

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 5

MILWAUKEE COUNTY

CITY OF MILWAUKEE,

Petitioner,

v.

PUBLIC SERVICE COMMISSION OF
WISCONSIN,

Case No. 14-CV-9797
Case Code: 30607
Administrative Agency Review

Respondent.

**NOTICE OF APPEARANCE AND STATEMENT OF POSITION OF
MCLEODUSA TELECOMMUNICATIONS SERVICES, LLC,
NORLIGHT TELECOMMUNICATIONS, INC., PAETEC COMMUNICATIONS, INC.,
AND TW TELECOM OF WISCONSIN L.P.**

McLeodUSA Telecommunications Services, LLC, Norlight Telecommunications, Inc. (n/k/a Windstream NTI, Inc.), PAETEC Communications, Inc., and tw telecom of wisconsin l.p. hereby file this Notice of Appearance and Statement of Position pursuant to Wis. Stat. § 227.53 in response to the Petition for Judicial Review (“Petition”) filed by the City of Milwaukee.

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that Whyte Hirschboeck Dudek S.C. hereby appears on behalf of McLeodUSA Telecommunications Services, LLC, Norlight Telecommunications, Inc. (n/k/a Windstream NTI, Inc.), PAETEC Communications, Inc., and tw telecom of wisconsin l.p. and requests that all papers and notices be served on the undersigned.

STATEMENT OF POSITION

McLeodUSA Telecommunications Services, LLC, Norlight Telecommunications, Inc. (n/k/a Windstream NTI, Inc.), PAETEC Communications, Inc. (collectively “Windstream”), and tw telecom of wisconsin l.p. (“tw telecom”) appeared and participated as full parties in the

proceeding before the Public Service Commission of Wisconsin (“Commission”), *Petition of Brett Healy for Declaratory Ruling to Determine Allocation of Costs for Relocation of Utility Structures for Milwaukee Streetcar Project*, Docket No. 5-DR-109, which is the subject of the Petition. Petitioner served a copy of the Petition on counsel for Windstream and tw telecom, and Windstream and tw telecom have a right to participate in this proceeding pursuant to Wis. Stat. § 227.53. Windstream and tw telecom request that the Court affirm the Commission’s final decision issued in the proceeding below and deny the Petition.

With respect to the specific material allegations of the Petition, Windstream and tw telecom state as follows:

1. Answering paragraph 1, upon information and belief, admit the allegations contained therein.
2. Answering paragraph 2, upon information and belief, admit the allegations contained therein.
3. Answering paragraph 3, upon information and belief, admit the allegations contained therein.
4. Answering paragraph 4, upon information and belief, admit the allegations contained therein.
5. Answering paragraph 5, upon information and belief, admit the allegations contained therein.
6. Answering paragraph 6, upon information and belief, admit the allegations contained therein.
7. Answering paragraph 7, state that this is a legal conclusion to which no answer is required.

8. Answering paragraph 8, admit that the Petitioner authorized construction of the Milwaukee Streetcar Project pursuant to the Authorizing Resolution adopted on July 26, 2011. Further answering paragraph 8, are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein.

9. Answering paragraph 9, are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 9. Further answering paragraph 9, state that the Authorizing Resolution referenced in this paragraph speaks for itself and admit the allegations contained therein to the extent they are consistent with the Authorizing Resolution.

10. Answering paragraph 10, affirmatively allege that the Milwaukee Streetcar Project would require them to relocate or modify their existing facilities at a significant cost, and deny all parts of paragraph 10 that are inconsistent with this affirmative allegation.

11. Answering paragraph 11, admit the first sentence of paragraph 11 and deny the second sentence of paragraph 11.

12. Answering paragraph 12, deny the allegations contained therein.

13. Answering paragraph 13, are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

14. Answering paragraph 14, deny the allegations contained therein.

15. Answering paragraph 15, deny the allegations contained therein.

16. Answering paragraph 16, deny the allegations contained therein.

17. Answering paragraph 17, deny the allegations contained therein.

18. Answering paragraph 18, deny the allegations contained therein.

AFFIRMATIVE DEFENSES

1. The Final Decision is proper and consistent with the law.
2. The Final Decision is within the legal authority and jurisdiction of the Commission.

REQUEST FOR RELIEF

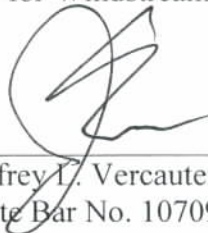
WHEREFORE, Windstream and tw telecom request the following relief:

1. Deny the Petition for Judicial Review, including all of the requests for declarations included in the Petition;
2. Affirm the Final Decision of the Commission; and
3. For such other and further relief as the Court may deem appropriate.

Dated this 8th day of December, 2014.

WHYTE HIRSCHBOECK DUDEK S.C.
Attorneys for Windstream and tw telecom

By: _____


Jeffrey I. Vercauteren
State Bar No. 1070905

ADDRESS:
P.O. Box 1379
Madison, Wisconsin 53701-1379
608-255-4440
608-258-7138 (fax)
jvercauteren@whdlaw.com