

April 13, 2021

Will Seuffert Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East Suite 350
St. Paul, MN 55101-2147

RE: Comments of the Minnesota Department of Commerce on Petition of Windstream Communications, LLC for Designation as an Eligible Telecommunications Carrier, Docket Nos. P6158/M-21-248 and P999/CI-21-86

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

The petition filed by Windstream Communications, LLC for designation as an ETC as a Rural Digital Opportunity Fund (RDOF) grant winner in Docket No. P6158/M-21-248 and associated Docket No. P999/CI-21-86.

Sincerely,

/s/JOY GULLIKSON
Rate Analyst

/s/ DIANE DIETZ
Rate Analyst

JG/DD/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Petition of Windstream Communications, LLC for Designation as an Eligible Communications Carrier.

Docket Nos: P999/CI-21-86, P6158/M-21-248

I. BACKGROUND

A. PROCEDURAL HISTORY

Windstream Communications, LLC (Windstream Comm) initially received its certificate of authority to provide long distance services in the Minnesota Public Utilities Commission's (Commission's) January 25, 2006 Order in Docket No. P6518/NA-05-1990.

On May 24, 2013, Windstream Holdings, Inc., the parent company for Windstream Comm, filed an intra-corporate transaction to be inserted as the new holding company above in the ownership chain above the following Minnesota affiliates in Docket No. P5323 et al/PA-13-404: McLeod USA Telecommunications Services, LLC, PaeTec Communications, LLC, Talk America, LLC, Windstream Communications, LLC, Windstream Direct, LLC, Windstream EN-TEL, LLC, Windstream KDL, LLC, Windstream Lakedale, Inc., Windstream Lakedale Link, Inc., Windstream Norlight, LLC, Windstream NorthStar, LLC, and Windstream NTI, LLC.

B. CURRENT PETITION

On April 6, 2021, Windstream Comm filed a petition, in Docket No. P6518/M-21-218, for designation as an Eligible Telecommunications Carrier (ETC) for the purposes of receiving universal service funds as a winner of a Rural Digital Opportunity Fund (RDOF) award. Windstream Comm's petition was filed significantly later than the February 19, 2021 deadline established by the Commission in its February 2, 2021 Notice of Filing Requirement and Comment Deadlines for RDOF Grant Winners.

As an RDOF recipient, Windstream Comm will receive \$6,533,570 in assigned support for 10 years for 20 census block groups in Minnesota. These census blocks are partially located outside the service areas where Windstream Comm affiliates serve as the incumbent local exchange carrier (ILEC). Where Windstream Comm affiliates already holds the necessary ETC designation, there is no need for ETC certification for receipt of RDOF funds. The census block where Windstream Comm is the RDOF award recipient are located in Anoka, Chisago, Hennepin, Isanti, and Sherburne Counties.

II. LEGAL REFERENCES

The Department has previously addressed the relevant state and federal law in its March 26, 2021 Comments in Docket No. P999/CI-21-86.

III. ANALYSIS

The Department reviewed Windstream Comm's petition by applying the same standards used in the review of the other petitions in Docket No. P999/CI-21-86. Any issues arising from the review of Windstream Comm's petition are addressed through adoption of the Department's recommendation in its March 26, 2021 Comments and April 12, 2021 Reply Comments in Docket No. P999/CI-21-86. As part of its review process, the Department completed the "Additional Information" form requested by the Commission in its April 5, 2021 Notice of Request for Additional Information. This "Additional Information" form for Windstream Comm is attached to these comments.

The Department notes that Windstream Comm's April 6, 2021 petition relies heavily on 47 CFR 54.202. 47 C.F.R. § 54.202(a), which requires that an ETC applicant must:

- Certify it will comply with the service requirements applicable to the support that it receives;
- Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area;
- Demonstrate the ability to remain functional in emergency situations; and
- Demonstrate that it will satisfy applicable consumer protection and service quality standards.

This section of the federal rules does not apply unless the Commission determines to apply it under 47 USC section 214(e)(2) or 47 USC section 254.

IV. COMMISSION OPTIONS

The Commission decision options as they pertain to Windstream Comm are consistent with its comments for all of the RDOF award winners seeking ETC status, as provided in the Department's March 26, 2021 Comments in Docket No. P999/CI-21-86.

V. DEPARTMENT RECOMMENDATION

The Department recommends the Commission approve the petition of Windstream Communications, LLC for designation as an ETC in the location designated for receipt of its RDOF award, subject to the conditions established by the Commission for all ETC petitions, as identified in the Department's March 26, 2021 Comments in Docket No. P999/CI-21-86.

/ja

Additional Information Requested from ETC Petitioners

ETC Applicant Name: Windstream Communications, LLC		
MPUC Docket Number: P6158/M-21-248		
	Yes (Certify)/No	Additional Information (Attach additional pages as necessary)
1. Please certify the applicant's commitment to meeting the service and performance quality requirements applicable to its support type. See 47 C.F.R. § 54.202(a)(1).	Yes	Commitment referenced on petition page 12.
2. Will the applicant offer standalone voice telephony service? See 47 CFR 54.101(b). Applicants holding an ETC designation in MN should describe, in sufficient detail to understand the offering, their existing voice telephony service offered to customers, including tariff sheets and contracts, proof of making offerings for this service to consumers in their existing census blocks covered by their present ETC designation, and the number of customers using the applicant's offered voice telephony service in both total numbers and as a percent of customers served in the state. Indicate whether the offering for the RDOF census blocks covered by this application will be the same standalone service and if not, describe how it will differ. See 47 CFR 54.101(b).	Yes	Commitment to offer standalone voice is referenced on petition page 10. Carrier is currently certificated to provide interexchange services, but has certificated affiliates that provide tariffed standalone voice services.

<p>3.If so, will the applicant do so through its own facilities, meaning “any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support” or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier)? See 47 CFR 54.201(d)(1).</p>	<p>Yes</p>	<p>This commitment is referenced on petition page 11.</p>
<p>4.For the voice telephony service, identify the customer point of contact (name, address, contact information), and confirm this contact person is legally authorized to represent the applicant in communications with customers.</p>	<p>See petition page 8.</p>	<p>Nicole Winters Windstream Counsel II 4001 North Rodney Parham Rd Little Rock, AR 72212 501-748-6313 Nicole.Winters@windstream.com</p>
<p>5.Does the voice telephony service have "access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems"? See 47 CFR § 54.101(a).</p>	<p>Yes</p>	<p>This commitment is reference petition page 10.</p>
<p>7.Please describe the extent to which the offered voice telephony services will be offered at “rates that are equal or lower to the Commission’s reasonable comparability benchmarks for fixed wireline services offered in urban areas.” 47 CFR 54.804(b)(2)(iii).</p>	<p>Yes</p>	<p>Petition page 10 states "plans will be offered at rates that are reasonably comparable to rates offered in urban areas."</p>
<p>8.Will the applicant satisfy additional requirements applicable to all high-cost ETCs, such as Lifeline obligations? 47 CFR § 54.405</p>	<p>Yes</p>	<p>Petition page 11 states carrier satisfies all federal requirements for ETC designation. Petition p. 11-12 states carriers will offer and advertise LL.</p>

<p>9.If so, will the applicant commit to e-file documentation evidencing the offering of Lifeline service in the required census blocks as required by 47 CFR § 54.405(b).</p> <ul style="list-style-type: none"> a. Current Lifeline providers should provide evidence of prior and current communications, including advertisements and website communications as described in 47 CFR § 54.405(c) for census blocks for which it currently receives support and the number of Lifeline customers being served. b. Future Lifeline providers should provide planned communications as described in 47 CFR §54.405(c). 	<p>Yes, mostly.</p>	<p>Petition page 11 including footnote 23 on page 11 commit to advertising and outreach for Lifeline. Petition discusses Lifeline outreach efforts, but doesn't specifically describe the efforts in detail as required by 47 CFR 54.405(c).</p>
<p>10.If the answer to question 3 above is through an affiliate or by offering a managed voice solution (including VoIP) through resale of another carrier’s services, identify the other carrier, describe the legal relationship between the applicant and the other carrier, and describe how the other carrier will comply with the requirements listed above.</p>	<p>Yes in part.</p>	<p>Petition page 9 references provision of service using carrier's own facilities and resold facilities of another carrier, but doesn't mention those other carriers. Petition pages 3 and 6 reference the carrier's CLEC and ILEC affiliates, including Windstream Lakedale, but doesn't mention other affiliates.</p>
<p>11.Will the applicant commit to notifying the Minnesota Public Utilities Commission, Minnesota Department of Commerce and the Minnesota Office of the Attorney General if it has failed to meet its milestones for the identified census blocks under the FCC RDOF grant obligations? 47 CFR 54.320(d).</p>	<p>This requirement is not referenced in petition.</p>	

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. P6158/M-21-248 and P999/CI-21-86

Dated this 13th day of April 2021

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Mary	Buley	mbuley@otcpas.com	Olsen Thielen Co, LTD	2675 Long Lake Rd Roseville, Minnesota 55113	Electronic Service	No	OFF_SL_21-86_Official
James B.	Canaan	jim.canaan@itctel.com	Interstate Telecommunications Cooperative, Inc.	P.O. Box 920 312 Fourth Street Clear Lake, SD 57226	Electronic Service	No	OFF_SL_21-86_Official
Patrick	Caron	Patrick.Caron@cableone.biz	Cable One, Inc.	210 E Earll Dr Phoenix, AZ 85012	Electronic Service	No	OFF_SL_21-86_Official
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_21-86_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-86_Official
Joshua	Guyan	jguyan@kelleydrye.com	Kelley Drye & Warren LLP	3050 K St NW Ste 400 Washington, DC 20007	Electronic Service	No	OFF_SL_21-86_Official
Kara	Hartman	kara.hartman@aspirenetworks.com	Aspire Networks 2, LLC	PO Box 349 Buford, GA 30515	Electronic Service	No	OFF_SL_21-86_Official
Corey	Hauer	coreyhauer@ltdbroadband.com	LTD Broadband	PO Box 3064 Blooming Prairie, MN 55917	Electronic Service	No	OFF_SL_21-86_Official
Chris M.	Laughlin	claughlin@kelleydrye.com	Kelley Drye & Warren LLP	3050 K St NW Ste 400 Washington, DC 20007	Electronic Service	No	OFF_SL_21-86_Official
Phillip R.	Marchesiello	pmarchesiello@wbklaw.com	Wilkinson Barker Knauer, LLP	1800 M Street NW Suite 800N Washington, D.C. 20036	Electronic Service	No	OFF_SL_21-86_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
R. Edward	Price	Ted.Price@spacex.com	Space Exploration Technologies Corp.	1155 F Street NW Ste 475 Washington, DC 20004	Electronic Service	No	OFF_SL_21-86_Official
Eric	Pyland	epyland@team.nxlink.com	AMG Technology Investment Group, LLC	d/b/a NextLink Internet 95 Parker Oaks Lane Hudson Oaks, TX 76087	Electronic Service	No	OFF_SL_21-86_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-86_Official
Jennifer	Richter	jr Richter@akingump.com	Akin Gump Strauss Hauer & Feld LLP	2001 K St. NW Washington, DC 20006	Electronic Service	No	OFF_SL_21-86_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-86_Official
Kristopher	Twomey	kris@lokt.net	Law Office of Kristopher E. Twomey, P.C.	1725 I St NW Ste 300 Washington, DC 20006	Electronic Service	No	OFF_SL_21-86_Official
Cameron	Winton	winton.cam@dorsey.com	Dorsey & Whitney LLP	50 S 6TH ST STE 1500 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-86_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Scott	Bohler	scott.bohler@ftr.com	Frontier Communications Corporation	2378 Wilshire Blvd Mound, MN 55364-1652	Electronic Service	No	OFF_SL_21-248_M-21-248
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_21-248_M-21-248
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-248_M-21-248
Gail	Gauthier	gail.gauthier@windstream.com	Windstream, Business Telecom, CTC Comm, Deltacom, EarthLink B, McLeadUSA, PAETEC, Talk America	4001 N Rodney Parham Rd Mailstop: B01 F2-12A Little Rock, AR 72212-2442	Electronic Service	No	OFF_SL_21-248_M-21-248
Jack D.	Phillips	jack.phillips@ftr.com	Frontier Communications Of MN, Inc.	14450 Burnhaven Drive Burnsville, MN 55306	Electronic Service	No	OFF_SL_21-248_M-21-248
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-248_M-21-248
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-248_M-21-248
Jason	Topp	jason.topp@lumen.com	CenturyLink Communications, LLC	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-248_M-21-248
Nicole	Winters	nicole.winters@windstream.com	Windstream	4001 North Rodney Parham Rd Little Rock, AR 722212	Electronic Service	No	OFF_SL_21-248_M-21-248