

April 20, 2021

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

**RE: Additional 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:

On April 13, 2021, the Department filed comments regarding the late filing of Windstream Communications, LLC (Windstream), requesting designation as an Eligible Telecommunications Carrier (ETC) in the areas in which it received Rural Digital Opportunity Fund (RDOF).<sup>1</sup>

On April 15, an email was sent to most of the RDOF ETC applicants with the subject: Minnesota Public Utilities Commission's Notice of Request for Additional Information Question #6.<sup>2</sup> The request asked:

Please describe how the applicant will remain functional in emergency situations, namely, what is "its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations." 47 CFR § 54.202(a)(2)?

The Department notes that Windstream addressed this request on page 13 of its petition:

WC certifies that it is able to function in emergency situations as required under 47 C.F.R. § 54.202(a)(2). WC's voice and broadband network is designed to remain functional in emergency situations without an external power source, will remain functional using backup power, is able to reroute

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<sup>1</sup> Windstream Communications, LLC filed its request on April 6, 2021.

<sup>2</sup> The email from the Commission was addressed to RDOF ETC applicants, but did not include Windstream Communication, LLC. Copy of the email, as forwarded to Joy Gullikson, is attached as ATTACHMENT A

traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations as required. See 47 C.F.R. § 54.202(a)(2). WC further monitors its networks with sophisticated equipment capable of detecting disruptions caused by emergency situations that allow WC to respond quickly.

The Department further notes that the Federal Communications Commission (FCC) Rule 47 C.F.R. § 54.202 does not apply to ETC applicants appearing before the state commissions. 47 C.F.R. § 54.202 is titled: “Additional requirements for Commission designation of eligible telecommunications carriers.” § 54.202 (a) states:

(a) In order to be designated an eligible telecommunications carrier under section **214(e)(6)**, any common carrier in its application must . . . :

47 U.S.C. 214 (e)6 says:

Common carriers not subject to State commission jurisdiction. In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, . . . .

Therefore, while the Commission may impose regulations on ETCs, under 47 U.S.C. 214 (e)(2) and 47 U.S.C. 254 (f),<sup>3</sup> as pointed out in the initial comments of the Department of Commerce, the requirements of 47 CFR § 54.202 do not automatically apply. The Department supports the Commission imposing regulation that require ETCs to be able to function in emergency situations without an external power source, remain functional using backup power, are able to reroute traffic around damaged facilities, and are capable of managing traffic spikes resulting from emergency situations.

Sincerely,

/s/JOY GULLIKSON  
Rate Analyst

/s/ DIANE DIETZ  
Rate Analyst

JG/DD/ja  
Attachment

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<sup>3</sup> See Department comments, p.5.

**From:** Fournier, Marc (PUC) <[marc.fournier@state.mn.us](mailto:marc.fournier@state.mn.us)>  
**Sent:** Thursday, April 15, 2021 2:57 PM

**To:** [mbuley@otcpas.com](mailto:mbuley@otcpas.com); [jim.canaan@itctel.com](mailto:jim.canaan@itctel.com); [Patrick.Caron@cableone.biz](mailto:Patrick.Caron@cableone.biz); Chavez, Linda (COMM) <[linda.chavez@state.mn.us](mailto:linda.chavez@state.mn.us)>; Commerce Attorneys <[Commerce.Attorneys@ag.state.mn.us](mailto:Commerce.Attorneys@ag.state.mn.us)>; [jguyan@kelleydrye.com](mailto:jguyan@kelleydrye.com); [kara.hartman@aspirenetworks.com](mailto:kara.hartman@aspirenetworks.com); [coreyhauer@ltdbroadband.com](mailto:coreyhauer@ltdbroadband.com); [claughlin@kelleydrye.com](mailto:claughlin@kelleydrye.com); [pmarchesiello@wbklaw.com](mailto:pmarchesiello@wbklaw.com); [Ted.Price@spacex.com](mailto:Ted.Price@spacex.com); [epyland@team.nxlink.com](mailto:epyland@team.nxlink.com); Residential Utilities PUC Service <[residential.utilities@ag.state.mn.us](mailto:residential.utilities@ag.state.mn.us)>; [jrichter@akingump.com](mailto:jrichter@akingump.com); Kristopher Twomey <[kris@lokt.net](mailto:kris@lokt.net)>; [winton.cam@dorsey.com](mailto:winton.cam@dorsey.com)

**Subject:** Minnesota Public Utilities Commission's Notice of Request for Additional Information Question # 6

Parties,

It has been brought to my attention this afternoon that Question #6 was missing from the Original Notice of Request for Additional Information. Question # 6 is as follows:

6. Please describe how the applicant will remain functional in emergency situations, namely, what is "its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations." 47 CFR § 54.202(a)(2)?

Thank you in advance for your consideration of this matter. I apologize for the additional inconvenience.

Marc

**Marc Fournier**  
Economic Analyst | Economic Analysis (Energy and Telecom)  
**Minnesota Public Utilities Commission**  
121 7th Place E, Suite 350  
Saint Paul, MN 55101-2147  
O: 651-201-2214  
F: 651-297-7073  
[mn.gov/puc](http://mn.gov/puc)



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## **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  
Supplemental Comments**

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

**Dated this 20<sup>th</sup> 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
Stephen E	Coran	scoran@lermanscenter.com	LermanSenter	2001 L St NW Ste 400  Washington, DC 20036	Electronic Service	No	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
Brett	Heather Freedson	bfreedson@lermansenter.com	Lerman Senter	2001 L St NW Ste 400  Washington, DC 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
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
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	jrichter@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 PI 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