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REDACTED – FOR PUBLIC INSPECTION

April 3, 2012

VIA ECFS

EX PARTE

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

Re: *WC Docket No. 10-90, Connect America Fund; GN Docket No. 09-51, National Broadband Plan for our Future; WC Docket No. 07-135, Establishing Just and Reasonable Rates for Local Exchange Carriers; WC Docket No. 05-337, High-Cost Universal Service Support; CC Docket No. 01-92, Developing a Unified Intercarrier Compensation Regime; CC Docket No. 96-45, Federal State Joint Board on Universal Service; WC Docket No. 03-109, Lifeline and Link-Up*

Dear Ms. Dortch:

On March 30, 2012, Eric Einhorn and Jennie Chandra, from Windstream Communications, Inc. (“Windstream”), met with Michael Steffen, Legal Advisor to Chairman Genachowski, and Rebekah Goodheart, Randy Clarke, and Travis Litman of the Wireline Competition Bureau. Cesar Caballero of Windstream joined the meeting by telephone. The participants discussed issues related to the intercarrier compensation treatment of VoIP-PSTN traffic, including the Frontier Communications and Windstream Petition for Clarification that asked the Commission to clarify that it did not intend to flash cut existing originating access rates for PSTN-to-VoIP traffic to interstate rate levels.¹

Windstream urged the Commission to exercise caution with regard to any further reform of access charges. Windstream explained that, as the attached chart indicates, it already has seen significant variations in the IP factors provided by various large carriers, but because the

¹ See Petition for Reconsideration and/or Clarification filed by Frontier Communications Corp. and Windstream Communications, Inc., WC Docket 10-90, et al. (Dec. 29, 2011) (“Frontier/Windstream Petition”).

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company lacks visibility regarding whether traffic terminated on its network is originated in IP format or whether traffic it originates is terminated in IP format, the process for challenging surprisingly high factors likely will be time-consuming and resource-intensive. Windstream urged the Commission to allow time for carriers to address IP factor implementation concerns in the context of reductions to terminating access rates before considering any reforms of originating access rates.

Windstream also discussed the provision in the *Comprehensive Reform Order* that gives a carrier the option to specify in its intrastate tariff that the default percentage of traffic subject to the VoIP-PSTN framework is equal to the percentage of VoIP subscribers in the state based on the Commission's Local Competition Report.² Windstream stated that when calculating the percentage of VoIP subscribers, it is most sensible to consider interconnected VoIP subscribers as a percentage of all lines, including wireline and wireless. Windstream encouraged the Commission to endorse this reasonable approach—which may be specified in a carrier's intrastate tariff or referenced in the context of individual carrier disputes.

Windstream urged the Commission that if it mandates any reductions to originating access, it should recognize the need for appropriate transitions, including an access recovery mechanism ("ARM"). Windstream noted that there would be no rational basis for not providing an ARM in the context of originating access reforms in light of the Commission's recognition that access recovery is necessary in the terminating-access context "to provide predictability to" carriers, "mitigate market disruption during the reform transition," and ensure that reforms "do not unintentionally undermine [the Commission's] objectives for universal service reform."³ Indeed, the distinct role and characteristics of originating access make ARM recovery particularly essential. In the typical toll call flow for equal access traffic, the interexchange carrier, not the originating carrier, has a customer relationship with the end user for the relevant service. Thus, the originating carrier is not well situated to recover its reduced originating access revenues through end-user charges.

Finally, consistent with the Frontier/Windstream Petition, Windstream reiterated that the Commission should (1) revise the "one unserved location per \$775" deployment requirement for Connect America Fund Phase I support to ensure that more consumers in high-cost areas may benefit from Phase I support, and (2) clarify that Phase I support will be allocated to individual

² *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, CC Docket Nos. 01-92 and 96-45, WC Docket Nos. 10-90, 07-135, 05-337, and 03-109, GN Docket No. 09-51, and WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, at para. 963 and fn.1993 (rel. November 18, 2011) (*Comprehensive Reform Order*).

³ *Id.* at para. 858.

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carriers in the manner recommended by the America’s Broadband Connectivity Plan proponents.⁴

Windstream submits the attached chart pursuant to the Protective Order in CC Docket No. 01-92, WC Docket Nos. 05-337, 07-135, and 10-90 and GN Docket No. 09-51 (DA 10-1749, rel. Sept. 16, 2010) (the “Protective Order”). This confidential treatment is required to protect proprietary and confidential information. Pursuant to the Protective Order, enclosed herewith are one copy of the Stamped Confidential Document, and two copies of the Redacted Confidential Document, as defined in the Protective Order. Windstream also is sending two copies of the Stamped Confidential Document to Ms. Lynne Hewitt Engledow, Pricing Policy Division, Wireline Competition Bureau, and is filing via courier a version of this letter marked “CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN CC DOCKET NO. 01-92, WC DOCKET NOS. 05-337, 07-135, AND 10-90, AND GN DOCKET NO. 09-51 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION.”

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

Sincerely,

/s/ Malena F. Barzilai

Malena F. Barzilai

cc: Michael Steffen
Rebekah Goodheart
Randy Clarke
Travis Litman
Lynne Hewitt Engledow

Attachment

⁴ See Frontier/Windstream Petition at 3-20; Letter from Cathy Carpino, General Attorney, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45 (filed Oct. 21, 2011), *available at* <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021716846>.