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

10
11 In Re:
12 Windstream Holdings, Inc., et al.,
13 Debtors.

Chapter 11
Case No. 19-22312-RDD
(Jointly Administered)
Hearing Date: October 22, 2020 at 10:00 a.m. (ET)
Response Deadline: October 15, 2020 by 4:00 p.m. (ET)
Relates to Docket No. 2528

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17 **MARICOPA COUNTY TREASURER’S RESPONSE IN OPPOSITION TO**
18 **DEBTORS’ NINTH OMNIBUS OBJECTION TO EQUITY INTEREST CLAIMS,**
19 **INSUFFICIENT DOCUMENTATION CLAIMS, LATE-FILED CLAIMS, NO**
20 **LIABILITY CLAIMS, SUBSTANTIVELY DUPLICATE CLAIMS, CLAIMS**
21 **TO BE MODIFIED, AND WRONG DEBTOR CLAIM**

22 Maricopa County Treasurer (“MCT”), by and through its undersigned counsel,
23 hereby submits this response (the “Response”) in opposition to *Debtors’ Ninth Omnibus*
24 *Objection to Equity Interest Claims, Insufficient Documentation Claims, Late-Filed*
Claims, No Liability Claims, Substantively Duplicate Claims, Claims to be Modified, and
Wrong Debtor Claim [Docket No. 2528] (the “Omnibus Objection”). In support of the

1 Response, MCT respectfully represents as follows.

2 **BACKGROUND**

3 **MCT Claim #1236:**

4 On May 6, 2019, MCT filed its Secured Proof of Claim in the case of EarthLink
5 Business, LLC in the amount of \$8,039.00 representing prepetition 2018 and estimated
6 2019 centrally assessed property taxes owed on parcel 675-80-750. MCT's records show
7 that the 2018 and 2019 taxes on parcel 675-80-750 have been paid in full. Therefore,
8 MCT has no opposition to the relief sought by the Debtors with respect to MCT Claim
9 #1236.

10 **MCT Claim #1228:**

11 On May 6, 2019, MCT filed its Secured Proof of Claim in the case of McLeodUSA
12 Information Services LLC in the amount of \$41,237.18 representing Debtors' prepetition
13 2003 personal property taxes owed on parcel 946-39-472. Post-petition interest accrues
14 at the statutory rate of 16% per annum until paid in full. See 11 U.S.C. § 511 and Arizona
15 Revised Statutes ("A.R.S.") § 42-18053. The tax liens attached on January 1, 2003.
16 A.R.S. § 42-17153. Further, the tax liens are "prior and superior to any other liens of every
17 kind and description regardless of when another lien attached" and the liens "shall not be
18 discharged until the taxes are paid or the title to the property vests in a purchaser of the
19 property for taxes." A.R.S. § 42-19106¹. The 2003 tax remains unpaid in the amount of
20 \$43,943.85 as of October 1, 2020. (See Tax Summary attached as Exhibit "A").

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24 ¹ See also A.R.S. § 42-17153.

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OBJECTION

MCT opposes the disallowance and expungement of MCT Claim #1228 sought in the Omnibus Objection because the taxes have not been paid and MCT contends that the Debtors remain liable for payment of the taxes. The entries made in MCT's records are prima facie evidence of the facts stated in them (A.R.S. § 42-11007). The Debtors have provided no information to show that the taxes are not due other than an assertion that MCT Claim #1228 is inconsistent with Debtors' books and records and as a result the Debtors are not liable for payment of the taxes.

In support of MCT's opposition, the Tax Summary shows McLeodUSA Information Services Inc. as the owner of the personal property. McLeodUSA Information Services Inc. was merged into McLeodUSA Information Services LLC on May 10, 2010 per the Arizona Corporation Commission ("A.C.C.") (See Exhibit B). McLeodUSA Information Services LLC was formed in Arizona on May 10, 2010 per the A.C.C. (See Exhibit C). In Arizona, "It is unlawful for the owner, a lienholder, a conditional vendor or any other person to knowingly sell or transfer personal property or remove it from its location until the taxes on the property are paid." A.R.S. § 42-19107. In addition, "The tax on personal property is a debt against the owner to whom the property is assessed and against the owner's successors and assigns." A.R.S. § 42-19117(A)." Therefore, the 2003 personal property taxes should have been paid upon transfer of the property, but were not.

Pursuant to A.R.S. § 42-17153², the taxes on the property cannot be discharged until one of the following occurs:

- (a) The taxes, penalties, charges and interest are paid.

² See also A.R.S. § 42-19106.

1 (b) Title to the property has finally vested in a purchaser under a sale for taxes.

2 (c) A certificate of removal and abatement has been issued pursuant to section
3 42-18353.

4 None of these have occurred. Based on the above, the Debtors remain liable for payment
5 of MCT Claim #1228.

6 WHEREFORE, MCT objects to disallowance and expungement of MCT Claim
7 #1228 and requests the Court deny the Omnibus Objection and allow MCT Claim #1228
8 in full, including any and all interest, to be paid by Debtors within ten (10) days of entry of
9 the Order.

10 Dated: October 7, 2020.

11 ALLISTER ADEL
12 MARICOPA COUNTY ATTORNEY

13 /s/ Peter Muthig
14 PETER MUTHIG (AZ State Bar #018526)
15 Deputy County Attorney
16 *Attorney for Maricopa County Treasurer*
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CERTIFICATE OF SERVICE

I, Peter Muthig, hereby certify that, on October 7, 2020, I caused a copy of the foregoing document to be served upon the parties below in the manner indicated.

U.S. MAIL

Judge Robert D. Drain
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/s/ Peter Muthig
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EXHIBIT A

Tax Summary for 946-39-472 5	
Total Property Tax Due	\$43,943.85

Tax Year	Status	Assessed Tax	Tax Paid	Amount Due
2003	Open - BTX	\$11,941.48	\$0.00	\$43,943.85
2002	Paid - BTX	\$14,774.74	\$14,774.74	\$0.00
2001	Paid - BTX	\$19,115.76	\$19,115.76	\$0.00

Current Name & Address	
MCLEODUSA INFORMATION SERVICES INC	
DELETE PER 7327	
9012 NEW TRAILS DR	
THE WOODLANDS TX 77381	

Current Situs Address	
801 S 16TH ST	
PHOENIX AZ 85034	

Parcel Indicators	
2003 - Comments	
2003 - Litigation Pending - Case# BK2019-22350	

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No Redemption Statement