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March 12, 2015

Via Fax 614-466-0313
And Regular U.S. Mail

Ms. Barcy McNeal, Secretary
Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, Ohio 43215-3793

PUCO

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RECEIVED-DOCKETING DIV

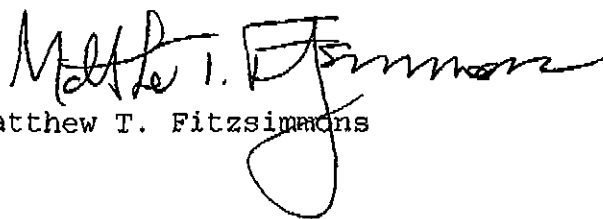
Re: In the Matter of the Complaint of NorthEast Ohio
Neighborhood Health Services, Inc. v. Cavalier
Telephone Corp. d/b/a Windstream Communications
PUCO Case No: 15-325-TP-CSS

Dear Ms. McNeal:

Enclosed please find the original and one copy of the Brief
Of NorthEast Ohio Neighborhood Health Services, Inc. in
Opposition to Motion to Dismiss in this matter. Please process
in your usual manner and return a time-stamped copy to the
undersigned in the self-addressed, postage pre-paid envelope
provided.

Thank you.

Sincerely,


Matthew T. Fitzsimmons

MTF/eak
Enclosures
cc: William A. Adams, Esq.

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of the)	
Complaint of)	
NorthEast Ohio Neighborhood)	
Health Services, Inc.)	Case No: 15-325-TP-CSS
)	
Complainant,)	
)	
v.)	BRIEF OF NORTHEAST OHIO
)	NEIGHBORHOOD HEALTH SERVICES,
Cavalier Telephone Corp.)	INC. IN OPPOSITION TO MOTION
d/b/a Windstream)	<u>TO DISMISS</u>
Communications,)	
)	
Respondent)	

The Commission should deny Cavalier/Windstream's Motion to Dismiss because the central premise of the Motion -- that NEON Health Services is not represented by counsel -- is not accurate. On or about March 11, 2015, undersigned counsel, NEON Health Services' long-time counsel, entered an appearance with the Commission. See attached Exhibit A.

In a letter dated February 12, 2015, Mr. Willie F. Austin, President and Chief Executive Officer of NEON Health Services, asked the Commission to investigate this matter. Cavalier/Windstream claims that NEON Health Services owes it \$33,898.37, but it can't provide or produce a contract. NEON Health Services terminated the contract, but Cavalier/Windstream disputes the cancellation. It is obvious that NEON Health

Services cancelled the contract because Cavalier/Windstream reported/transferred the lines to NEON Health Services' new vendor -- something that could not occur without a valid cancellation of any Cavalier/Windstream contract. Plus, Cavalier/Windstream overbilled NEON Health Services in the amount of \$148,727.23 -- well after NEON Health Services cancelled the contract.

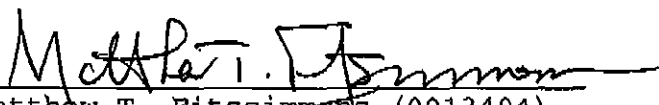
To say, as Cavalier/Windstream does, that the Commission should not investigate this matter because Mr. Austin's letter of inquiry to the Commission constitutes the practice of law is uncomfortably disingenuous. The cases cited by Cavalier/Windstream deal with non-lawyers appearing in court or administrative proceedings, making oral arguments, examining and cross-examining witnesses, compromising claims, offering proof, and the like. No such unauthorized practice of law has taken place -- or will take place -- here. NEON Health Services has counsel who has entered an appearance. The Supreme Court of Ohio has admonished Ohio tribunals to resolve disputes on their merits -- not through "gotcha" hyper-technicalities. Perotti v. Ferguson, 7 Ohio St.3d 1 (1983). Regrettably, it appears that Cavalier/Windstream does not want the Commission to resolve this dispute on the merits.

NEON Health Services is a non-profit community health center which has been serving the medically underserved of Cuyahoga County for forty-seven (47) years -- without regard to

a patient's ability to pay. Because NEON Health Services is treating more and more patients who lack health insurance, it must make each dollar stretch farther and farther. Shouldn't NEON Health Services have the right to ask the Commission to look into this telecommunications equipment and service/billing matter on the merits? After all, an opportunity to be heard is a fundamental tenet of due process. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950). In the interest of fair play and justice, NEON Health Services urges the Commission to deny the Motion to Dismiss and to investigate this matter and resolve it on the merits.

Respectfully submitted,

NICOLA, GUDBRANSON & COOPER, LLC


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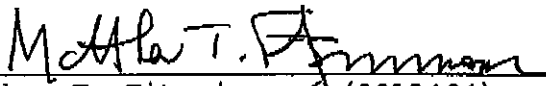
Attorneys for NorthEast Ohio
Neighborhood Health Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for
and Notice of Appearance of Counsel was served by regular U.S.
Mail this 12th day of March, 2015, upon the following:

William A. Adams, Esq.
Bailey Cavalieri LLC
10 West Broad Street, Suite 2100
Columbus, Ohio 43215
Email:
Williams.Adams@baileycavalieri.com

Attorney for Cavalier Telephone
Corp. d/b/a Windstream
Communications


Matthew T. Fitzsimmons (0013404)
One of the Attorneys for NorthEast
Ohio Neighborhood Health Services,
Inc.

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of the Complaint of
NorthEast Ohio Neighborhood Health
Services, Inc.

Complainant,

v.

Cavalier Telephone Corp. d/b/a Windstream
Communications,

Respondent

Case No: 15-325-TP-CSS

MOTION FOR AND NOTICE OF
APPEARANCE OF COUNSEL

Matthew T. Fitzsimmons and R. Christopher Yingling, long-time outside counsel for NorthEast Ohio Neighborhood Health Services, Inc., move the Public Utilities Commission of Ohio for permission to appear on behalf of NorthEast Ohio Neighborhood Health Services, Inc., in this matter. Messrs. Fitzsimmons and Yingling are members in good standing of the Bar of the Supreme Court of Ohio.

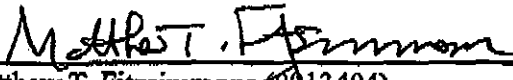
All further pleadings, correspondence, and communication should be directed to counsel as follows:

Matthew T. Fitzsimmons (0013404)
R. Christopher Yingling (0066551)
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Respectfully submitted,

NICOLA, GUDBRANSON & COOPER, LLC


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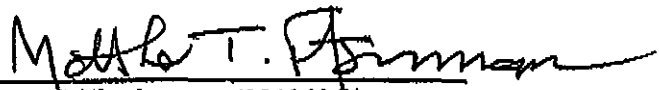
Attorneys for NorthEast Ohio Neighborhood Health
Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for and Notice of Appearance of Counsel was served by regular U.S. Mail, this 11th day of March, 2015, upon the following:

William A. Adams, Esq.
Bailey Cavalieri LLC
10 West Broad Street, Suite 2100
Columbus, Ohio 43215
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Attorney for Cavalier Telephone Corp. d/b/a
Windstream Communications


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