's Indianapolis facility and accumulated \$259,747.51 of unpaid power overage fees.

58. These breaches violate at least Section 2 of the Rack Swap Agreement.

59. Windstream KDL has suffered and continues to suffer damages as a result of the breaches of contract.

60. Windstream KDL, therefore, is entitled to (i) a declaration that CMN breached the Rack Swap Agreement, and (ii) monetary damages and/or offset or recoupment of monetary damages CMN is pursuing against Windstream KDL in CMN's proofs of claim.

COUNT V
(Declaratory Judgment – Indianapolis Facility Racks)

61. Windstream KDL incorporates and realleges each of the allegations in the foregoing paragraphs as if set forth fully herein.

62. A substantial controversy exists as to the parties' rights and obligations under the Rack Space Agreement.

63. Windstream KDL therefore seeks the following declarations:

- a. Since 2008, CMN has at all times used in excess of 10 racks in Windstream KDL's Indianapolis facility.
- b. CMN is responsible for license fees and power overages for its use of in excess of 10 racks in KDL's Indianapolis facility.

COUNT VI
(Breach of Contract – Duke Power Agreement)

64. Windstream KDL incorporates and realleges each of the allegations in the

foregoing paragraphs as if set forth fully herein.

65. Windstream KDL performed all of its obligations under the Duke Power Agreement.

66. CMN, however, has breached the Duke Power Agreement. CMN has, among other things, failed to pay \$129,001.72 in outstanding invoices to Windstream KDL for installation of CMN's fiber cables on Duke Power's network of utility poles. Additionally, CMN has not yet paid the CMN Settlement Payment to Windstream KDL.

67. CMN's breach violates at least Sections 4 and 6 of the Duke Power Agreement and have interfered with Windstream KDL's right to payment for services rendered to CMN at Windstream KDL's expense.

68. Windstream KDL has satisfied all conditions precedent to seeking relief under the Duke Power Agreement, including Section 25 thereof.

69. Windstream KDL has suffered and continues to suffer damages as a result of the breach of contract.

70. Windstream KDL, therefore, is entitled to (i) a declaration that CMN breached the Duke Power Agreement, and (ii) monetary damages and/or offset or recoupment of monetary damages CMN is pursuing against Windstream KDL in CMN's proofs of claim.

PRAYER FOR RELIEF

71. Windstream KDL respectfully requests that this Court enter a judgment granting the following relief:

- a) A declaration that CMN breached the Collocation Agreement;
- b) A declaration that CMN breached the Rack Swap Agreement;
- c) A declaration that CMN breached the Duke Power Agreement;

- d) A declaration that under the Collocation Agreement and the Rack Space Agreement, Windstream is entitled to licenses to 15 racks free of charge in CMN's Evansville facility;
- e) An award of \$896,703.32 as a refund for Windstream KDL's overpayment for racks in Evansville, Indiana, under the Collocation Agreement and the Rack Swap Agreement;
- f) A declaration that CMN invalidly charged \$1,008,687.32 for excess rack space in connection with CMN's Evansville facility for the time period of December 2012 to September 2021, and such amount is not due and owing to CMN;
- g) A declaration that Since 2008, CMN has at all times used in excess of 10 racks in Windstream KDL's Indianapolis facility;
- h) A declaration that CMN is responsible for license fees and power overages for its use of in excess of 10 racks in KDL's Indianapolis facility;
- i) An award of \$641,747.51 for CMN's use of sixteen racks with excess power charges in Indianapolis, Indiana;
- j) An award of \$129,001.72 for CMN's outstanding invoices and related debts concerning the Duke Power Agreement;
- k) An award of \$200,000.00 for the CMN Settlement Payment that CMN has not yet paid to Windstream KDL;
- l) An order sustaining the objections to Claim Nos. 5161, 8710, and 8713 for the reasons stated in this Complaint, the Sixth Omnibus Objection, and the Twentieth Omnibus Objection;
- m) A judgment that CMN take nothing on Claim Nos. 5161, 8710, and 8713;
- n) Attorneys' fees, costs, and expenses incurred in this Adversary Proceeding to the extent recoverable;
- o) Pre- and post-judgment interest up to the statutory maximum; and
- p) Any other relief that this Court may deem just, proper, or equitable under the circumstances.

Dated: October 22, 2021

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: /s/ James V. Leito IV
Richard Krumholz
Kristian W. Gluck
James V. Leito IV (*pro hac vice* pending)
NORTON ROSE FULBRIGHT US LLP
2200 Ross Avenue, Suite 3600
Dallas, Texas 75201-7932
Telephone: (214) 855-8000
Facsimile: (214) 855-8200
richard.krumholz@nortonrosefulbright.com
kristian.gluck@nortonrosefulbright.com
james.leito@nortonrosefulbright.com

COUNSEL FOR WINDSTREAM KDL, LLC

Exhibit 13

0271651.09

dcornish
AMD



Trey Grayson, Secretary of State
Received and Filed:
12/27/2010 1:51 PM
Fee Receipt: \$40.00

COMMONWEALTH OF KENTUCKY
TREY GRAYSON, SECRETARY OF STATE

Division of Corporations
Business Filings
PO Box 718
Frankfort, KY 40602
(502) 564-3490
www.sos.ky.gov

Articles of Amendment
(Domestic Profit Corporation)

AMD

Pursuant to the provisions of KRS 271B, the undersigned applies to amend articles of incorporation, and for that purpose, submits the following statements:

1. Name of the corporation on record with the Office of the Secretary of State is

Kentucky Data Link, Inc.

(The name must be identical to the name on record with the Secretary of State.)

2. The text of each amendment adopted: The entity name shall be changed to Windstream KDL, Inc.

3. If the amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment, if not contained in the amendment itself, are as follows:

4. The date of adoption of each amendment was as follows: December 2, 2010.

5. Check the option that applies (check only one option):

- ☐ The amendment(s) was (were) duly adopted by the incorporators prior to issuance of shares.
☐ The amendment(s) was (were) duly adopted by the board of directors prior to issuance of shares.
☐ The amendment(s) was (were) duly adopted by the incorporators or board of director without shareholder action as shareholder action was not required.
☒ If the amendment(s) was (were) duly adopted by the shareholders, the:
a) 1,000 Number of outstanding shares.
b) 1,000 Number of votes entitled to be cast by each voting group entitled to vote separately on the amendment
c) 1,000 Number of votes of each voting group indisputably represented at the meeting.
d) 1,000 The total number of votes in favor of the amendment.
e) 0 The number of votes against the amendment.
f) The number of votes cast for the amendment by each voting group was sufficient.

6. This application will be effective upon filing, unless a delayed effective date and/or time is provided. The effective date or the delayed effective cannot be prior to the date the application is filed. The date and/or time is

(Delayed effective date
and/or time)

I declare under penalty of perjury under the laws of Kentucky that the forgoing is true and correct.

Signature of Officer or Chairman of the Board
(08/10)

Kristi Moody
Printed Name

Asst. Secretary 12/16/2010
Title Date

0271651.06

dcornish
ADD

Alison Lundergan Grimes
Kentucky Secretary of State
Received and Filed:
12/23/2014 2:48 PM
Fee Receipt: \$40.00

**ARTICLES OF
ORGANIZATION
OF
WINDSTREAM KDL, LLC**

Pursuant to KRS 14A and KRS 275, the undersigned applies to qualify and for that purpose submits the following statements:

- ARTICLE I:** The name of the limited liability company is Windstream KDL, LLC.
- ARTICLE II:** The street address of the limited liability company's initial registered office in Kentucky is 306 West Main Street, Suite 512, Frankfort, Kentucky 40601, and the name of the initial registered agent at that office is CT Corporation System.
- ARTICLE III:** The mailing address of the limited liability company's initial principal office is 4001 Rodney Parham Road, Little Rock, Arkansas 72212.
- ARTICLE IV:** The limited liability company is to be managed by managers.
- ARTICLE V:** The previous name of this limited liability company was Windstream KDL, Inc., a Kentucky corporation (the "Corporation"). The Corporation was converted into the limited liability company pursuant to Chapter 275 of the Kentucky Limited Liability Company Act. Upon conversion the Corporation had 1,000 shares of common stock outstanding, all of which were entitled to vote, as a single voting group, on the plan of conversion, and all of which were voted in favor of the plan of conversion. The number of votes cast in favor of the plan of conversion was sufficient for approval.
- ARTICLE VI:** This application shall become effective on the 1st day of January, 2015, at 1:01 a.m., Eastern Time.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Corporation has caused these articles of organization to be signed by a duly authorized officer thereof as of the date first written above.

WINDSTREAM KDL, INC.

By: 

Name: John P. Fletcher

Title: Executive Vice President, Secretary &
General Counsel

THE UNDERSIGNED, as the registered agent identified in Article II of the Articles of Organization of Windstream KDL, LLC (the "Company"), hereby consents to serve the Company in that capacity until such time as such appointment is terminated or until the undersigned resigns in accordance with the Kentucky Limited Liability Company Act.

CT CORPORATION SYSTEM

By: _____

Name: _____

Title: _____

Kentucky Secretary of State
TREY GRAYSON

Division of Corporations
BUSINESS FILINGS

P.O. Box 718
Frankfort, KY 40602
(502) 564-2848
<http://www.sos.ky.gov/>

Statement of Consent of
Registered Agent

CRA

Pursuant to the provisions of KRS Chapter 271B, 273, 275, 362 or 386, the undersigned hereby consents to act as registered agent on behalf of the business entity named below and for that purpose submits the following statements:

The business entity is ☐ a corporation (KRS 271B or KRS 273)
☒ a limited liability company (KRS 275)
☐ a limited partnership (KRS 362)
☐ a limited liability partnership (KRS 362)
☐ a business trust (KRS 386)

The name of the business entity is

Windstream KDL. LLC

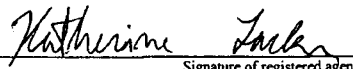
The state or country of incorporation, organization or formation is Kentucky

The name of the initial registered agent is

C T Corporation System

The street address of the registered office address in Kentucky is

306 W. Main Street, Suite 512 Frankfort KY 40601
Street City State Zip Code



Signature of registered agent

Katherine Lackey, Asst. Secy.

Type or Print Name & Title, if applicable

Date: December 23rd, 2014

0271651.06

vmiller
SUR

Michael G. Adams
Kentucky Secretary of State
Received and Filed:
7/31/2020 10:48 AM
Fee Receipt: \$50.00

**STATE OF KENTUCKY
ARTICLES OF MERGER OF FOREIGN AND
DOMESTIC LIMITED LIABILITY COMPANY**

July 30, 2020

Pursuant to Section 275.360 of the Kentucky Limited Liability Company Act, the undersigned limited liability company executed the following Articles of Merger:

FIRST: The name of the surviving limited liability company is Windstream KDL, LLC, a Kentucky limited liability company, and the name of the merging limited liability company is Nashville Data Link, LLC, a Tennessee limited liability.

SECOND: The name of the surviving limited liability company is Windstream KDL, LLC.

THIRD: The articles of organization of the surviving limited liability company immediately prior to the merger shall be the articles of organization following the merger with no changes other than as provided by these Articles of Merger.

FOURTH: The Agreement and Plan of Merger has been approved and executed by each of the business entities which is to merge.

FIFTH: The merger is to become effective at 11:59 p.m. EDT on July 31, 2020.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, said limited liability company has caused this Articles of Merger to be signed by an authorized person, as of the date first written above.

WINDSTREAM KDL, LLC
A Kentucky limited liability company

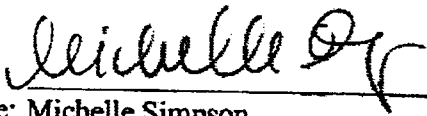
By: 
Name: Michelle Simpson
Title: Vice President and Assistant Corporate Secretary

Exhibit 14

State of Indiana
Office of the Secretary of State
CERTIFICATE OF AMENDMENT
of
CINERGY METRONET, INC.

I, Connie Lawson, Secretary of State of Indiana, hereby certify that Articles of Amendment of the above For-Profit Domestic Corporation has been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Business Corporation Law.

The name following said transaction will be:

CMN-RUS INC.

NOW, THEREFORE, with this document I certify that said transaction will become effective Tuesday, March 27, 2012.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, March 27, 2012

Connie Lawson

CONNIE LAWSON,
SECRETARY OF STATE

RECEIVED 03/27/2012 10:56 AM

APPROVED AND FILED
CONNIE LAWSON
INDIANA SECRETARY OF STATE
3/27/2012 10:53 AM

ARTICLES OF AMENDMENT

Formed pursuant to the provisions of the Indiana Business Corporation Law.

Article I - ENTITY NAME

CINERGY METRONET, INC.

The name following said transaction will be:
CMN-RUS INC.

Creation Date: 5/19/2003

Article I - PRINCIPAL OFFICE ADDRESS

3701 COMMUNICATIONS WAY, EVANSVILLE, IN 47715

REGISTERED OFFICE AND AGENT

NATIONAL REGISTERED AGENTS, INC.
320 N. MERIDIAN STREET, INDIANAPOLIS, IN 46204

OFFICERS AND BOARD OF DIRECTORS

Edward Corr
Vice President
5856 West 74th Street , Indianapolis, IN 46278

John Campbell
Secretary
8837 BOND STREET, Overland Park, KS 66214

JOHN P CINELLI
President
3701 COMMUNICATIONS WAY, EVANSVILLE, IN 47715

Lohn Weber
Treasurer
8829 Bond Street , Overland Park, KS 66214

Mike Farmer
Vice President
5856 West 74th Street , Indianapolis, IN 46278

GENERAL INFORMATION

Adoption Date: 3/27/2012

Effective Date: 3/27/2012

Electronic Signature: JOHN CAMPBELL

Signator's Title: VICE PRESIDENT AND SECRETARY

MANNER AND ADOPTION OF VOTE

Unanimous written consent executed on the following date and signed by all shareholders entitled to vote:

3/27/2012