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windstream



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**Bruce P. Hurlbut**  
Director - Regulatory Counsel

February 3, 2010

VIA ELECTRONIC SUBMISSION

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

Re: ET Docket No. 04-295; RM-10865, In the Matter of Communications  
Assistance for Law Enforcement Act and Broadband Access and Services

Dear Ms. Dortch:

Windstream Corporation, on behalf of itself and all affiliates, is filing its CALEA System Security and Integrity Policies and Procedures, amending its initial CALEA procedures filed on or about November 2, 2006. This submission is pursuant to 47 CFR 64.2105 and 47 CFR Part 1, Subpart Z, 1.20005, which require telecommunications carriers to file its CALEA policies and procedures within 90 days of a merger or acquisition. On November 10, 2009, Windstream Corporation finalized its acquisition of D&E Communications. This filing constitutes the required filing of the policies and procedures for Windstream Corporation and its affiliates.

Sincerely,

Bruce Hurlbut  
Director - Regulatory Counsel  
Windstream Communications, Inc.

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**WINDSTREAM CORPORATION**

**System Security and Integrity Policies and Procedures**

**Section 105**

**Communications Assistance for Law Enforcement Act of 1994 [CALEA]**

**Public Law 103-414 [October 25,1994]**

**47 CFR Part 1**

**Subpart Z**

**Section 1.20000 through 1.20005**

**Windstream Corporation  
4001 Rodney Parham  
Little Rock, AR 72212  
(501) 748-7000**

## **I. DEFINITIONS**

**Appropriate Legal Authorization** means: (a) a court order issued under applicable federal or state wiretap law or the Foreign Intelligence Surveillance Act of 1978 ("FISA") signed by the judge authorizing or approving interception of wire or electronic communication, or a judge or magistrate judge authorizing the installation and use of call-identifying information, that directs the carrier to provide all information, facilities and technical assistance to accomplish the order unobtrusively and with a minimum of interference with the services that such carrier is according the person whose communications or call-identifying information is to be delivered to LEA or (b) other authorization, pursuant to 18 U.S.C. 2518(7) (i.e., "Emergency Situation"), or any other relevant federal or state statute [47 CFR Part 1, Subpart Z, §§ 1.20002(a)(1) & (a)(2)].

**Appropriate Carrier Authorization** means: policies and procedures adopted by Windstream, a telecommunications common carrier, to supervise and control officers and employees authorized to assist LEAs in providing Technical Assistance for Call Content Interceptions or Access to Call-Identifying Information. [47 CFR Part 1, Subpart Z, § 1.20002(b)]

**Appropriate Authorization** means: both appropriate legal and carrier authorization. [47 CFR Part 1, Subpart Z, § 1.20002(c)]

**Call Content Interception:** the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device [sometimes called a "wiretap"] [18 U.S.C. § 2510(4)] The Foreign Intelligence Surveillance Act of 1978 ["FISA"] describes Call Content Interception as "Electronic surveillance." 50 U.S.C. § 1801(f).

**Access to Call-Identifying Information:** dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility or service of a telecommunications carrier. [47 U.S.C. § 1001(2)]. This may refer to information captured by a "Pen Register" (outgoing call detail information) or a "Trap and Trace Device" (incoming call detail information). [18 U.S.C. §§ 3127(3) & (4) respectively].

**Telecommunications Carrier:** a person or entity that meets the definition of 47 U.S.C. § 1001(8), including a person or entity that the FCC finds that its service is a replacement for a substantial portion of the local telephone exchange service under 47 U.S.C. § 1008(B)(H).

**Electronic surveillance [ELSUR]:** means the court-approved or otherwise lawful acquisition of the contents (whether aural or data) of any wire or electronic communication through the use of any electronic, mechanical or other device and/or the installation of a pen register or trap and trace device to record, decode, or capture outgoing and incoming call-identifying information. In this *Manual*, Electronic Surveillance conducted pursuant to the authority of FISA will be referred to as such, not as ELSUR.

**Emergency Situation** means:

(a) For interceptions of wire or electronic communications - a situation involving (i) the immediate danger of death or serious physical injury to any person, (ii) conspiratorial activities threatening the national security interest, or (iii) conspiratorial activities characteristic of organized crime that requires the installation of an interception before an order authorizing such interception can, with due diligence, be obtained.

(b) For Pen Registers and/or Traps & Traces - a situation involving (i) the immediate danger of death or serious bodily injury to any person, (ii) conspiratorial activities characteristic of organized crime, (iii) an immediate threat to a national security interest, or (iv) an ongoing attack on a protected computer (as defined in 18 U.S.C. § 1030) that constitutes a crime punishable by a term of imprisonment greater than one year that requires installation before an order can, with due diligence, be obtained.

**Law Enforcement Agency ("LEA")** means: any officer of the United States or of a State or political subdivision who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in 18 U.S.C. § 2516, as may be amended from time to time, or under applicable state statutes, any attorney authorized by law to prosecute or participate in the prosecution of such offenses, or authorized by law to apply to the Foreign Intelligence Surveillance Court for authorization to engage in Electronic Surveillance under the Foreign Intelligence Surveillance Act.

**Point of Contact ("POC")** means: The senior officer or employee appointed by Windstream responsible for affirmatively intervening to ensure that ELSUR can be activated only in accordance with appropriate legal authorization and who can be contacted by a LEA. The POC may also be a senior officer or employee responsible for ensuring that any interception of communications or access to call-identifying information effected within Windstream's premises is activated only pursuant to Appropriate Legal Authorization and with the affirmative intervention of an individual officer or employee of Windstream. It also means the entity appointed by Windstream as its agent or Trusted Third Party ("TTP") to implement, with the approval of the senior officer or employee, the Technical Assistance order by a court and to be available 24/7 for the LEA.

**Secondary Order** means: a separate (i.e., second or redacted) court order from the order authorizing LEA to conduct ELSUR. This Secondary Order should be signed by the judge or magistrate judge (or the equivalent state court judge) who has authorized the ELSUR. It will direct a provider of wire or electronic communications to provide the information, facilities or technical assistance to the LEA to accomplish the ELSUR unobtrusively and with a minimum of interference with the services that the provider is according to the target of the ELSUR.

**Technical Assistance** means: the information, facilities, and expertise of a provider of wire or electronic communications, its officers, employees or agents that may be necessary to ensure that the court-authorized ELSUR is effectively implemented and operative throughout the time period authorized by the court.

## **II. PURPOSE OF THIS MANUAL**

This *Manual* establishes the policies and procedures for the supervision and control of the officers, employees, and agents of Windstream Corporation and its affiliates [hereinafter "Windstream"] as required by § 105 and § 229(b)(1) of CALEA. These policies and procedures (a) require Appropriate Legal and Carrier Authorization to provide Technical Assistance to duly authorized LEA to activate Call Content Interceptions and provide Access to Call-Identifying Information; (b) prevent any such Interception or Access without such Appropriate Authorization; and (c) establish procedures to maintain secure and accurate records of any Interception or Access with or without such Appropriate Authorization.

## **III. STATEMENT OF CORPORATE POLICY**

It is the policy of Windstream to comply with the letter and spirit of all laws of the United States and applicable state statutes when directed by a court of appropriate jurisdiction or by a certification in writing signed by the Attorney General or a person specified in 18 U.S.C. § 2518(7), to carry out, in good faith, Windstream statutory obligations under applicable federal wiretapping laws, including Title III of The Omnibus Crime Control and Safe Streets Act of 1968 [18 U.S.C. §§ 2510-2520][as amended by The USA PATRIOT Act of 2001, and The PATRIOT Act Reauthorization of 2006, hereinafter PATRIOT Act and Reauthorization respectively], The Electronic Communications Privacy Act of 1986 [18 U.S.C. §§ 2701-2712, §§ 3121-3127] [as amended by PATRIOT Act and Reauthorization], The Foreign Intelligence Surveillance Act of 1978 [50 U.S.C. §§ 1801-1829, 1841-1861] [as amended by PATRIOT Act and Reauthorization], The Communications Assistance for Law Enforcement Act [CALEA], and the applicable state wiretapping laws [hereinafter separately and collectively referred to as Electronic Surveillance statutes or "ELSUR statutes"].

Sections 105 and 229 of CALEA require a Telecommunications Carrier to ensure, before providing Technical Assistance to a LEA to carry out ELSUR, that the ELSUR is activated (1) pursuant to court order valid on its face 'or other lawful authorization and (2) with the affirmative intervention of a POC of such Telecommunications Carrier. [47 U.S.C. § 1004]. [See Appendix 1 for names and contact information of current POC].

Windstream's policy ensures that a governmental entity [as defined in Reauthorization, 18 U.S.C. § 2711(4)], or LEA does not have the capability to activate ELSUR within the premises of Windstream without the Appropriate Authorization of Windstream, that Windstream provides Technical Assistance only pursuant to Appropriate Legal Authorization and Appropriate Carrier Authorization of Windstream, and that only lawful ELSUR occurs on Windstream's premises.

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<sup>1</sup> The determination that an ELSUR court order or other authorization is valid on its face requires attention to detail and knowledge of the applicable ELSUR statutes. It is an important determination to make because a Telecommunications Carrier's immunity from liability or its "good faith" defense under federal and state ELSUR statutes depends, in principal part, on this determination. There is no definition for what "valid on its face" means but it is established that it does not require the Telecommunications Carrier to determine if the government presented sufficient information to the court to justify the approval of the ELSUR order.

The Federal Communications Commission has issued regulations to implement Section 105, *see* 47 C.F.R, Part 1, Subpart Z, §1.20000 -1.20008 [as consolidated by the *Second Report & Order*, ET Docket No. 04-295, Released May 12, 2006, 71 *Fed. Reg.* 38091, *etseq.*, July 5, 2006]. These regulations require that Telecommunications Carriers create policies and procedures to govern their electronic surveillance activities. This *Manual* constitutes the required policies and procedures for Windstream.

No officer, employee or agent of Windstream shall disclose or attempt to disclose the existence or possible existence of any ELSUR or the device used to accomplish the ELSUR with respect to which the officer, employee or agent has been furnished with a valid court order or certification issued pursuant to federal or state law except as may otherwise be required by legal process and then only after Windstream has provided prior notification to the Attorney General or to the principal prosecuting attorney of the State.

All officers, employees, or agents of Windstream are required to follow the policies and procedures specified in this *Manual*. The FCC is authorized under CALEA to issue sanctions for violations of both its regulations and a Telecommunication Carrier's internal surveillance policies and procedures. In addition, federal and state laws authorize civil damages, fines, and imprisonment and fines for the unlawful interception or disclosure of wire and electronic communications.

Any questions about how to comply with the policies and procedures in this *Manual* should be referred to Windstream's counsel or to the employee appointed by Windstream to oversee the provision of Technical Assistance and compliance with this *Manual*. The contact information for this person may be found in Appendix 1.

#### **IV. GENERAL POLICIES FOR ELECTRONIC SURVEILLANCE**

##### **A. Requirements of Windstream To Conduct Electronic Surveillance**

It is the policy of Windstream that all employees, officers, or agents assigned by Windstream to implement Technical Assistance undergo training specifically designed to ensure that they fully understand the requirements of applicable law and Windstream's policies for ELSUR.

All officers, employees, and agents of Windstream understand and agree that they will follow strictly the applicable federal and state laws, court orders, FCC Regulations, and Windstream policies and procedures in carrying out the responsibilities as described in this *Manual*. They also understand and agree that they will not engage in unlawful ELSUR or provide Technical Assistance without a court order that is valid on its face or other lawful authorization.

Any violation of or departure from applicable federal or state law or from the policies and procedures in this *Manual* shall be reported immediately to Windstream's counsel or the Senior officer and/or employee appointed by Windstream to oversee the provision of Technical Assistance and compliance with this *Manual*. The name of this person is found in Appendix 1. Windstream will report to the appropriate duly authorized LEA within a reasonable time upon discovery:

- (1) Any action or compromise of ELSUR to unauthorized persons or entities, and
- (2) Any act of unlawful ELSUR that has occurred on the premises of Windstream.

**B. Additional Duties of POC or of Senior Officer or Employee if not also the POC**

- (1) Complete and sign a certification form for each electronic surveillance he/she oversees and do so either contemporaneously with, or within a reasonable period of time after, the initiation of the surveillance; and
- (2) Ensure that the records of each ELSUR are complete and accurate; and
- (3) Ensure that records for ELSUR are placed in the appropriate secure files.

The POC shall ensure that this *Manual* is updated with the FCC within 90 days of any amendment or Windstream's merger with another Telecommunications Carrier.

**C. Recordkeeping**

The POC or Senior officer or employee appointed by Windstream shall complete a certification form (Appendix 2) for *each* ELSUR effected within the premises of Windstream's premises regardless of whether the surveillance was authorized or unauthorized.

Windstream shall establish and label separate files in which it will retain all certification forms, court orders, and other records for (1) Authorized and unauthorized Call Content Interceptions; and (2) Authorized and unauthorized Access to Call-Identifying Information. These records shall be retained in secure and appropriately-marked files for no less than two years. It has been the custom and policy of Windstream to maintain its business records for this period of time, and experience has shown that this retention period has adequately served the needs of Windstream and LEAs.

The POC will maintain secure and accurate records of all electronic surveillance, each Call Content Interception and Access to Call-Identifying Information, made with or without appropriate authorization, in the form of a single certification. [47 CFR, Part 1, Subpart Z, § 1.20004(a)] The certification shall include the following and shall be prepared for each surveillance performed:

- (1) the telephone number(s) and/or circuit identification numbers;
- (2) the start date and times of the opening of the circuit for law enforcement to intercept communications or to access call-identifying information;<sup>2</sup>
- (3) the identity of the law enforcement officer presenting the authorization;
- (4) the name of the person (e.g., judge or prosecuting attorney) signing the authorization;
- (5) the type of ELSUR, interception or communications or access to call-identifying information (e.g., Title III, FISA<sup>3</sup>, pen register, trap and trace); and
- (6) the name of the Windstream POC who is responsible for overseeing the ELSUR and who is acting in accordance with the System Security and Integrity Procedures established under 47 CFR Part 1, Subpart Z, § 1.20003.

The POC will sign the certification as the person overseeing the ELSUR, thereby attesting that the record is accurate and complete. The certification will be completed contemporaneously with, or within a reasonable period of time of, the initiation of the ELSUR. [§1.20004(a)(4)] Records of ELSUR may only be disclosed to LEA or other parties after notification to the Attorney General of the United States or to the principal prosecuting attorney of the state or subdivision thereof, as may be appropriate, pursuant to appropriate legal authority.

Windstream will retain the following records for a period of no less than two years:

- a) Written Certification of Emergency Situation
- b) Court order or legal authorization subsequently received
- c) Electronic Surveillance Checklist/Affirmative Authorization form
- d) Electronic Surveillance Certification
- e) Any extension orders

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<sup>2</sup> The Telecommunications Carrier is not required to record the date LEA begins its ELSUR. 47 CFR Part 1, Subpart 2, § 1.20004(a)(4)(X); *Second Order on Reconsideration*, CC Docket 97-213, released April 16, 2001, 123, page 8.

<sup>3</sup> Limitation - A government agency authorized to install and use a pen register or trap and trace device under FISA is subject to the limitations set by the PATRIOT Act. The PATRIOT Act amendment requires that LEA use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing, routing, addressing, and signaling information utilized in the processing and transmitting of wire or electronic communications so as not to include the contents of any wire or electronic communication. 18 U.S.C. § 312 l(c). Post-cut-through dialed digits may be intercepted under the wiretap statute or collected from electronic storage under Stored Communications Act.

#### **D. Unauthorized Surveillance and Compromises of Authorized Surveillance**

Officers, employees, or agents are prohibited from conducting any unauthorized surveillance and from disclosing to any person the existence of, or information about, any law enforcement investigation or electronic surveillance unless required by legal process and then only after prior notification to a representative of the Attorney General of the United States or to the principal prosecuting attorney of the state or subdivision thereof, as may be appropriate.

Officers, employees, or agents shall report any incidents of unauthorized surveillance and any compromises of authorized surveillance to the POC named in **Appendix 1** of this *Manual*.

#### **V. PROCEDURES FOR THE CONDUCT OF AUTHORIZED ELSUR**

- (1) Receive court order or other lawful authorization for ELSUR. LEA may personally serve a FISA Order, but for criminal matters, LEA prefers to fax the signed order. It is a matter of Windstream's policy to accept fax copies of the court order from LEA if accompanied by a fax cover sheet containing the appropriate information identifying the LEA.
- (2) Review court order or other lawful authorization to ensure it meets the minimum criteria of a court order valid on its face to provide all information, facilities and technical assistance to enable LEA to Access Call-Identifying Information or Call Content Interception, including that the authorization is legally and jurisdictionally valid; signed by a judge of the appropriate court; that it names the appropriate Telecommunications Company; that it provides the target number of the ELSUR; that it is clear and specific in its description of the Technical Assistance to be provided; that the duration of the ELSUR is no longer time period than provided by applicable law<sup>4</sup>; and that its terms are reasonable and do not create an undue burden as outlined in applicable statutes;<sup>5</sup>
- (3) Review the authorization to ensure that it can be implemented technically, including that the legal authorization is sufficiently and accurately detailed to enable compliance with its terms;
- (4) Obtain the affirmative authorization of Windstream's POC or senior manager prior to activation of any Technical Assistance;

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<sup>4</sup>It will be necessary to terminate or deactivate the Technical Assistance in strict compliance with the terms of the order.

<sup>5</sup> The determination whether a court order for ELSUR is valid on its face has become more complicated in recent years. For example, the PATRIOT Act amended 18 U.S.C. § 3123(a)(1) to allow an order for a pen register or a trap and trace device (Access to Call-Identifying Information) to be served on any person or entity providing wire service in the United States but not specifically named in the body of the order, if the issuing court finds that the attorney for the Government has certified that the information likely to be obtained is relevant to an ongoing criminal investigation. Such an order will be applied to any person or entity whose assistance may facilitate its execution. A Telecommunications Carrier served with such a Pen/Trap Order that is not specifically directed to this Telecommunications Carrier is entitled to receive certification from the government that the Order applies to that Carrier. At the same time, under §3127(2)(a) any federal court issuing such an order must have jurisdiction over the offense being investigated. Under 18 U.S.C. § 2518(11), the court may waive certain requirements of a valid court order for wiretapping where LEA has made a showing that there is probable cause to believe the target is engaged in conduct that has the effect of thwarting the interception from a specific facility. This is often called a "roving tap."

(5) Deliver the information to the designated LEA location over circuits engineered at Windstream's facility using a technical solution that meets the assistance capability requirements of § 103 of CALEA, or over an agent's network, as applicable. Windstream's POC shall ensure that a record of all ELSUR is maintained in accordance with the Windstream's manual.<sup>6</sup>

## **VI. EMERGENCY SITUATIONS OR EXIGENT CIRCUMSTANCES – TECHNICAL ASSISTANCE ELSUR**

Windstream understands that it may have to provide Technical Assistance to LEA under emergency situations as defined by applicable federal and state law. Emergency or exigent circumstance may occur during the normal business hours but more often than not, they occur out-of-hours or on weekends.

In the event of notification from duly authorized LEA that an emergency situation exists that involves one or more of the following:

- Immediate danger of death or serious injury to any person
- Conspiratorial activities threatening the national security interest
- Conspiratorial activities characteristic of organized crime
- An immediate threat to a national security interest
- An ongoing attack on a protected computer

Windstream will follow these steps:

1. LEA should contact the POC for Windstream at the numbers provided in **Appendix 1**. Even in Exigent Circumstances, Windstream requires a written statement from a LEA representative of supervisory authority. Except in extraordinary circumstances, no Technical Assistance will be provided to LEA without LEA completing the Emergency Surveillance Request Form ["Form"] to the LEA [**Appendix 3**]. The POC should fax this Form to the LEA. While LEA is completing the Form, the POC should proceed to make the arrangements for the provision of Technical Assistance.
2. If the POC is not the person designated by Windstream to provide the Affirmative Intervention, the POC will contact this person and either fax an Affirmative Authorization form to this person or obtain verbal authorization to provide the Technical Assistance in this emergency. If verbal authorization is provided, then the POC will obtain a signed Affirmative Authorization from the appropriate person the next business day. If Windstream's designated senior officer/employee is unavailable, Technical Assistance will be provided as required.

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<sup>6</sup> Although not required by ELSUR, it is preferred that the order include a directive to LEA to reimburse the Telecommunications Carrier for providing Technical Assistance as well as a directive to the personnel of the Telecommunications Carrier not to disclose the investigation, the interception, or the existence of the Technical Assistance until otherwise ordered by the court.

3. If the POC made an unsuccessful attempt to contact Windstream's designated employee, the POC will notify Windstream's Legal Counsel the next business day that affirmative authorization could not be obtained. Counsel will follow up for appropriate action.

Upon the receipt of a properly completed Form, Technical Assistance may be provided in accordance with applicable federal and state ELSUR laws. Typically, this period is no longer than 48 hours but it is different for emergency ELSUR under FISA and under many state wiretap statutes. Legal counsel for Windstream will provide POC with the applicable time periods for the duration of Technical Assistance under exigent circumstances for the state jurisdictions in which Windstream provides services.

The emergency ELSUR will be terminated by Windstream within the mandated statutory time period, unless the LEA has obtained the appropriate court order, the information sought was obtained, or the application for the order was denied before this time period has expired.

**APPENDIX 1**

**WINDSTREAM CORPORATION**

***Points of Contact***

Pursuant to 47 CFR, Part 1, Subpart Z, § 1.20003(b)(4)(i) and (ii), Windstream hereby designates the following senior officer or employee(s) to serve as the Points of Contact for law enforcement agencies for obtaining Technical Assistance for court-authorized ELSUR.

***POINTS OF CONTACTS***

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**PRIMARY CONTACT:** 1720 Galleria Blvd., Charlotte, NC 28270

**Name** Kim Sullivan

**Title** Subpoena Administrator

Direct Phone: 704-321-6430

Facsimile: 704-321-0997 or 888-245-5821

Out of hours #: *see below*

E-mail address: kim.sullivan@windstream.com

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**SECONDARY CONTACT:** 11720 Galleria Blvd., Charlotte, NC 28270

**Name** Tammy Herring

**Title** Financial Services Supervisor

Direct Phone: 704-321-6490

Facsimile: 704-849-0997 or 888-245-5821

Out of hours #: 704-614-0404

E-mail address: tammy.herring@windstream.com

APPENDIX 2

CALEA ELECTRONIC SURVEILLANCE CERTIFICATION FORM

**Instructions:** This worksheet must be completed and provided with EACH Court Order or other authorization. Failure to provide this information will result in the inability of Windstream to comply with the request.

**Complete and remit with each Court Order or other authorization to:**

Windstream CALEA Compliance  
ATTN: Kim Sullivan  
1720 Galleria Blvd.  
Mail Stop: 3666-B1F01  
Charlotte, NC 28270

Phone: 704-321-6430  
Fax: 704-849-0997 or 888-245-5821

Date Submitted: \_\_\_\_\_

**LEA – Contact Information:**

LEA-Agency: \_\_\_\_\_ Agent name: \_\_\_\_\_  
PhoneNumber: \_\_\_\_\_ Fax number: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Authorized Tech Agents: \_\_\_\_\_

(Windstream will only discuss the Order with those listed as contacts. Please ensure all contacts are listed for this order)

Billing Information: (Provide name, address and contact information for billing purposes)

Account Billing Name: \_\_\_\_\_  
Account Billing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Surveillance Information<sup>7</sup>

\_\_\_\_\_ New order  
\_\_\_\_\_ Renewal order  
\_\_\_\_\_ Pen Register  
\_\_\_\_\_ Title III

IP Address: \_\_\_\_\_  
Court Order Number: \_\_\_\_\_  
Target Number: \_\_\_\_\_

Port Number: \_\_\_\_\_  
Audio Delivery Number: \_\_\_\_\_

**WINDSTREAM INTERNAL USE ONLY**

Case ID Number: \_\_\_\_\_

Surveillance Start Date<sup>8</sup>: \_\_\_\_\_

Termination Date: \_\_\_\_\_

I have overseen the electronic surveillance described on this form and on any attached documents, and I hereby certify that the information contained on this form is complete and accurate.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**ATTACH COURT ORDER TO THIS RECORD**

<sup>7</sup> Much of the information required to complete this form is found in the court order. Pursuant to CFR, Part 1, Subpart Z, § 1.20004(a)(4), these requirements may be met by attaching the order to this Certification.

<sup>8</sup> This is the date and time the Telecommunications Carrier makes the Technical Assistance available to LEA.

APPENDIX 3

**WINDSTREAM CORPORATION**

**Emergency Surveillance Request Form**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Name & # for Supervisor: \_\_\_\_\_

Subject: Emergency Technical Assistance

I CERTIFY that I am specifically designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General or the principal prosecuting attorney of the state or subdivision thereof acting pursuant to a statute of that state to command technical assistance from Windstream in this emergency situation.

I FURTHER CERTIFY that I have determined that an "emergency situation" exists that involves immediate danger of death or serious physical injury, conspiratorial activities threatening the national security interest, conspiratorial activities characteristic of organized crime, or an ongoing attack on a protected computer and requires Windstream provide technical assistance before an appropriate order can, with due diligence, be obtained from the court.

I FURTHER CERTIFY that there are grounds upon which an order could be obtained under this chapter to authorize such electronic surveillance and direct Windstream to provide all information, facilities and technical assistance.

I FURTHER CERTIFY that an application for an order will be made within 48 hours of receipt of this certification [or the time period provided by applicable law] and that this emergency electronic surveillance will cease if an order is not issued within this time period, the communication sought is obtained, or the application for an order is denied, whichever is earlier.

Therefore, Windstream is hereby commanded to provide technical assistance for \_\_\_\_\_ [description of electronic surveillance to be activated -i.e. trap & trace, pen register, wiretap, or FISA]. No cause of action shall lie in any court against Windstream for complying in good faith with this certification.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_