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VIA ECFS ***EX PARTE***

April 8, 2013

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

Re: *WC Docket No. 10-90, Connect America Fund; WC Docket No. 05-337, High-Cost Universal Service Support*

Dear Ms. Dortch:

On April 5, 2013, Eric Einhorn and Malena Barzilai of Windstream Corporation ("Windstream") met with Michael Steffen, Legal Advisor to Chairman Julius Genachowski, Julie Veach, Chief of the Wireline Competition Bureau, and Carol Mattey, Deputy Chief of the Wireline Competition Bureau, about potential modifications to the Connect America Fund ("CAF") Phase I program. Windstream Chief Financial Officer Tony Thomas joined the discussion by telephone.

Consistent with its prior advocacy and the joint comments submitted by USTelecom, ITTA, and the ABC Coalition,[1] Windstream emphasized the need to ensure that only those areas that actually are served by 4/1 Mbps broadband—by an incumbent local exchange carrier and/or an unsubsidized competitor—would be excluded from eligibility for CAF Phase I support. Windstream also explained that it expects that more than 80 percent of currently unserved[2] customers in an area that is enabled for 4/1 Mbps service through the CAF Phase I program actually would receive broadband speeds at or greater than 10/1 Mbps.

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[1] *See* Comments of Windstream Corporation, WC Docket No. 10-90 (filed Jan. 9, 2013) ("Windstream Comments"); Comments of the United States Telecom Association, Independent Telephone & Telecommunications Alliance, and the ABC Coalition, WC Docket Nos. 10-90, 05-337 (filed Jan. 28, 2013) ("Coalition Comments"); Reply Comments of the United States Telecom Association, the Independent Telephone & Telecommunications Alliance, and the ABC Coalition, WC Docket Nos. 10-90, 05-337 (filed Feb. 11, 2013) ("Coalition Reply").

[2] *See Connect America Fund*, WC Docket No. 10-90, Further Notice of Proposed Rulemaking, at ¶ 9 (Nov. 19, 2012) (proposing to define an "unserved" area as an area lacking access to 4/1 Mbps broadband service).

With regard to an April 5, 2013, ex parte notice submitted by the National Cable & Telecommunications Association ("NCTA") on CAF Phase I, Windstream agrees with NCTA that "the Commission should take all steps necessary" to ensure that CAF Phase I funding is used to deploy facilities that will reach currently unserved Americans.[3] Throughout this rulemaking process, Windstream has espoused CAF Phase I modifications that are consistent with the goal NCTA articulates.

The primary difference between the positions of Windstream and NCTA regarding CAF Phase I appears to arise from the fact that NCTA has fixated on a "19 million" unserved number—presumably derived from the Commission's Eighth Broadband Progress Report[4]—that actually significantly understates the number of Americans currently unserved by broadband meeting the Commission's standards.

Beginning with the Sixth Broadband Progress Report in 2010, the Commission has defined "unserved" to mean lacking access to "broadband as a transmission service that actually enables an end user to download content from the Internet at 4 Mbps and to upload such content at 1 Mbps over the broadband provider's network."[5] Because the Commission does not have data about the actual availability of 4/1 Mbps broadband service, it has used evidence of 3 Mbps/768 kbps service on the National Broadband Map as a proxy for evidence of 4/1 service for the purposes of its broadband progress reports. However, as Windstream and others have pointed out, that a location might have access to broadband at "up to" speeds of 3/768 does not mean it has access to 4/1 service—and in fact, the location almost certainly does not have such access.[6] The "roughly 1 million locations"[7] that NCTA cites from the price cap LEC proposal fall into this category.

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[3] *See* Letter from Steven F. Morris, Vice President and Associate General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 1 (April 5, 2013) ("NCTA Letter").

[4] *See Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, Eighth Broadband Progress Report, GN Docket No. 11-121, FCC 12-90, ¶ 1 (2012) ("Eighth Broadband Report").

[5] *See Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, Sixth Broadband Progress Report, GN Docket No. 09-137, FCC 10-129, ¶ 11 (2010). *See also* Eighth Broadband Report at ¶ 18.

[6] *See, e.g.*, Windstream Comments at 3-5 (explaining that 3/768 speeds can be provided with standard ADSL2+ architecture over a 24 AWG copper pair of 12,000 feet, while 4/1 or better speeds are attainable only if a DSLAM is fiber-fed). *See also* Coalition Comments at 11-12); Comments of CenturyLink on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support, WC Docket No. 10-90, at 9-10 (January 9, 2013).

[7] NCTA Letter at 1.

In the case of Windstream, most locations that are listed as receiving "up to" speeds of 3/768 on the National Broadband Map are served by copper-fed Digital Subscriber Line Access Multiplexers (DSLAMs), which are not capable, from an engineering standpoint, of supporting 4/1 service.[8] Moreover, in general rural locations served by copper-fed DSLAMs that previously consistently met "up to" speeds of 3/768 are now—because of exponential usage growth primarily from the proliferation of online video—often experiencing speeds significantly slower than 3/768 because of the backhaul limitations of copper wire.

Despite NCTA's attempt to confuse the issue, the simple fact is that many locations with 3/768 service are unserved by the FCC's standard and cannot receive 4/1 service without costly network modifications—the same modifications that are required to bring 4/1 service to locations that currently have service at 1.5 Mbps or lower on the National Broadband Map. NCTA apparently would have CAF Phase I funding arbitrarily go toward the exact same network construction to benefit some unserved rural consumers but not others. However, without meaningful federal support to leverage substantial private investment, none of these unserved consumers will gain access to 4/1 or better broadband in the foreseeable future.

As more than 80 Senators and Congressmen from both parties have recognized, CAF Phase I presents a prime opportunity for the Commission to bring robust broadband to hundreds of thousands of unserved locations. Windstream alone would be able to reach at least 100,000 unserved locations if its suggested program modifications are adopted.

Windstream urges the Commission to adopt a workable approach for distributing the $485 million in already allocated CAF Phase I support, and we stand ready and willing to use this funding, in conjunction with our own capital, to create jobs and invest in rural America.

Please feel free contact me if you have any questions.

Sincerely yours,

/s/ Malena F. Barzilai

Malena F. Barzilai

cc: Michael Steffen
Julie Veach
Carol Mattey

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[8] *See infra* note 6.