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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Connect America Fund, WC Docket No. 10-90

Dear Ms. Dortch:

On behalf of our cable operator member companies, NCTA asks the Wireline Competition Bureau to reject Windstream's challenges to census blocks that are shown as served by other broadband providers on the current version of the National Broadband Map. For the reasons explained below, the limited evidence submitted by Windstream provides no basis for concluding that an area is unserved and therefore eligible for support.

In the current round of Connect America Fund (CAF) Phase I, Windstream has challenged the accuracy of several thousand census blocks that providers and state mapping authorities have reported as being served by broadband providers other than Windstream.¹ Windstream's only basis for all of these broadband challenges is an analysis of voice telephone number porting information, which the Commission has stated "is not determinative" in showing that another provider does not provide broadband in the area.² We previously explained to Commission staff the extreme burden that Windstream's challenges place on companies that have invested private capital in bringing broadband to rural America.³ In this letter, we provide additional detail on the many reasons why a broadband provider may not have ported a voice telephone number in the area it is serving.

¹ Letter from Eric N. Einhorn, Senior Vice President, Windstream Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90, at Attach. 1 (Aug. 20, 2013) (Windstream 2013 CAF Phase I Letter).

² *Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 7766, 7779, ¶33 n.68 (2013) (*CAF Phase I Order*). Although the Commission indicated that such evidence could be "potentially relevant," it stated that price cap carriers should "supplement any evidence relating to porting with other evidence" regarding the presence of another broadband provider in the area. *Id.* Windstream has provided no such other evidence.

³ Letter from Steven F. Morris, NCTA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (Sept. 23, 2013); Letter from Thomas Cohen, Counsel for the American Cable Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (Aug. 30, 2013).

First, as the Commission recognized, some customers may have chosen to drop wireline voice service altogether, relying instead solely on wireless voice service, and purchasing only broadband from the broadband provider.⁴

Second, customers may have chosen to take only broadband service from the broadband provider while continuing to take voice service from Windstream. There would be no need to port a telephone number in this case.

Third, customers may have chosen not to port their old telephone numbers when they purchase voice service from the broadband provider. There are a variety of reasons for this to be the case. For example, customers may use their wireless telephone numbers as the primary contact number, giving them no reason or need to port a wireline number. Customers may also be purchasing services from the broadband provider at a temporary location, such as an apartment or a second home, and may therefore choose to keep the telephone numbers at their primary residences and take new numbers for the other locations.

Fourth, a broadband provider may not need to port telephone numbers from Windstream because it is not providing voice telephone service in the area. For purposes of CAF Phase I incremental support, there is no requirement that a competitive provider offer voice service; the relevant analysis is whether or not a provider offers broadband service.⁵ While cable operators offer voice service to an overwhelming majority of their broadband customers, there are situations where companies offer broadband but not voice. For CAF Phase I purposes, the broadband offering is sufficient for an area to be treated as served.

Fifth, a broadband provider may serve a portion of the census block where Windstream does not provide broadband, and therefore does not have customers covered by Windstream's porting analysis.⁶ The Commission has made clear that price cap carriers may not receive CAF Phase I incremental support in partially served census blocks based on evidence that some locations are unserved.⁷ Windstream's analysis does not demonstrate that the National Broadband Map is incorrect with respect to the challenged census blocks, nor that CAF Phase I incremental support could be provided to Windstream in those census blocks under the Commission's rules.

⁴ *CAF Phase I Order*, 28 FCC Rcd at 7779, ¶33 n.68.

⁵ 47 C.F.R. § 54.312(c)(3).

⁶ Windstream's porting analysis was limited to "Windstream customer[s] who also subscribed to broadband in [a census block]." Windstream 2013 CAF Phase I Letter, Attach. 2 at 2.

⁷ *Connect America Fund, et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, Second Order on Reconsideration, 27 FCC Rcd 4648, 4651-52, ¶¶12-13 (2012).

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In addition, Windstream does not provide any information on the number of customers and ported numbers it used in its analysis. It is entirely possible that the number of Windstream broadband customers who also ported numbers in any given census block is a small dataset. The fact that none of these customers in any given block ported a telephone number sheds very little light on the question of whether there is a broadband provider serving that census block.

Based on the lack of relevance to the current issue—whether providers listed on the National Broadband Map are providing the reported broadband service to customers—the Bureau should dismiss all of Windstream’s challenges that are based solely on a voice telephone number porting analysis. All of the census blocks subject to this challenge should be ineligible for CAF Phase I incremental support.

Respectfully submitted,

/s/ Jennifer K. McKee

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