

Sandra E. Mayerson
David H. Hartheimer
MAYERSON & HARTHEIMER, PLLC
845 Third Avenue, 11th floor
New York, NY 10022
(646) 778-4381
Sandy@mhlaw-ny.com
david@mhlaw-ny.com
and
Ryan T. Murphy (MN Bar No. #0311972)
Samuel M. Andre (MN Bar No. #0399669)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402-1425
Minneapolis, MN 55402-1425
(612) 492-7000
rmurphy@fredlaw.com
sandre@fredlaw.com
Attorneys for Fairview Health Services

**UNITED STATES BANKRUPTCY COURT
FOR THE 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)
	:	

**RESPONSE OF FAIRVIEW HEALTH SERVICES TO DEBTORS'
NOTICE OF EIGHTH OMNIBUS OBJECTION TO AMENDED CLAIMS, NO
LIABILITY CLAIMS, AND CLAIMS TO BE MODIFIED**

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.



Fairview Health Services (“Fairview”), by and through its undersigned counsel, hereby responds to the Debtors’ Notice of Eighth Omnibus Objection to Amended Claims, No Liability Claims, and Claims to be Modified, Docket No. 2453 (the “Eighth Omnibus Objection”). In support of its Response, Fairview respectfully states as follows:

1. Fairview, Windstream Holding Company, Inc., and Windstream Enterprise and its affiliates² (collectively, the “Debtor”) were parties to an Amended Service Agreement dated August 15, 2015, bearing an effective date of June 30, 2015.

2. Pursuant to the Amended Service Agreement, the Debtor operated as Fairview’s primary long distance provider for telecommunication services.

3. In September 2017, Fairview notified the Debtor that Fairview had selected a different primary long distance provider but would continue to use the Debtor as its secondary long distance provider. This change correspondingly negated the need for a minimum monthly usage fee (“MMF”) on Fairview’s account with the Debtor.

4. The Debtor agreed to remove the MMF from Fairview’s account; however, from October 2017 through February 2019, the Debtor continued to bill the MMF to Fairview’s account, which Fairview continued to pay. Overall, this overbilling totaled at least \$134,300 (the “Overbilled Amount”), a calculation of which was included as part of Fairview’s proofs of claim, Claim Numbers 5044 and 5046 (the “Proofs of Claim”).

² McLeodUSA Telecommunications Services, L.L.C.; PAETEC Communications, L.L.C.; PAETEC iTel, L.L.C.; US LEC Communications, L.L.C.; US LEC of Alabama, L.L.C.; US LEC of Florida, L.L.C.; US LEC of Georgia L.L.C., US LEC of Maryland, L.L.C.; US LEC of North Carolina, L.L.C.; US LEC of Pennsylvania, L.L.C.; US LEC of South Carolina, L.L.C.; US LEC of Tennessee, L.L.C.; Earthlink Business; US LEC of Virginia, L.L.C.; Windstream Norlight L.L.C.; Windstream NTI, L.L.C.; Windstream NuVox, L.L.C.; Windstream NuVox Arkansas, L.L.C.; Windstream NuVox Illinois, L.L.C.; Windstream NuVox Indiana, L.L.C.; Windstream NuVox Missouri, L.L.C.; Windstream NuVox Ohio, L.L.C.; Windstream NuVox Oklahoma, L.L.C.; Mass Comm Inc. d/b/a MASS Communications; and American Telephone Company, L.L.C.

5. On February 25, 2019 (the “Petition Date”), the above-captioned debtors and debtors-in-possession (together, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

6. Because the Debtors failed to pay the Overbilled Amount, Fairview filed its Proofs of Claim on July 11, 2019, asserting a claim for at least \$134,300 against Windstream Holdings, Inc. and Windstream Services, LLC. True and correct copies of the Proofs of Claim are attached hereto as **Exhibit A**.

7. On July 17, 2020, the Debtors’ filed a Fifth Notice of Satisfaction of Claims, Docket No. 2315, asserting that one of Fairview’s Proofs of Claim had been paid in full.

8. Fairview had no record of receipt of any such payment as purported in the Debtors’ Fifth Notice of Satisfaction of Claims. Fairview immediately requested payment confirmation information from the Debtors. Fairview made additional repeated requests for payment confirmation information from the Debtors, but received no substantive response.

9. On August 10, 2020, Fairview filed its response, Docket No. 2389, objecting to the Fifth Notice of Satisfaction of Claims because its claim has not been paid in full as asserted.

10. On August 17, 2020, the Debtors filed their Eighth Omnibus Objection, in which the Debtors listed Fairview’s Claim No. 5044 and Claim No. 5046 as “no liability” claims.

11. As of the date of this Response, Fairview still has no record of receiving any payment of the Overbilled Amount. Fairview has continued to request payment confirmation or proof of payment of the Overbilled Amount from the Debtors; Fairview, however, has received no such confirmation or proof. The Overbilled Amount remains outstanding and Fairview’s Proofs of Claim remain valid and enforceable by this Court.

12. Accordingly, Fairview respectfully requests that the Court determine that Fairview's Proofs of Claim have not been satisfied or otherwise discharged and are allowed as filed.

13. Fairview reserves all rights to supplement or amend this Response and raise further or other Responses to the Eighth Omnibus Objection. Fairview further reserves all rights, claims, causes of actions, and defenses to the Eighth Omnibus Objection.

Dated: September 4, 2020

s/ Sandra E. Mayerson

Sandra E. Mayerson
MAYERSON & HARTHEIMER, PLLC
845 Third Ave., 11th floor
NY, NY 10022
646-778-4381
Cell: 917-446-6884
sandy@mhlaw-ny.com

and

Ryan T. Murphy (#0311972)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402-1425
(612) 492-7000
Email: rmurphy@fredlaw.com

**ATTORNEYS FOR CREDITOR FAIRVIEW
HEALTH SERVICES**

70866062 v1

EXHIBIT A

Fill in this information to identify the case:

Debtor Windstream Holdings, Inc.

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

Case number 19-22312

**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>Fairview Health Services</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
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?	Where should payments to the creditor be sent? (if different)
	Fairview Health Services Ryan Murphy Fredrikson and Byron, P.A. 200 South 6th Street, Suite 4000 Minneapolis, MN 55402	
	Contact phone <u>612-492-7310</u>	Contact phone _____
	Contact email <u>rmurphy@fredlaw.com</u>	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? _____	

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 type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>5709</u> ____
7. How much is the claim?	\$ <u>134,300.00</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>See summary page</u>
9. Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" 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 checked="" type="checkbox"/> Other. Describe: <u>Right of Setoff: payments due/to be due to debtor</u> 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: \$ <u>0</u> Amount of the claim that is unsecured: \$ <u>134,300</u> (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 checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

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

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<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).	\$ _____
<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).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> 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.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

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.

\$ _____

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 07/11/2019
MM / DD / YYYY

/s/Ryan T. Murphy
Signature

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

Name Ryan T. Murphy
First name Middle name Last name

Title Attorney

Company Fredrikson and Byron, P.A.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____

Debtor: 19-22312 - Windstream Holdings, Inc.	
District: Southern District of New York, White Plains Division	
Creditor: Fairview Health Services Ryan Murphy Fredrikson and Byron, P.A. 200 South 6th Street, Suite 4000 Minneapolis, MN, 55402 Phone: 612-492-7310 Phone 2: Fax: Email: rmurphy@fredlaw.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:
	Has Related Claim: No Related Claim Filed By:
	Filing Party: Authorized agent
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No
Basis of Claim: Overcharges on Minimum monthly fee payment regarding service agreement. Oct 2017 - Feb 2019	Last 4 Digits: Yes - 5709 Uniform Claim Identifier:
Total Amount of Claim: 134,300.00	Includes Interest or Charges: No
Has Priority Claim: No	Priority Under:
Has Secured Claim: Yes: 0 Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Other Describe: Right of Setoff: payments due/to be due to debtor Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured: 134,300
Submitted By: Ryan T. Murphy on 11-Jul-2019 9:51:45 a.m. Eastern Time Title: Attorney Company: Fredrikson and Byron, P.A.	

Summary of Claim

Fairview Health Services (“Fairview”) and Windstream Holding Company, Inc. and Windstream Enterprise and its affiliates¹ (collectively, the “Debtor”) were parties to an Amended Service Agreement dated August 15, 2015, bearing an effective date of June 30, 2015 (the “Agreement”). In September 2017, Fairview notified Windstream that they had selected a different Primary Long Distance Provider and Windstream would be their Secondary Long Distance provider, therefore no longer needed the Minimum Monthly Usage Fee (“MMF”). Windstream agreed to remove the MMF from Fairview’s account, however from October 2017 through February 2019, Windstream continued to bill Fairview the MMF and Fairview continued to pay these amounts. The overbilling totaled at least \$134,300 and is calculated as follows:

Overpayment for Minimum Monthly Usage Fees (October 2017 – February 2019) \$134,300
\$7,900 x 17 months

Attached as Exhibit A is an example of the MMF overbilling for the month of September 2018, which totaled \$7,997.56.

Fairview reserves the right to assert any and all claims it may possess against the Debtor including by amending or modifying this claim, or by filing a motion to compel payment of any administrative claim. Fairview reserves any and all claims against the Debtor, its estate, and any third parties and this claim does not waive any claim that Fairview may have against any such party.

67194339.1

¹ McLeodUSA Telecommunications Services, L.L.C.; PAETEC Communications, L.L.C.; PAETEC iTel, L.L.C.; US LEC Communications, L.L.C.; US LEC of Alabama, L.L.C.; US LEC of Florida, L.L.C.; US LEC of Georgia, L.L.C.; US LEC of Maryland, L.L.C.; US LEC of North Carolina, L.L.C.; US LEC of Pennsylvania, L.L.C.; US LEC of South Carolina, L.L.C.; US LEC of Tennessee, L.L.C.; Earthlink Business; US LEC of Virginia, L.L.C.; Windstream Norlight L.L.C.; Windstream NTI, L.L.C.; Windstream NuVox, L.L.C.; Windstream NuVox Arkansas, L.L.C.; Windstream NuVox Illinois, L.L.C.; Windstream NuVox Indiana, L.L.C.; Windstream NuVox Missouri, L.L.C.; Windstream NuVox Ohio, L.L.C.; Windstream NuVox Oklahoma, L.L.C.; Mass Comm Inc. d/b/a MASS Communications; and American Telephone Company, L.L.C.

Exhibit A

**WINDSTREAM
ENTERPRISE**

DATE OF INVOICE 10 01 18
INVOICE PERIOD 09 01 18 - 09.30 18

INVOICE NUMBER 70563481
ACCOUNT NUMBER
PAGE 3

PAYMENTS APPLIED - 7105709 FAIRVIEW HOSPITAL

Date	Description	Amount
09/22/2018	Payment Received. Thank You!	(\$9,692.4100)
TOTAL PAYMENTS APPLIED		(\$9,692.4100)

LOCATION SUMMARY - 7105709 FAIRVIEW HOSPITAL

Account Number	Account Name	Monthly Charges	Usage Charges	Other Charges & Credits	Surcharges & Taxes	TOTAL
7105709	FAIRVIEW HOSPITAL	\$121.8263	\$0.0000	\$7,997.5626	\$1,386.8900	\$9,506.2789
7059970	FAIRVIEW HOSPITAL	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000
7103894	FAIRVIEW HOSPITAL RIVERSIDE AVE. MN	\$6.9062	\$0.0000	\$0.0000	\$1.9400	\$8.8462
7125986	FAIRVIEW HOSPITAL	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000
7147853	FAIRVIEW HOSPITAL - ST. PAUL ENERGY PARK	\$0.9866	\$0.0000	\$0.0000	\$0.2800	\$1.2666
7147854	FAIRVIEW HOSPITAL	\$22.5101	\$2.4374	\$0.0000	\$6.5100	\$31.4575
7169478	FAIRVIEW HOSPITAL- ST FRANCIS, MN	\$0.9866	\$0.0000	\$0.0000	\$0.2800	\$1.2666
TOTAL OF NEW CHARGES		\$153.2158	\$2.4374	\$7,997.5626	\$1,395.9000	\$9,549.1158



ACTIVITY FOR ACCOUNT - 7105709 FAIRVIEW HOSPITAL

MONTHLY CHARGES

Period	Description	Quantity	Cost Per Unit	Amount
09/01/2018 - 09/30/2018	NLGF_Regulatory Compliance Charge	6	\$0.7500	\$4.5163
10/01/2018 - 10/31/2018	Network Cost Recovery Fee	1	\$103.4400	\$103.4400
10/01/2018 - 10/31/2018	Network Cost Recovery Fee	3	\$4.3100	\$12.9300
10/01/2018 - 10/31/2018	Network Cost Recovery Fee	2	\$0.4700	\$0.9400
TOTAL MONTHLY CHARGES				\$121.8263

OTHER CHARGES AND CREDITS

Date	Description	Amount
* 09/30/2018	Commitment Billing: Minimum Usage Charge	\$7,997.5626 *
TOTAL OTHER CHARGES AND CREDITS		\$7,997.5626

SURCHARGES AND TAXES

Description	Amount
Universal Service Fund Surcharge	\$1,008.4000
Regulatory Assessment Surcharge	\$313.2600
Federal Excise Tax	\$3.8700
State/County/Local Taxes	\$61.3600

Fill in this information to identify the case:

Debtor Windstream Services, LLC

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

Case number 19-22400

**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>Fairview Health Services</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
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?	Where should payments to the creditor be sent? (if different)
	Fairview Health Services Ryan T. Murphy Fredrikson and Byron, P.A. 200 South 6th Street, Suite 4000 Minneapolis, MN 55402	
	Contact phone <u>612-492-7310</u>	Contact phone _____
	Contact email <u>rmurphy@fredlaw.com</u>	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? _____	

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 type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>5709</u> ____
7. How much is the claim?	\$ <u>134,300.00</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>See summary page</u>
9. Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" 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 checked="" type="checkbox"/> Other. Describe: <u>Right of Setoff: payments due/to be due to debtor</u> 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: \$ <u>0</u> Amount of the claim that is unsecured: \$ <u>134,300</u> (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 checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

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

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<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).	\$ _____
<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).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> 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.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

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.

\$ _____

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 07/11/2019
MM / DD / YYYY

/s/Ryan T. Murphy
Signature

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

Name Ryan T. Murphy
First name Middle name Last name

Title Attorney

Company Fredrikson and Byron, P.A.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____

Debtor: 19-22400 - Windstream Services, LLC District: Southern District of New York, White Plains Division	
Creditor: Fairview Health Services Ryan T. Murphy Fredrikson and Byron, P.A. 200 South 6th Street, Suite 4000 Minneapolis, MN, 55402 Phone: 612-492-7310 Phone 2: Fax: Email: rmurphy@fredlaw.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:
	Has Related Claim: No Related Claim Filed By:
	Filing Party: Authorized agent
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No
Basis of Claim: Overcharges on Minimum monthly fee payment regarding service agreement. Oct 2017 - Feb 2019	Last 4 Digits: Yes - 5709 Uniform Claim Identifier:
Total Amount of Claim: 134,300.00	Includes Interest or Charges: No
Has Priority Claim: No	Priority Under:
Has Secured Claim: Yes: 0 Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Other Describe: Right of Setoff: payments due/to be due to debtor Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured: 134,300
Submitted By: Ryan T. Murphy on 11-Jul-2019 9:58:09 a.m. Eastern Time Title: Attorney Company: Fredrikson and Byron, P.A.	

Summary of Claim

Fairview Health Services (“Fairview”) and Windstream Holding Company, Inc. and Windstream Enterprise and its affiliates¹ (collectively, the “Debtor”) were parties to an Amended Service Agreement dated August 15, 2015, bearing an effective date of June 30, 2015 (the “Agreement”). In September 2017, Fairview notified Windstream that they had selected a different Primary Long Distance Provider and Windstream would be their Secondary Long Distance provider, therefore no longer needed the Minimum Monthly Usage Fee (“MMF”). Windstream agreed to remove the MMF from Fairview’s account, however from October 2017 through February 2019, Windstream continued to bill Fairview the MMF and Fairview continued to pay these amounts. The overbilling totaled at least \$134,300 and is calculated as follows:

Overpayment for Minimum Monthly Usage Fees (October 2017 – February 2019) \$134,300
\$7,900 x 17 months

Attached as Exhibit A is an example of the MMF overbilling for the month of September 2018, which totaled \$7,997.56.

Fairview reserves the right to assert any and all claims it may possess against the Debtor including by amending or modifying this claim, or by filing a motion to compel payment of any administrative claim. Fairview reserves any and all claims against the Debtor, its estate, and any third parties and this claim does not waive any claim that Fairview may have against any such party.

67194339.1

¹ McLeodUSA Telecommunications Services, L.L.C.; PAETEC Communications, L.L.C.; PAETEC iTel, L.L.C.; US LEC Communications, L.L.C.; US LEC of Alabama, L.L.C.; US LEC of Florida, L.L.C.; US LEC of Georgia, L.L.C.; US LEC of Maryland, L.L.C.; US LEC of North Carolina, L.L.C.; US LEC of Pennsylvania, L.L.C.; US LEC of South Carolina, L.L.C.; US LEC of Tennessee, L.L.C.; Earthlink Business; US LEC of Virginia, L.L.C.; Windstream Norlight L.L.C.; Windstream NTI, L.L.C.; Windstream NuVox, L.L.C.; Windstream NuVox Arkansas, L.L.C.; Windstream NuVox Illinois, L.L.C.; Windstream NuVox Indiana, L.L.C.; Windstream NuVox Missouri, L.L.C.; Windstream NuVox Ohio, L.L.C.; Windstream NuVox Oklahoma, L.L.C.; Mass Comm Inc. d/b/a MASS Communications; and American Telephone Company, L.L.C.

Exhibit A

**WINDSTREAM
ENTERPRISE**

DATE OF INVOICE 10 01 18
INVOICE PERIOD 09 01 18 - 09 30 18

INVOICE NUMBER 70563481
ACCOUNT NUMBER
PAGE 3

PAYMENTS APPLIED - 7105709 FAIRVIEW HOSPITAL

Date	Description	Amount
09/22/2018	Payment Received. Thank You!	(\$9,692.4100)
TOTAL PAYMENTS APPLIED		(\$9,692.4100)

LOCATION SUMMARY - 7105709 FAIRVIEW HOSPITAL

Account Number	Account Name	Monthly Charges	Usage Charges	Other Charges & Credits	Surcharges & Taxes	TOTAL
7105709	FAIRVIEW HOSPITAL	\$121.8263	\$0.0000	\$7,997.5626	\$1,386.8900	\$9,506.2789
7059970	FAIRVIEW HOSPITAL	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000
7103894	FAIRVIEW HOSPITAL RIVERSIDE AVE. MN	\$6.9062	\$0.0000	\$0.0000	\$1.9400	\$8.8462
7125986	FAIRVIEW HOSPITAL	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000
7147853	FAIRVIEW HOSPITAL - ST. PAUL ENERGY PARK	\$0.9866	\$0.0000	\$0.0000	\$0.2800	\$1.2666
7147854	FAIRVIEW HOSPITAL	\$22.5101	\$2.4374	\$0.0000	\$6.5100	\$31.4575
7169478	FAIRVIEW HOSPITAL- ST FRANCIS, MN	\$0.9866	\$0.0000	\$0.0000	\$0.2800	\$1.2666
TOTAL OF NEW CHARGES		\$153.2158	\$2.4374	\$7,997.5626	\$1,395.9000	\$9,549.1158



ACTIVITY FOR ACCOUNT - 7105709 FAIRVIEW HOSPITAL

MONTHLY CHARGES

Period	Description	Quantity	Cost Per Unit	Amount
09/01/2018 - 09/30/2018	NLGF_Regulatory Compliance Charge	6	\$0.7500	\$4.5163
10/01/2018 - 10/31/2018	Network Cost Recovery Fee	1	\$103.4400	\$103.4400
10/01/2018 - 10/31/2018	Network Cost Recovery Fee	3	\$4.3100	\$12.9300
10/01/2018 - 10/31/2018	Network Cost Recovery Fee	2	\$0.4700	\$0.9400
TOTAL MONTHLY CHARGES				\$121.8263

OTHER CHARGES AND CREDITS

Date	Description	Amount
* 09/30/2018	Commitment Billing: Minimum Usage Charge	\$7,997.5626 *
TOTAL OTHER CHARGES AND CREDITS		\$7,997.5626

SURCHARGES AND TAXES

Description	Amount
Universal Service Fund Surcharge	\$1,008.4000
Regulatory Assessment Surcharge	\$313.2600
Federal Excise Tax	\$3.8700
State/County/Local Taxes	\$61.3600