

**REDACTED – FOR PUBLIC INSPECTION**

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March 9, 2015

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: *Technology Transitions, GN Docket No. 13-5; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers, RM-11358; Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593; Windstream Petition for Declaratory Ruling Seeking to Confirm ILECs' Continued Obligation to Provide DS1s and DS3s on Unbundled Basis After Technology Transitions, WC Docket No. 15-1*

Dear Ms. Dortch:

Windstream Services, LLC (“Windstream”) hereby seeks confidential and highly confidential treatment of marked portions of the attached document pursuant to the Protective Order and Second Protective Order in GN Docket Nos. 13-5 and 12-353 and the Modified Protective Order and Second Protective Order in WC Docket No. 05-25 and RM-10593;<sup>1</sup> the

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<sup>1</sup> *Technology Transitions; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket Nos. 13-5 and 12-353, Protective Order, DA 14-272 (rel. Feb. 27, 2014) (IP Transition Protective Order); *Technology Transitions; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket Nos. 13-5 and 12-353, Second Protective Order, DA 14-273 (rel. Feb. 27, 2014) (IP Transition Second Protective Order); *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, Modified Protective Order, 25 FCC Rcd. 15168 (2010) (Special Access Modified Protective Order); *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, Second Protective Order, 25 FCC Rcd. 17725 (2010) (Special Access Second Protective Order); *See also Special Access for Price Cap Local Exchange Carriers*, Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau to Donna Epps, Vice President, Federal Regulatory Affairs, Verizon, DA 12-199 (dated Feb. 13, 2012) (Letter to Donna Epps) (further supplementing the *Second Protective Order*).

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redacted version for public inspection is being filed on ECFS. Highly confidential treatment is required to protect information about Windstream’s wholesale purchases, costs, and expenses and information about Windstream’s future procurement strategies.<sup>2</sup> Confidential treatment is needed to protect market data attained from proprietary Atlantic ACM research that is not available for public use.<sup>3</sup>

In addition, pursuant to Sections 0.457 and 0.459(b) of the Commission’s rules, Windstream requests confidential and highly confidential treatment, respectively, for the marked portions of the enclosed submission with respect to RM-11358 and WC Docket No. 15-1.<sup>4</sup> Windstream asserts the following in support of this request, which concerns materials that are already covered by protective orders in other dockets:

**1. Identification of the specific information for which confidential treatment is sought.**

Windstream requests confidential treatment of text marked as “confidential” and “highly confidential” in the enclosed submission.

**2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.**

Confidential treatment is requested in conjunction with Windstream’s reply comments in GN Docket No. 13-5, WC Docket No. 05-25, RM-10593, WC Docket No. 15-1, and RM-11358.

**3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.**

The information for which Windstream is seeking confidential treatment includes commercially sensitive information relating to Windstream’s wholesale purchases, costs, and expenses, as well as information about Windstream’s procurement strategies. Windstream also seeks confidential treatment for market data attained from proprietary Atlantic ACM research that is not available for public use. None of this information is available to the general public

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<sup>2</sup> See IP Transition Second Protective Order at Appendix A, numbers 2-3 (declaring eligible for highly confidential treatment “information that discusses in detail . . . future procurement strategies” and “information that provides granular information about a Submitting Party’s current or future costs, revenues, marginal revenues or market share” and “information”); Letter to Donna Epps at 2 (declaring eligible for highly confidential treatment “expenditures, including dollar volumes of purchases of intrastate and interstate DS1 and DS3 services, and expenditures under certain rate structures and discount plans” and “Request for Proposals (‘RFPs’) including responses received to RFPs parties have issued”).

<sup>3</sup> See IP Transition Protective Order at 2 (defining “Confidential Information” as information that is not otherwise available from publicly available sources and that is subject to protection under the Freedom of Information Act); Special Access Modified Protective Order at 2 (defining “Confidential Information” as information contained in a Stamped Confidential Document or derived therefrom that is not otherwise available from publicly available sources); 5 U.S.C. § 552(b)(4) (exempting from release under FOIA “trade secrets or commercial or financial information obtained from a person and privileged or confidential”).

<sup>4</sup> 47 C.F.R. §§ 0.457, 0.459(b).

and disclosure could affect competitive standing in the marketplace. The Commission has recognized that disclosure of information relating to market plans and business strategies can cause substantial competitive harm.<sup>5</sup>

**4. Explanation of the degree to which the information concerns a service that is subject to competition.**

The information for which Windstream is seeking confidential treatment includes information about its wholesale expenditures, purchases, and procurement strategies, and market data attained from proprietary Atlantic ACM research that is not available for public use.

**5. Explanation of how disclosure of the information could result in substantial competitive harm.**

Disclosure of this information could hinder Windstream's ability to negotiate commercial agreements and purchase wholesale products and inputs, and could hinder Atlantic ACM's ability to perform its proprietary market research.

**6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure.**

The information provided includes confidential business information and is treated as such. The information is not ordinarily shared with unauthorized individuals, entities, or other third parties. The market data obtained from proprietary Atlantic ACM research was provided to Windstream with a no-public-use proviso.

**7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.**

To the best of Windstream's knowledge, the information for which Windstream is seeking confidential treatment has not been disclosed to the general public or to any particular third parties, unless subject to confidentiality protections.

**8. Justification of the period during which the submitting party asserts material should not be available for public disclosure.**

Windstream requests that the information remain confidential indefinitely, because its disclosure would negatively affect Windstream's future wholesale purchasing and commercial agreements, and Atlantic ACM's research activity.

**9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.**

Data subject to this request also would qualify for Exemption 4 of the Freedom of Information Act. Exemption 4 protects information that is (i) commercial or financial; (ii) obtained by a person outside of the government; and (iii) privileged or confidential.<sup>6</sup>

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<sup>5</sup> See *Southwestern Bell Telephone Company, Cost Support Filed Under Request for Confidential Treatment*, CC Docket No. 93-162, 14 FCC Rcd. 987, 990 ¶ 7 (1999).

<sup>6</sup> See 5 U.S.C. § 552(b)(4); *Fed. Open Market Comm. v. Merrill*, 443 U.S. 340, 360 (1979).

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Pursuant to the four Protective Orders, this redacted version of the document is being filed electronically via ECFS. Windstream also is sending two copies each of the confidential version and highly confidential version and a cover letter to the Wireline Competition Bureau's Jonathan Reel (Competition Policy Division) and Marvin Sacks (Pricing Policy Division).

Please contact me if you have any questions or require any additional information.

Sincerely yours,

/s/ Malena F. Barzilai

Malena F. Barzilai

cc: Matthew DelNero  
Daniel Kahn