

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

In the Matter of)	WC Docket No. 07-245
)	
Implementation of Section 224 of the Act;)	RM-11293
Amendment of the Commission's Rules and)	
Policies Governing Pole Attachments)	RM-11303

COMMENTS OF WINDSTREAM

Windstream Corporation,¹ on behalf of its incumbent local exchange carrier ("ILEC") and competitive local exchange carrier ("CLEC") subsidiaries (collectively "Windstream"), is submitting comments in response to the Federal Communications Commission ("Commission") request for comment on the agency's implementation of Section 224 of the Communications Act of 1934, as amended.² As the largest telecommunications and entertainment services company focused on rural America, Windstream is well qualified to speak on how the Commission's pole attachment regulatory regime impacts rural broadband deployment. With only about 20.4 subscribers per square mile, Windstream has significant firsthand experience with the need to rely on a large number of pole attachments to reach rural customers stretched over a wide area.

¹ Windstream Corporation is an S&P 500 communications company formed in July 2006 through the merger of Alltel Corporation's separated landline business with VALOR Communications Group. The Windstream companies provide voice, broadband, and entertainment services to customers in rural areas across sixteen states.

² *In the Matter of Implementation of Section 224 of the Act; Amendment of the Commission's Rules and Policies Governing Pole Attachments*, Notice of Proposed Rulemaking, FCC 07-187, WC Docket No. 07-245 (rel. Nov. 20, 2007) ("*Pole Attachment NPRM*").

Pole attachments are an important component in Windstream's deployment of broadband service to rural consumers. In Windstream's case, rural areas, as compared to more densely populated areas, often require the use of more poles per customer to provide service – thereby driving up the cost to offer service to rural consumers. Moreover, in rural areas, there are fewer customers to support the costs of the facilities and attachments.

In light of mandates to encourage deployment of broadband services, Windstream urges the Commission to adopt a uniform pole attachment rate formula that extends to ILECs. There is no reasonable basis for a pole attachment regime that places direct competitors at a cost advantage or disadvantage to one another merely based upon regulatory classification. All broadband providers should be subject to a uniform rate formula that drives competition in the broadband marketplace and promotes further deployment of advanced networks in rural regions. Consistent with the Commission's tentative conclusion in this rulemaking, this uniform formula should produce just and reasonable rates for all providers of broadband services.

I. POLE ATTACHMENT RATES HAVE A SIGNIFICANT IMPACT ON BROADBAND PROVIDERS IN RURAL AREAS.

To deliver broadband service in rural areas, Windstream often must utilize a higher number of poles than it does in more urban areas. For example, in one of its states, Windstream uses less than half as many poles per subscriber to provide service in the most urban areas as compared to what is required in more rural areas. A broadband provider's network in rural regions can cross a large number of poles to reach a relatively small number of customers.

The fees paid for the right to attach to poles have a direct and sizable impact on Windstream's operating expenses. Windstream's pole attachment fees add up to millions of

dollars when the total number of third party poles used to deliver broadband service is considered. Windstream places attachments on approximately 2.3 million poles, more than half of which are owned by a third party, to supply service to approximately 3.2 million access lines. Fees paid for access to poles are especially significant since Windstream's broadband competitors may pay less to attach to the same poles.

Given the importance of pole attachments in deploying advanced networks to rural consumers, any Commission action that reduces excessive pole attachment rates would promote, rather than stifle, a competitive marketplace for advanced communications networks. The impact of such reform could be particularly beneficial for ILECs providing broadband in rural areas. From Windstream's experience, a broadband provider focused on rural America must devote a sizable amount of money to pole attachment fees, so unreasonably high pole attachment rates disproportionately, and significantly, harm broadband providers offering service in rural regions. Pole attachment fees directly impact the economic viability of offering broadband service in sparsely populated, high-cost areas.

II. TO PROMOTE THE VIABILITY OF RURAL BROADBAND NETWORKS AND TO DISCOURAGE DISCRIMINATION AMONG PROVIDERS OF LIKE BROADBAND SERVICES, THE COMMISSION SHOULD ADOPT A UNIFORM POLE ATTACHMENT RATE FOR ALL ATTACHMENTS USED FOR BROADBAND INTERNET ACCESS SERVICE.

It is federal policy to encourage deployment of broadband services throughout all regions of the United States. Section 706 declares that the "Commission . . . shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, . . . measures that promote competition in the local telecommunications market, or

other regulating methods that remove barriers to infrastructure investment.”³ Likewise the Commission “has consistently recognized the critical importance of broadband services to the nation’s present and future prosperity and is committed to adopting policies to promote the development of broadband services, including broadband Internet access services.”⁴

Yet contrary to these pronouncements, the current pole attachment regulatory regime has been interpreted to unfairly discriminate against ILECs, which offer broadband to some of the nation’s most remote areas. The current Commission policy leaves room for third parties to charge discriminatory rates. The regulatory regime places direct competitors at a cost advantage or disadvantage to one another merely based upon regulatory classification.

Consequently pole attachment rates can vary widely among different types of broadband providers. For instance, in one of its eastern states, Windstream’s ILEC pays 36 percent more per pole attachment than Windstream’s CLEC affiliate to attach to investor-owned utility poles. The difference among attachment rates widens further when cable is considered. Windstream’s CLEC and ILEC pay pole attachment rates, respectively, 607 percent and 824 percent higher than what Windstream charges cable companies to attach to its ILEC poles in the same state.

To eliminate undue rate disparity, Windstream supports the Commission’s tentative conclusion that the agency should adopt a “uniform rate for all pole attachments used for

³ See § 706(b) of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996) (1996 Act), reproduced in the notes under 47 U.S.C. § 157.

⁴ *Development of Nationwide Broadband Data To Evaluate Reasonable And Timely Deployment of Advanced Services To All Americans, Improvement of Wireless Broadband Subscriber Data, And Development of Data on Interconnected Voice Over Internet Protocol Subscriber Data*, Notice of Proposed Rulemaking, WC Docket No. 07-38, FCC 07-17, ¶ 1 (2007) (citing *Appropriate Framework for Broadband, Access to the Internet over Wireline Facilities, et al.*, Policy Statement, CC Docket No. 02-33 et al., FCC 05-151 (2005) (establishing four principles designed to “encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet”).

broadband Internet access service . . . and the rate should be . . . no greater than the telecommunications rate.”⁵ Windstream currently is working to develop a more detailed proposal for a uniform pole attachment rate formula that would apply in this manner to all attachments used for broadband service.

III. CONCLUSION

The Commission’s existing pole attachment rate structure treats providers that offer like broadband services differently. This regulatory regime has an especially negative impact on broadband providers in rural regions that, like Windstream, rely on a large number of pole attachments to reach customers spread over wide areas. To remedy this marketplace distortion, the Commission should take prompt action to adopt a uniform rate formula for all attachments used to produce just and reasonable rates for broadband service.

Respectfully submitted,

/s/ Jennie B. Chandra
Jennie B. Chandra

Eric N. Einhorn
Windstream Corporation
1155 15th St., N.W., Suite 1002
Washington, DC 20005
(202) 223-7664 (phone)
(202) 223-7669 (fax)

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Its Attorneys

⁵ Pole Attachment NPRM at ¶ 36.