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BAILEY CAVALIERI LLC

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One Columbus 10 West Broad Street, Suite 2100 Columbus, Ohio 43215-3422  
telephone 614.221.3155 facsimile 614.221.0479  
www.baileycavalieri.com  
direct dial: 614.229.3278  
email: William.Adams@BaileyCavalieri.com

September 25, 2007

**VIA HAND DELIVERY**

Ms. Renee Jenkins  
Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street, 13<sup>th</sup> Floor  
Columbus, OH 43215-3793

Re: *In the Matter of Drew Hansel v. Windstream Western Reserve, Inc.*  
Case No. 07-89-TP-CSS

Dear Ms. Jenkins:

Enclosed herewith are the original and twelve (12) copies of Windstream Western Reserve, Inc.'s Motion to Compel Discovery and Request for Expedited Ruling to be filed in the above-noted matter. Please time-stamp the additional copies of this Motion and return them to our courier.

Thank you for your attention to this matter.

Very truly yours,

BAILEY CAVALIERI LLC



William A. Adams

WAA/sg

Enclosure

cc(w/enclosure): Mr. Drew Hansel  
L. Douglas Jennings, Attorney Examiner

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Drew Hansel,

Complainant,

vs.

Case No. 07-89-TP-CSS

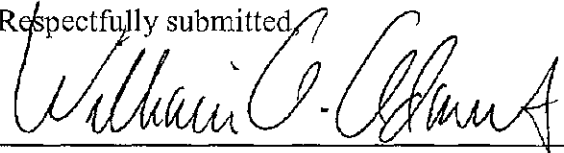
Windstream Western Reserve, Inc.,

Respondent.

**WINDSTREAM WESTERN RESERVE, INC.'S MOTION TO COMPEL  
DISCOVERY AND REQUEST FOR EXPEDITED RULING**

Windstream Western Reserve, Inc. ("Windstream") moves this Commission, pursuant to Rules 4901-1-12, 4901-1-19, 4901-1-20, and 4901-1-23, Ohio Administrative Code ("O.A.C."), to compel Complainant Drew Hansel ("Mr. Hansel") to respond to Respondent's First Set of Interrogatories and Requests for Production of Documents to Complainant. Windstream also requests an expedited ruling on its request pursuant to Rule 4901-1-12, O.A.C. Attached is a memorandum offered in support of this motion, as well as counsel's affidavit of the efforts taken to resolve the parties' differences, all of which are incorporated by reference herein.

Respectfully submitted,



William A. Adams

BAILEY CAVALIERI LLC

10 West Broad Street, Suite 2100

Columbus, OH 43215-3422

Telephone: 614.229.3278

Facsimile: 614.221.0479

Email: William.adams@baileycavalieri.com

Attorneys for Respondent

Windstream Western Reserve, Inc.

## ***MEMORANDUM IN SUPPORT***

By this motion, Windstream seeks an order compelling Mr. Hansel to respond to the interrogatories and document requests served on him by Windstream on August 29, 2007, attached hereto as **Exhibit A**. Mr. Hansel's failure to respond to legitimate discovery is directly contrary to the Commission's Rules of Practice, which recognize the need for "prompt and expeditious" discovery to facilitate the efficient conduct of Commission proceedings. *See* Rule 4901-1-16(A), O.A.C. Immediate, full and complete responses to these interrogatories and document requests are essential for Windstream to be prepared for the October 4, 2007 hearing. Windstream cannot delay any further in filing this motion and receive the responses before the hearing. Efforts to obtain the discovery responses are set forth in the affidavit of counsel attached hereto as **Exhibit B**.

### ***I. The Commission Should Compel Mr. Hansel to Respond to the Discovery***

In accordance with Rule 4901-1-23(C), O.A.C., Windstream sets forth the specific bases for its request, a brief explanation of how the information sought is relevant to the pending proceeding, and its responses to any objections raised by Mr. Hansel.

Windstream served its First Set of Interrogatories and Requests for Production of Document on August 29, 2007, requesting responses by September 18, 2007. The interrogatories and document request which are the subject of this motion may be classified into two categories: (A) those which inquire into details of the Complaint (Nos. 1 - 8); and (B) those which inquire into specific hearing preparation (Nos. 9 - 11). Mr. Hansel has not responded to any of the discovery. The Commission's Rules of Practice require a full and complete response to interrogatories within twenty (20) days of service. *See* Rule 4901-1-19(A), O.A.C. Mr. Hansel was required to provide the information available to him within that time frame. The

Rules do not provide Mr. Hansel with the option to choose at what point he will release information, and his failure to timely respond to Windstream's request prejudices Windstream's ability to prepare its case. *See* Rule 4901-1-16(A), O.A.C.

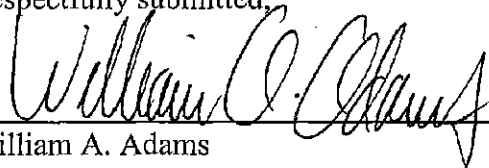
Windstream's interrogatories and document requests clearly are relevant to this proceeding. They seek to obtain additional information on the facts of the Complaint and information about witnesses and exhibits Mr. Hansel intends to use at hearing. Mr. Hansel has not filed any legal objections to any of the discovery and none exist.

Considering as much and that Windstream has demonstrated the relevancy of all of the interrogatories and document requests that are the subject of this motion, there is no legitimate basis for Mr. Hansel to refuse to provide full and complete responses to the requests. Mr. Hansel should be compelled to respond to these interrogatories and document requests immediately.

## ***II. Expedited Relief Sought***

Windstream requests that the Commission compel Mr. Hansel to provide complete and full substantive responses to the interrogatories and document requests that are the subject of this motion. Time is of the utmost importance because Windstream is preparing for the October 4, 2007 hearing. Mr. Hansel was asked, but did not respond, to an expedited ruling on this request, pursuant to Rule 4901-1-12(C), O.A.C. Granting this discovery motion and requiring Mr. Hansel to respond will not adversely affect Mr. Hansel's substantive rights in this proceeding, and that the motion may be granted forthwith, without filing memoranda, pursuant to Rule 4901-1-12(F), O.A.C. Windstream request that complete, substantive responses to the interrogatories and document requests be received no later than Monday, October 1, 2007.

Respectfully submitted,



William A. Adams  
BAILEY CAVALIERI LLC  
10 West Broad Street, Suite 2100  
Columbus, OH 43215-3422  
Telephone: 614.229.3278  
Facsimile: 614.221.0479  
Email: William.adams@baileycavalieri.com  
Attorneys for Respondent  
Windstream Western Reserve, Inc.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing *Motion to Compel Discovery and Request for Expedited Ruling* was served upon Complainant by regular U.S. Mail this 25<sup>th</sup> day of September, 2007, as follows:

Drew Hansel  
828 Smithfield Drive, Suite 1110  
Sagamore Hills, OH 44067



William A. Adams

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Drew Hansel,

Complainant,

vs.

Case No. 07-89-TP-CSS

Windstream Western Reserve, Inc.,

Respondent.

**RESPONDENT'S FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO COMPLAINANT**

Pursuant to Rules 4901-1-19 and 4901-1-20 of the Ohio Administrative Code, Respondent Windstream Western Reserve, Inc. ("Windstream") directs the following interrogatories and requests for production of documents to Complainant Drew Hansel ("Mr. Hansel"). Mr. Hansel is requested to respond to the interrogatories, in writing and under oath, within twenty (20) days of the date of service, which is September 18, 2007. The documents requested shall be produced at or before 10:00 a.m., twenty (20) days after the date of service (September 18, 2007) at the offices of Bailey Cavalieri LLC, 10 West Broad Street, Suite 2100, Columbus, Ohio 43215-3422, or copies can be mailed to the undersigned counsel by the deadline. The responses to these interrogatories and document requests shall be deemed continuing so as to require supplemental responses.

**Interrogatories and Requests for Production of Documents**

1. When you first moved in late November, 2006 to 828 Smithfield Drive, Suite 110, what specific local calling plan were you seeking that you did not obtain?

Response:

2. How long did you stay on the local calling plan you initially obtained?

Response:

3. When did you first obtain the information you were seeking on local calling options?

Response:

4. When you first moved in late November, 2006 to 828 Smithfield Drive, Suite 110, what other telephone services, other than the local calling plan, were you seeking that you did not obtain?

Response:

5. When you first moved in late November, 2006 to 828 Smithfield Drive, Suite 110, what telephone services, if any, did you obtain which you assert you did not request?

Response:

6. Besides the conversations described in your complaint, what other conversations or correspondence, if any, have you had with Windstream personnel? Describe each one.

Response:

7. What is the unlawful conduct you allege against Windstream in this case?

Response:

8. What specific relief do you want the PUCO to order in this case?

Response:

9. List the names of all persons you intend to call as a witness at the hearing of this case, their addresses, and the subject matter upon which they are expected to testify.

Response:

10. Please identify and produce all electronic or paper documents within your possession, custody or control which involve, relate to, or concern the allegations in your complaint in this case.

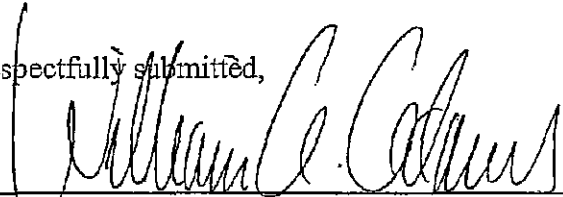
Response:



11. Please identify and produce all electronic or paper documents which you intend to identify or introduce into evidence at the hearing of this matter.

Response:

Respectfully submitted,



William A. Adams

BAILEY CAVALIERI LLC

10 West Broad Street, Suite 2100

Columbus, OH 43215-3422

Telephone: 614.229.3278

Facsimile: 614.221.0479

Email: William.adams@baileycavalieri.com

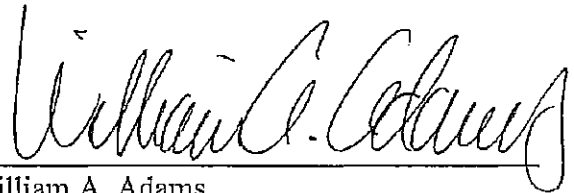
Attorneys for Respondent

Windstream Western Reserve, Inc.

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing *Respondent's First Set of Interrogatories and Requests for Production of Documents to Complainant* was served upon Complainant by regular U.S. Mail this 29th day of August, 2007, as follows:

Drew Hansel  
828 Smithfield Drive, Suite 1110  
Sagamore Hills, OH 44067



William A. Adams

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Drew Hansel,

Complainant,

vs.

Case No. 07-89-TP-CSS

Windstream Western Reserve, Inc.,

Respondent.

AFFIDAVIT

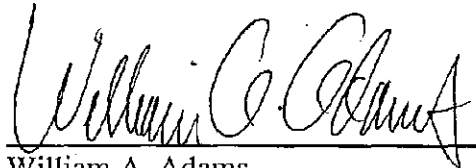
STATE OF OHIO                    )  
                                          )     ss:  
COUNTY OF FRANKLIN        )

Now comes William A. Adams, counsel for Windstream Western Reserve, Inc. ("Windstream"), who after being first duly sworn state the following from his personal knowledge:

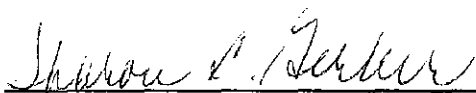
1. On August 29, 2007, Windstream served its first set of interrogatories and document requests on Mr. Hansel. The cover letter for the discovery, a copy of which is attached hereto as **Exhibit 1**, made clear that responses were due by September 18, 2007 and invited Mr. Hansel to call me to discuss the discovery or case further.
2. After receiving the discovery, Mr. Hansel telephoned me on August 31, 2007 and left a voice message. My secretary transcribed the message which I responded to by letter of September 4, 2007, a copy of which is attached hereto as **Exhibit 2**. That letter addressed specific inquiries Mr. Hansel made about how to respond to the discovery requests.
3. On September 5, 2007, I spoke with Mr. Hansel by telephone and further emphasized the need to respond to the discovery by September 18, 2007.
4. On September 21, 2007, I called Mr. Hansel and left a message on his answering machine indicating that we had not received his discovery responses and that we intended to file a motion to compel and seek an expedited ruling on the motion because the hearing date is so close. Mr. Hansel did not return that call as of this date.

5. The responses to discovery are needed to prepare for the October 4, 2007 hearing in this matter.

Further affiant sayeth naught.

  
\_\_\_\_\_  
William A. Adams

**SWORN** to before me and **SUBSCRIBED**  
in my presence this 24<sup>th</sup> day of September,  
2007.

  
\_\_\_\_\_  
Notary Public – State of Ohio



Sharon L. Gerber  
Notary Public, State of Ohio  
My Commission Expires 01-7-2012

# BAILEY CAVALIERI LLC

ATTORNEYS AT LAW

One Columbus 10 West Broad Street, Suite 2100 Columbus, Ohio 43215-3422  
telephone 614.221.3155 facsimile 614.221.0479  
www.baileycavalieri.com

direct dial: 614.229.3278  
email: William.Adams@BaileyCavalieri.com

August 29, 2007

Mr. Drew Hansel  
828 Smithfield Drive, Suite 1110  
Sagamore Hills, OH 44067

Re: *In the Matter of Drew Hansel v. Windstream Western Reserve, Inc.*  
PUCO Case No. 07-89-TP-CSS

Dear Mr. Hansel:

I am the new attorney for Windstream in this case and am trying to get up to speed. In that regard, I am enclosing Interrogatories and Requests for Production of Documents. You are required by law to answer the interrogatories in writing and under oath and produce the requested documents within twenty (20) days of service, or by September 18, 2007. I am asking you these questions and requesting these documents so that I can understand your complaint in greater detail. Please call me if you need any clarification of what information I am seeking.

I would be interested in discussing this matter with you as well. If you are so inclined, please call me on my direct dial line, 614.229.3278. Perhaps if I can understand your case better, there might be an opportunity to resolve this matter so that you would not have to answer the enclosed discovery and come to Columbus for a hearing on Thursday, October 4, 2007.

Thank you for your attention to this matter.

Very truly yours,

BAILEY CAVALIERI LLC

  
William A. Adams

WAA/sg

Enclosure

# BAILEY CAVALIERI LLC

ATTORNEYS AT LAW

One Columbus 10 West Broad Street, Suite 2100 Columbus, Ohio 43215-3422  
 telephone 614.221.3155 facsimile 614.221.0479  
 www.baileycavalieri.com

direct dial: 614.229.3278  
 email: William.Adams@BaileyCavalieri.com

September 4, 2007

Mr. Drew Hansel  
 828 Smithfield Drive, Suite 1110  
 Sagamore Hills, OH 44067

Re: *In the Matter of Drew Hansel v. Windstream Western Reserve, Inc.*  
 PUCO Case No. 07-89-TP-CSS

Dear Mr. Hansel:

This will respond to the following message you left me on Friday, August 31, 2007:

Bill, hi, this is Drew Hansel. There's a PUCO Case No. 07-89-TP-CSS. You sent me some interrogatories and you say that I'm required to by law to answer them in writing and under oath. How in the hell am I supposed to answer them under oath? That I'd like to see you accomplish. So, until you can explain that to me, I will consider this a bogus note and I'd like to know under what circumstances I can just send you information and require you by law to answer.

Your message raises the following two questions: (1) How do you answer interrogatories under oath? (2) How can you be required to provide the information requested? I respond to each below.

First, the interrogatories are answered under oath when, after the answers are completed, you sign your name and have it notarized indicating that your responses are true to the best of your knowledge. I am enclosing a form which is commonly used for that purpose.

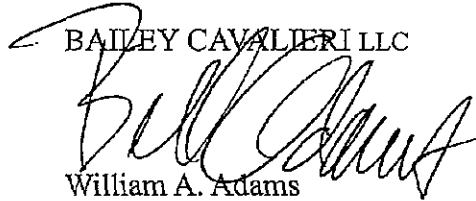
Second, by filing the Complaint at the PUCO, you have subjected yourself to this discovery process which is required by the PUCO Rules of Procedure (Ohio Administrative Code §§ 4901-1-19, 4901-1-20). Moreover, from my client's perspective, fundamental fairness requires a greater understanding of the nature of your complaint so we can prepare a defense at the October 4, 2007 hearing.

# BAILEY CAVALIERI LLC

Mr. Drew Hansel  
Page 2  
September 4, 2007

Thank you for your attention to this matter and anticipated cooperation in providing a response to the discovery. Please feel free to call me if you have any other questions or concerns.

Very truly yours,

BAILEY CAVALIERI LLC  
  
William A. Adams

WAA/sg

Enclosure

**VERIFICATION**

STATE OF OHIO                    )  
                                          )  
COUNTY OF SUMMIT            )       ss:

I, Drew Hansel, being first duly cautioned and sworn, state that the foregoing responses to the First Set of Interrogatories and Requests for Production of Documents of Respondent Windstream Western Reserve, Inc. are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Drew Hansel

**SWORN** to and **SUBSCRIBED** in my presence  
this \_\_\_\_ day of September, 2007.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_