

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Windstream)	
Ohio, Inc. to Add Language and Rates for)	
Access to Poles, Ducts, Conduits and)	Case No. 15-950-TP-ATA
Rights-of-Way by Public Utilities to the Access)	
Tariff)	

In the Matter of the Application of Windstream)	
Western Reserve, Inc. to Add Language and Rates)	
for Access to Poles, Ducts, Conduits and)	Case No. 15-951-TP-ATA
Rights-of-Way by Public Utilities to the Access)	
Tariff)	

WINDSTREAM OHIO, INC. AND WINDSTREAM WESTERN RESERVE, INC.'S
MEMORANDUM CONTRA THE OHIO CABLE TELECOMMUNICATIONS
ASSOCIATION'S MOTION FOR LEAVE TO FILE A REPLY INSTANTER
AND MOTION FOR AN EXPEDITED RULING

Windstream Ohio, Inc. and Windstream Western Reserve, Inc. (collectively, "Windstream") hereby oppose the motions filed by the Ohio Cable Telecommunications Association ("OCTA") for leave to file a reply instanter and for an expedited ruling. OCTA's motions lack merit both procedurally and substantively.

Procedurally, the Public Utilities Commission of Ohio ("Commission") issued an April 22, 2015 Entry in *In the Matter of the Adoption of Chapter 4901:1-3, Ohio Adm. Code, Concerning Access to Poles, Ducts, Conduits, and Rights-of-Way by Public Utilities*, Case No. 13-579-AU-ORD, which set forth the Commission's procedural process for OCTA to challenge tariff filings. The process included the objections OCTA timely filed in these cases on August 3, 2015. The Commission did not call for multiple rounds of objections in that Entry, nor did OCTA object to the Commission process. Moreover, when the Entry was issued in these cases

on August 7, 2015, Windstream was given the opportunity to file a response on or before August 24, 2015, and no further pleadings were allowed. OCTA did not object to that Entry, and should not now be allowed to file further pleadings.

Substantively, OCTA's motions also lack merit. OCTA claims that its issues are “technical and not straightforward,”¹ just as it does in replies OCTA filed in other tariff cases 15-920, 15-973, 15-889, and 15-890. Rather than taking the opportunity to explain precisely *how* the issues are technical or *how* the “complexities of these issues”² necessitate specific tariff revisions to cure the filed tariffs of any inconsistency with specific parts of the new rule, OCTA provides absolutely no new insight. Instead, OCTA evades any real exposition, repeats the claims from its earlier objections, and asks for more procedural opportunity presumably to do the same again later. The Commission should put an end to this process and approve the Windstream tariffs as filed.³

If there were a legitimate concern that Windstream’s tariffs did not appropriately reflect the application process requirements of the new rules, OCTA would have presented the differences. It is not enough for OCTA to make vague assertions that its proposed revisions would “include greater clarity”⁴ and would be “relevant, helpful”⁵ without any specific support.

¹ OCTA Motion for Leave to Reply, p.4; OCTA Reply, p.2.

² OCTA Motion for Leave to Reply, p.4.

³OCTA’s Reply does not address the implementation of Windstream’s proposed rates. Accordingly, Windstream does not address that topic below, but urges the Commission to promptly approve those rates as filed, lift the suspension thereof, and allow immediate implementation.

⁴ OCTA Reply, p.3.

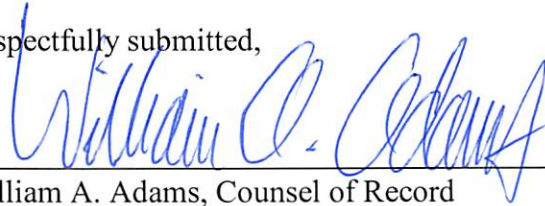
⁵ Id.

Nor is it enough for OCTA to argue that a provider cannot follow the rule itself without saying how or why it is not enough. If OCTA believes that the rule requires “greater clarity” or the addition of “relevant, helpful” language, the target of OCTA’s recourse is the rule, not the Windstream tariff. As Windstream explained in its response, the rule itself is the best descriptor of the application process; Windstream will abide by that rule; disputes, if any, will be negotiated or brought to the Commission in accordance with the rule; and OCTA’s proposed revisions invite ambiguity, not clarity.

OCTA’s tendered reply, like its earlier filed objections, devotes more advocacy to the topic of overlashing than OCTA ever chose to devote to that topic throughout the rulemaking process. This should not go unnoticed by the Commission. Nor can the Commission overlook the plain facts that: (1) the rulemaking does not address overlashing; and (2) there was no change to any language in the Windstream tariffs with respect to overlashing from before the rulemaking to after the rulemaking. Indeed, OCTA does not deny either of these facts. Even so, OCTA yet again attempts to include overlashing into the final phase of this proceeding – a phase designed to address simply whether the filed tariffs conform to the rule, not to amend the rule or to serve as a platform for new complaints (ripe or speculative). OCTA oversteps the Commission’s invitation for objections on tariff filings and uses it as pretext to ask the Commission to order industry players to follow certain requirements with respect to overlashing. The Commission should refuse to order that in this setting. If warranted, the Commission should consider such matters in a separate rulemaking or the parties may negotiate such matters in the context of individual agreements.

OCTA's motions lack merit and should be denied. The tariffs Windstream filed are consistent with the new rules and should be approved.

Respectfully submitted,



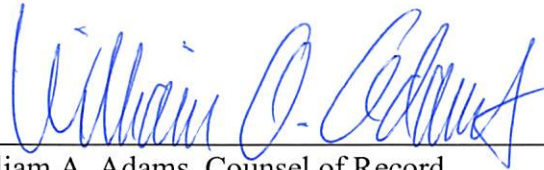
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CERTIFICATE OF SERVICE

A copy of the foregoing *Memorandum Contra of Windstream Ohio, Inc. and Windstream Western Reserve, Inc. to the Motion for Leave to File a Reply Instante and Motion for an Expedited Ruling of The Ohio Cable Telecommunications Association* was served via email and regular U.S. Mail this 17th day of September, 2015 to the following:

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in

Case No(s). 15-0950-TP-ATA, 15-0951-TP-ATA

Summary: Memorandum Contra the Ohio Cable Telecommunications Association's Motion for Leave to File a Reply Instanter and Motion for Expedited Ruling electronically filed by Mr. William A. Adams on behalf of Windstream Ohio, Inc. and Windstream Western Reserve, Inc.