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

Re: ***Ex Parte*** in WC Docket No. 07-244, Local Number Portability Porting Interval and Validation Requirements; CC Docket No. 95-116, Telephone Number Portability

Dear Ms. Dortch:

This ex parte letter describes the substance of the response by Windstream Communications, Inc. (“Windstream”) to an inquiry from Julie Veach, Acting Bureau Chief of the Wireline Competition Bureau, on May 8, 2009.¹ Yesterday Ms. Veach asked how the Commission should calculate which carriers qualify as “two percent carriers,” if the Commission were to distinguish between such carriers and others when imposing porting requirements.² Eric Einhorn and I today provided an answer to Ms. Veach’s query.

Specifically, Windstream suggested that the Commission divide an individual carrier’s end-user switched access lines by the Nation’s total local exchange carrier end-user switched access lines (including incumbent and competitive local exchange carrier lines), using data available at the time a reduced interval is adopted. This recommendation is consistent with how carriers are deemed “two percent carriers” under the plain language of Section 251(f)(2) of the Communications Act of 1934, as amended.³ In interpreting this subsection, the

¹ See 47 C.F.R. § 1.1204(a)(10) (exempting presentations requested by the Commission or staff for the clarification or adduction of evidence, or for resolution of issues during the Sunshine Agenda period).

² Windstream, however, has not advocated use of this distinction. To determine what should be an appropriate transition time for a reduced porting interval, Windstream previously has urged the Commission to consider whether affected carriers will require automation or additional staffing, rather than whether carriers possess fewer than two percent of the Nation’s subscriber lines. See Letter from Jennie B. Chandra, Windstream Communications Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-244, CC Docket No. 95-116 (filed Apr. 21, 2009) (asking the Commission to adopt at least an 18-month transition period).

³ 47 U.S.C. § 251(f)(2) (applying to any “local exchange carrier with fewer than 2 percent of the Nation’s subscriber lines installed in the aggregate nationwide”).

Commission has found on multiple occasions that subsection (f)(2) applies to “*all* LECs with less than two percent of the nation’s subscriber lines.”⁴

Please contact me if you have any questions regarding this discussion.

Respectfully submitted,

/s/ Jennie B. Chandra

Jennie B. Chandra

cc: Julie Veach
Bill Dever

Jennifer Schneider
Mark Stone

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⁴ *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, RM-8535, CC Docket No. 95-116, FCC 97-74, 12 FCC Rcd. 7236 (rel. Mar. 11, 1997) at ¶ 117 (emphasis added). *See also Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, First Report and Order, CC Docket Nos. 96-98 and 95-185, FCC 96-325, 11 FCC Rcd 15499 (rel. Aug. 8, 1996) at ¶ 1250 (holding that subsection (f)(2) “applies to non-incumbent LECs,” as well as to “circumstances under which an incumbent LEC could be relieved of duties otherwise imposed by Section 251 . . .”).