Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Windstream Petition for Conversion to	)	
Price Cap Regulation and for Limited Waiver Relief	)	WC Docket No. 07-171

COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION

USTelecom is pleased to submit its comments in support of the Windstream Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief.[1] USTelecom believes that Windstream's proposed approach is in the public interest, and would further the goals of the providing carriers appropriate options to choose the most efficient regulatory structure for their business and their customers. Further, the Windstream petition is in accord with the goals of the CALLS Order, price cap regulation and the universal service high cost program.[2]

I. GRANT OF WINDSTREAM'S PETITION IS IN THE PUBLIC INTEREST

In its Petition, Windstream clearly demonstrates that establishing a reasonable pathway for conversion of its rate of return (ROR) study areas to price caps is in the public interest. Windstream proposes to reduce its average traffic sensitive rates for the converted study areas that are higher than the *CALLS Order* target of $0.0095 per minute for "primarily rural" price cap carriers to that level , base initial rates for special access services in the converted study areas

[1] USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

[2] Windstream Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 07-171, filed with the Commission on August 6, 2007, to convert Windstream's rate-of-return (ROR) cost study areas to price cap regulation no later than July 1, 2008, and to the extent necessary, request limited waivers of the

on current ROR levels, and receive a total level of support no higher than the IAS funding that Windstream would receive per line if IAS were available to it in 2007, until adoption of broader universal service and intercarrier compensation reform. These actions will result in increased consumer welfare through enhanced competition, reduced demands on the universal service fund, lower costs of regulatory compliance with two differing access charge regimes, and broader implementation of the well established and tested regulatory incentives embodied in the CALLS[3] plan which will spur Windstream to maintain and enhance efficient operations.

II. THE CALLS ORDER WAS NOT INTENDED TO PERMANENTLY BAR CONSUMERS FROM ENJOYING THE BENEFITS OF CARRIER ELECTION OF PRICE CAP REGULATION

As Windstream correctly notes in its Petition, the FCC rules evidence a disconnect between the ability to elect price caps and the potential to elect into the CALLS regime.[4] Section 61.41(a)(3) of the Commission's rules permit incumbent local exchange companies to elect price cap regulation, while the CALLS Order does not leave a clear path for such an election. The CALLS regime thus appears to be a closed system.

While it may have been necessary and wise to construct CALLS as a closed system upon its inception, the Commission did not envision CALLS lasting in its present form into the indefinite future. The CALLS regime was scheduled for Commission review five years after implementation on July 1, 2000. Despite the best efforts of the industry to formulate a new regime through the USTelecom supported Missoula plan, consideration of intercarrier compensation reform at the Commission does not appear to be imminent and thus there is no intercarrier compensation regime to modify or replace CALLS in sight.

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applicable pricing and universal service high-cost mechanisms to enable Windstream's successful conversion.

[3] *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers,* Sixth Report and Order, 15 FCC Rcd 12962 (2000) (*"CALLS Order"), affirmed in part, reversed in part and remanded in part, Texas Office of Public Utility Counsel v. FCC,* 265 F.3d 313 (5th Circuit 2001), *on remand,* 18 FCC Rcd 14976 (2003).

Neither Windstream nor its interstate access customers nor contributors to the Universal Service Fund should be denied the benefits that price cap regulation will confer in Windstream's circumstances. Windstream has proposed a prudent and thoughtful methodology of adopting the goals of the CALLS Order without upsetting the mechanisms which contribute to its nature as a closed system.

III. GRANT OF WINDSTREAM'S PETITION WILL HELP LEVEL THE COMPETITIVE LANDSCAPE

Not only are Windstream's wireless and VoIP competitors not forced to operate under the burden of two separate regulatory regimes, they are not subject to economic regulation at all. As Windstream notes, approximately 40 percent of its access lines are subject to price cap regulation, with all but one of its ROR study areas served by affiliates that qualify as rural telephone companies.[5] This unnecessary complexity and regulatory tension imposes extra costs on Windstream that its unregulated competitors do not bear. Windstream's analysis shows that for it, the administrative simplicity afforded by a single regulatory regime will enable Windstream to reduce its costs and better reflect the competitive environment in which it operates, to the benefit of rural consumers.

IV. THE COMMISSION SHOULD GRANT THE LIMITED WAIVERS REQUESTED BY WINDSTREAM TO FACILITATE ITS CONVERSION TO PRICE CAP REGULATION

As noted in Windstream's Petition, because of the closed nature of the CALLS regime and due to Windstream's status as a predominantly rural carrier, limited waivers of the price cap rules and rules governing the universal service support mechanisms are needed to convert most of Windstream's rate of return study areas to price caps.[6] (Consistent with the CALLS rules,

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[4] See Windstream Petition at 4
[5] See Windstream Petition at 7
[6] See Windstream Petition at 5

Windstream would not convert two average schedule study areas.) The grant of these waivers will enable consumers to enjoy the benefits of Windstream's operation under an incentive regulation regime.

Because as a price cap carrier, under the Commission's rules, Windstream would no longer be eligible for Interstate Common Line Support (ICLS) accorded to high cost rate of return carriers, and because of the closed nature of Interstate Access Support (IAS), the Commission should grant the waivers relating to the continuation of universal service support requested by Windstream. As Windstream points out, its rate of return study areas are predominantly rural and continuation of universal service support will assist it in continuing to invest in, upgrade and maintain those study areas to the benefit of consumers.[7] Absent these waivers, Windstream would not be able to feasibly tolerate a conversion to price cap regulation.[8] Windstream's request for a level of support no higher than the IAS funding that Windstream would receive per line if IAS were available to it in 2007 and no higher in the future than that per line level, is more than reasonable and would put it in a comparable position to other similarly situated carriers that operate under the CALLS regime.

Windstream's creative solution to the conundrum that exists due to the Commission's rules would result in it having the same incentives as other price cap carriers which are eligible for IAS to enhance efficiency and continue robust levels of network investment. As Windstream notes, its approach will not burden the IAS fund, and will reduce the level of universal service support to Windstream thereby, *ceteris paribus*, reducing the overall size of the universal service fund.

[7] See Windstream Petition at 28
[8] See Windstream Petition at 32

V. CONCLUSION

The Commission should grant the relief requested by Windstream to allow its feasible conversion to price cap regulation in its study areas currently under rate of return regulation. The Windstream Petition is a classic win/win proposal, in that it benefits Windstream's customers through reduced access rates and through more competition in areas served by Windstream, reduces the costs of regulation to the carrier, and lessens the demands on the universal service fund. Grant of Windstream's Petition is clearly in the public interest and should be ordered in a timely manner in order to accelerate the benefits to all parties.

Respectfully submitted,

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