

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

**COMMENTS OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTelecom) is pleased to respond to the request for comments by the Wireline Competition Bureau¹ on the Petition for Waiver (Petition)² filed by Windstream Communications (Windstream) in conjunction with its conditional election of Connect America Fund (CAF) Phase I incremental support. Windstream requests a waiver of certain portions of section 54.312(b) of the Commission’s rules, most notably the requirement that a recipient of CAF Phase I incremental support deploy broadband to one unserved location for every \$775 in incremental support the recipient accepts.³ Windstream seeks flexibility to use the CAF Phase I incremental support that has been allocated to it to deploy second-mile fiber that would bring broadband to almost 17,000 unserved locations and approximately 44,000 people.⁴ USTelecom supports prompt grant of Windstream’s petition so that Americans residing in high-cost rural areas served by Windstream can have timely access to the benefits of broadband

¹ See Public Notice, Wireline Competition Bureau Seeks Comment on Windstream Communications Petition for Waiver of Certain High-Cost Universal Service Rules, WC Docket Nos. 10-90, 05-337, (rel. July 25, 2012).

² See Windstream Election and Petition for Waiver, WC Docket No. 10-90 et al. (filed July 24, 2012).

³ See *Petition* at 11.

⁴ See *Petition* at 12.

service. As Windstream notes in its Petition, failure to grant the waiver “[w]ould seriously undermine the near-term broadband deployment objectives of the Commission, Congress, and the White House and would forego material private investment and new jobs that would help the Nation’s economy.”⁵

I. As Applied to Windstream, the \$775 Per Location Limit Does Not Achieve the Commission’s Goals with Respect to CAF I

The Commission’s rules allocate \$60.4 million in CAF Phase I incremental support to Windstream but simultaneously prevent Windstream from being able to accept 99 percent of that funding due to the \$775 per-location buildout requirement. Because Windstream has undertaken aggressive efforts to deploy broadband service in recent years, there remain very few individual locations in the company’s service areas that can be served economically for \$775 or less in incremental support, even on top of the company’s own investment.⁶ Nevertheless, there are tens of thousands of consumers in the lowest-cost unserved portions of Windstream’s service areas that could receive broadband access in the near term if the Commission waives the \$775 per-location requirement and enables Windstream to use the funding that has been allocated to it, along with \$12 million of the company’s own funding, to deploy nearly 2,000 miles of second-mile fiber.⁷

The stated purpose of CAF Phase I is to “expand voice and broadband availability as much and as quickly as possible” and to begin “closing the rural-rural divide.”⁸ Nevertheless, it is clear that the program’s restrictive rules—including the \$775 per-household deployment

⁵ See Petition at 6.

⁶ *Id.* at 13.

⁷ See Appendix 5 of the *Petition* which identifies by state the number of locations and wire centers that would receive funding upon grant of the waiver.

⁸ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17720, 1772 paras. 145, 128 n.201.

requirement—are preventing the Commission from achieving its goals. At least \$185 million of the \$300 million that the Commission has dedicated to CAF Phase I and allocated to price cap carriers based on the high-cost nature of their service areas will lie unused under the existing program rules, while millions of Americans in high-cost areas remain without any broadband service indefinitely.⁹ Windstream plainly desires to be able to utilize its allocated funding to expand broadband availability, as evidenced by its proposal first to deploy broadband service to all unserved locations where \$775 in support is sufficient to make an economic case for deployment, and then to use remaining funding to deploy second-mile fiber facilities to bring broadband to more than 16,000 additional locations.

The Commission states that “[w]e reiterate that the focus of CAF Phase I is a relatively narrow one; to spur deployment of broadband to relatively low-cost locations that nevertheless currently have no service at all, while we implement CAF Phase II.”¹⁰ Grant of the Windstream waiver petition would further that goal—it would accomplish deployment of broadband to the lowest-cost locations within Windstream’s footprint that currently have no broadband service.¹¹ Likewise, denial of the waiver request would undermine that goal, leaving those thousands of

⁹ In addition to Windstream, five price cap carriers declined all or a portion of CAF Phase I funding allotted to them. AT&T declined all \$47.9 million; CenturyLink declined \$54 million of \$89.9 million unless its waiver request is granted; Virgin Islands Telephone declined all \$255,231 unless it receives waiver relief; and Verizon declined all \$19.7 million. Alaska Communications Systems (“ACS”) accepted its allotted \$4 million but subsequently told the Commission that it would not be able to use the funding under the current rules. See Letter from Richard R. Cameron, ACS, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, WT Docket Nos. 10-208, GN Docket No. 09-51 (July 27, 2012).

¹⁰ See *Connect America Fund*, Second Order on Reconsideration, WC Docket No. 10-90 et al., at para. 23 (rel. Apr. 25, 2012).

¹¹ See Declaration of Mike Skudin at para. 12.

locations without broadband for the foreseeable future, while already allocated money—and the private investment that would accompany it—goes unspent.

II. Second-Mile Fiber is a Permissible and Efficient Use of CAF Phase I Funds

Contrary to the apparent characterization of the Public Notice, Windstream does not seek an independent waiver to use CAF Phase I incremental support to deploy second-mile fiber. CAF Phase I support already can be—and, indeed, must be—used to deploy second-mile fiber, because second-mile fiber is needed to enable 4/1 Mbps broadband service for unserved locations. The difference between Windstream’s request and the current regime, instead, is the metric used to assess whether funding levels are appropriate. Specifically, Windstream asks that the reasonableness of the support be evaluated on the basis of the cost to deploy a fiber route mile, rather than the cost to deploy broadband to a single location. Such an approach would ensure that support amounts are directly related to specified facility costs. The relevance of Windstream’s discussion of using the funding for second-mile facilities is a demonstration of both the transparency of the request and the efficient use of the funding that would be provided if the Petition is granted.

As noted in the Petition, nine out of every ten unserved Windstream customers are unserved solely due to the cost of deploying second-mile facilities.¹² The denial of Windstream’s prior request to use funding for second-mile facilities in the context of its Petition for Reconsideration of the USF/ICC Transformation Order was based on the fiber being used to upgrade routes that might consist only of *underserved* customers,¹³ while the instant Windstream

¹² See *Petition* at page 12 and Skudin declaration at section 5.

¹³ See *Connect America Fund*, Second Order on Reconsideration, WC Docket No. 10-90 et al., at para. 23 (rel. Apr. 25, 2012).

Petition would focus funding exclusively on routes containing *unserved* locations, while at the same time incidentally improving service to adjacent underserved consumers. The Commission itself has noted that “[w]e agree with Windstream that deploying second-mile fiber facilities is a worthwhile endeavor.”¹⁴ Use of CAF Phase I funding to deploy second-mile facilities is an effective and efficient way to quickly bring broadband service to over 44,000 rural Americans.

III. Conclusion

The Commission should promptly grant Windstream’s waiver request. It clearly meets the “good cause” standard by enabling tens of thousands of consumers to gain prompt access to robust broadband service through an efficient and effective expenditure of funds under the Commission’s CAF Phase I mechanism.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION



By: _____

David Cohen
Jonathan Banks

Its Attorneys

607 14th Street, NW, Suite 400
Washington, D.C. 20005
202-326-7300

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¹⁴ *Id.*