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

**Re: Windstream Corporation
Response to Election of 2013 Connect America Fund Phase I Incremental
Support
WC Docket No. 10-90**

Dear Ms. Dortch:

The Wireless Internet Service Providers Association (“WISPA”), by counsel, hereby responds to that portion of the Connect America Fund Phase I (Round 2) Election Notice filed by Windstream Corporation (“Windstream”) on August 20, 2013.¹ In particular, WISPA responds to Windstream’s claim that the absence of number porting activity in some census blocks for which Windstream is seeking CAF Phase I support provides evidence that such census blocks are not served by fixed Internet access service with speeds of 3 Mbps/768 kbps. WISPA anticipates that existing providers will respond separately to Windstream’s claims, and this letter thus stands as a general objection to Windstream’s contention to be considered alongside any individual responses that may be filed by existing broadband providers.

In the *CAF Phase I Challenge Order* adopting the challenge rules for Round 2 of CAF Phase I,² the Commission clearly stated that the Wireless Telecommunications Bureau (“Bureau”), in reviewing challenges, would consider only the speed at which the existing broadband provider offers fixed Internet access service. The Commission explained that:

¹ Letter from Eric N. Einhorn, Windstream, to Marlene H. Dortch, FCC, WC Docket No. 10-90 (Aug. 20, 2013) .

² *Connect America Fund*, Report and Order, WC Docket No. 10-90 (May 22, 2013) (“CAF Phase I Challenge Order”).



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While metrics such as latency, capacity, and price, along with the availability of voice service from the putative unsubsidized competitor, will be considered when implementing other aspects of Connect America, for simplicity and ease of administration, *we direct the Bureau to focus only on speed of broadband service when determining areas that are eligible for Connect America Phase I incremental support*, consistent with the Commission's objective of quickly utilizing these Phase I funds to expand access to broadband.³

The Commission added that “[t]he absence of any porting activity from the incumbent to the other provider does not necessarily prove that the cable company or WISP is not providing broadband service in the area. Thus, while the lack of porting is relevant evidence, it is not determinative.”⁴

From the above, it is clear that any census block depicted on the National Broadband Map as “served” with 3 Mbps upload/768 kbps download speeds should retain that designation if the only evidence proffered by Windstream (or any price cap carrier) is the absence of any number porting activity. A certification that there has been no voice number porting activity fails to satisfy the “more likely than not” standard the Commission adopted when that evidence is weighed against the National Broadband Map.⁵ Accordingly, if the only evidence presented by the carrier for a particular census block is a lack of porting activity, that census block cannot be deemed eligible for CAF Phase I funding.

To the extent Windstream has provided additional evidence supporting its claim that fixed Internet access service is absent in a given census block, the Bureau must carefully examine that evidence as well as any evidence that existing providers submit. In so doing, the Bureau must keep in mind that CAF Phase I takes into account only the speed of fixed Internet access and does not consider the availability of voice services.

Please contact undersigned counsel if there are any questions concerning this matter.

Respectfully submitted,

/s/ Stephen E. Coran

Stephen E. Coran

³ *Id.* at 13, n.66 (emphasis added).

⁴ *Id.* at 14, n.68.

⁵ *Id.* at 14.