

Malena F. Barzilai
Senior Government Affairs Counsel
Windstream Corporation
1101 17th Street, N.W., Suite 802
Washington, DC 20036

(202) 223-4276
malena.barzilai@windstream.com



VIA ECFS

EX PARTE

August 3, 2015

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

Re: *GN Docket No. 13-5, Technology Transitions; GN Docket No. 12-353, AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; WC Docket No. 05-25, In the Matter of Special Access Rates for Price Cap Local Exchange Carriers; RM-10593, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services,*

Dear Ms. Dortch:

Windstream Services LLC (“Windstream”) herein responds to a July 30, 2015 letter and attachment submitted by the United States Telecom Association (“USTelecom”) critiquing CostQuest Associates’ white paper entitled “Analysis of Fiber Deployment Economics for Efficient Provision of Competitive Service to Business Locations.”¹

Windstream is disappointed that USTelecom waited until the day that the Sunshine notice was released in the above-referenced proceedings—nearly two months after the CostQuest white paper was submitted—to file any responsive arguments. This is a transparent attempt to forestall any analytical replies, and for that reason alone the Commission should not give any substantial weight to USTelecom’s filing. In addition, for all the time that USTelecom took to consider its response to CostQuest’s paper, it fails to raise any persuasive criticisms that have not already been addressed by Windstream in previous filings.

First, USTelecom essentially faults CostQuest’s analysis for not being various things it never claimed to be. CostQuest clearly stated its methodology and noted that its goal was to provide “an analysis reflective of an efficient hypothetical provider, not a particular provider,

¹ Letter from Patrick S. Brogan, United States Telecom Association, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5, WC Docket No. 05-25 (filed July 30, 2015) (“USTelecom Letter”).

under average cost conditions.”² The CostQuest analysis—like the predecessor analysis performed by AT&T³—is not meant to be market-specific, as USTelecom suggests it should be. It is intended to provide a reasonable framework for a hypothetical efficient provider today, a point of comparison to AT&T’s prior findings, and a means by and which the Commission could insert its own data and observe how a change in inputs alters the results. In particular, in asserting that the model does not account for “share shifts that alter industry economics over time,” USTelecom seems to overlook the portion of the white paper that provides contemporary data on retail wireline business market shares (58 percent of the market still is held by ILECs, with 26 percent held by CLECs),⁴ as well as the chart showing how different share levels, even if provider differences are not as great as those realized today, significantly impact whether a provider has an economically viable case to build out its own fiber in the last mile.⁵ The CostQuest study also notes that network construction costs can vary by location and illustrates how different ring sizes can affect the per-location buildout costs.⁶

Second, USTelecom fails to explain how it would deal with knotty issues that would arise if the model, as USTelecom suggests, were to look at revenues not only from “a single isolated

² Attachment A to Letter from Jennie B. Chandra, Windstream, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 13-5 & 12-353, WC Docket Nos. 15-1 & 05-25, RM-11358, at 1 (filed June 8, 2015) (“CostQuest White Paper No. 1”).

³ See Attachment B to Letter from Joan Marsh, AT&T, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 01-338, 96-98 & 98-147, at 2 n.2 (filed Nov. 25, 2002) (noting that AT&T Outside Plant Engineering set these parameters to “reasonably reflect the conditions across its local markets,” but that “[o]ther carriers may have different experiences due to different market strategies and less robust local fiber facility deployment”).

⁴ See CostQuest White Paper at 13 (citing GeoResults data). Though USTelecom also cites “the widespread entry of cable operators into the business marketplace” as a “recent development” on the supply side that CostQuest is not adequately considering, Windstream has previously entered GeoResults data showing that cable still holds only a small share of the non-residential market, and is particularly challenged in the market to serve large business locations and multi-location businesses. See Comments of Windstream Corporation, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, WC Docket No. 15-1, at 6-7, 10-11 (filed Feb. 5, 2015).

⁵ CostQuest White Paper at 15. These variations are to be expected as different market shares result in different per-location build-out costs.

⁶ *Id.* at 3, 15. USTelecom also challenges CostQuest’s use of an illustrative market with 200 business buildings in the market. This is among the inputs in the model that can be adjusted by the Commission to observe how changes affect the results. The point being made in this portion of the CostQuest analysis—which also would be made if markets of other sizes were used as examples—is that market share differences and the amount of fiber facilities in place drive significant differences in per-location costs. This is true for providers in both large and small markets.

service” (i.e., Ethernet), but also at revenues from “additional components.”⁷ USTelecom does not specify which “additional components” should be considered. USTelecom likewise pays no mind to other key concerns that would need to be addressed, such as where to find revenue data for additional components or how to account for costs to provide the additional components—as a model must account for *both* costs and revenues of each service addressed by its calculations.

Third, USTelecom devotes about half of its critique to quotations discussing the deployment plans of various competitive local exchange carriers; this is fairly inexplicable because the quotations merely confirm the point Windstream and other CLECs have been making throughout this proceeding—and that is reinforced in the CostQuest analysis: CLECs are aggressively deploying fiber networks and build out fiber in the last mile where customers have significant bandwidth needs, but they rely on last-mile access to serve smaller customers.⁸ And while the gains of providers like Level 3 (a focus of USTelecom) are laudable, the Commission should not lose sight of the context of the larger business market: In particular, while Level 3 now has connected fiber to 30,000 buildings,⁹ there still are millions of business buildings where Level 3 has not been able to deploy fiber facilities.¹⁰

Finally, USTelecom actually provides support for CostQuest’s analysis of network cost changes over time. CostQuest, in a second white paper entitled “Network Cost Differentials Over Time,” found that available data suggest that the costs for building, operating, and maintaining fiber/IP services are generally less than those for copper/TDM services of

⁷ See USTelecom Letter at 1.

⁸ See, e.g., Letter from John T. Nakahata, Counsel to Windstream, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 13-5 & 12-353, WC Docket Nos. 15-1 & 05-25, RM-11358, at 5 (filed July 20, 2015) (“Windstream Ex Parte”); Letter from Joseph C. Cavender, Level 3, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 13-5 & 12-353, WC Docket No. 05-25, RM-11358, at 1 (filed July 31, 2015) (“Level 3 Ex Parte”).

⁹ Level 3 Ex Parte at 1.

¹⁰ See Windstream Ex Parte at 6 (citing GeoResults Q3/2014 GeoAnalytic Report data estimating there are 20 million business buildings, including 3.5 million buildings that house more than one business, in the United States). Moreover, while purporting to put forth examples suggesting “that an efficient competitive entrant would not necessarily design its network in the same manner suggested by the CostQuest adaptation of the 2002 model,” USTelecom ironically cites the W.L. Gore & Associates fiber network as support for its claims. This network currently consists of 3,500 fiber route miles but only 22 last-mile connections to buildings. See Press Release, “PEG Bandwidth Acquires Fiber Network from W.L. Gore & Associates, Inc.” (July 21, 2015), available at <http://pegbandwidth.com/gore-acquisition/> (last visited August 3, 2015). While PEG Bandwidth now plans to build out more last-mile facilities in Gore network service areas, the case of the Gore network—consistent with the CostQuest model—nevertheless highlights that providers aggressively building out fiber facilities continue to face high barriers to last-mile deployment.

comparable capacity.¹¹ Similarly, USTelecom concedes that “for an ILEC, to the extent its margins are pressured by non-ILEC entry or technological advantages, there are inducements to reduce costs through innovation; thus, over time, all of the [cost] lines should be shifting down as innovation lowers costs.”¹² USTelecom’s admission here is further evidence that there is no good reason for incumbents to set prices for capacity in an IP format at levels greater than prices for comparable capacity in TDM;¹³ given lower costs, it is reasonable to expect that prices for capacity provisioned over modern networks should be lower, not higher. Thus, USTelecom’s filing underscores the need for the Commission to at least preserve the status quo—including ensuring the availability of reasonably comparable offerings to TDM offerings that are to be discontinued—until the special access comprehensive reform proceeding concludes.

Please feel free to contact me if you have any questions or need more information.

Sincerely,

/s/ _____
Malena F. Barzilai

cc: Chairman Tom Wheeler
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O’Rielly
Matthew DelNero

¹¹ Attachment B to Letter from Jennie B. Chandra, Windstream, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 13-5, 12-353, WC Docket Nos. 15-1, 05-25, RM-11358, at 1 (filed June 8, 2015).

¹² See Attachment to USTelecom Letter at 7.

¹³ The large ILECs’ comments have offered further support for these findings. See Comments of AT&T Servs., Inc., PS Docket No. 14-174, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, at 62 (filed Feb. 5, 2015) (“No one has questioned or can question that the transition to all-IP networks will greatly enhance the efficiency of telecommunications services and provide a far more capable platform for future innovation.”); Comments of Verizon, PS Docket No. 14-174, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, at 5-7 (filed Feb. 5, 2015) (finding fiber offers increased reliability, better performance, and improved energy efficiency).