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ATTORNEYS AT LAW

April 22, 2014

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

Re: Windstream Corporation Notice of *ex parte* Meeting; Technology Transitions, GN Docket No. 13-5; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket no. 12-353

Dear Ms. Dortch:

On April 18, 2014, Jennie Chandra and Malena Barzilai of Windstream Corporation ("Windstream"), together with the undersigned counsel, met with Jonathan Sallet, General Counsel, Julie Veach, Chief, Wireline Competition Bureau, Linda Oliver of the Office of General Counsel, and Matthew DelNero and Tim Stelzig of the Wireline Competition Bureau regarding the above-referenced proceeding. In the meeting, Windstream discussed its comments filed in response to AT&T's proposal to conduct service-based experiments in two wire centers and the Commission's next steps for the managerial framework that will guide its ongoing review of the legal and policy issues arising from the technology transitions that must be resolved to ensure that business consumers of all sizes continue to have competitive options during and after the technology transitions.

Windstream explained that, as a company both with significant incumbent local exchange carrier and competitive local exchange carrier operations, it has a unique perspective on competitive access issues. The attached handout, which was provided to the FCC attendees, summarizes the points presented. Windstream's number one priority with respect to the issues to be considered in the managerial framework is to ensure that it can maintain continued access to ILEC bottleneck facilities and services on no worse than the current rates, terms and conditions, whether traffic is transferred in a TDM or IP format.

In the coming days, Windstream will submit a more comprehensive filing that further elaborates its concerns with AT&T's proposed trial and makes recommendations for the managerial framework.

Respectfully submitted,

John T. Nakahata
Randall W. Sifers
Counsel to Windstream Corporation

cc (by email):
Jonathan Sallet
Julie Veach
Matthew DelNero
Linda Oliver
Tim Stelzig

AT&T's PROPOSED TRIAL – WHOLESALE PROVISIONS FAIL TO MEET FCC REQUIREMENTS

The *Technology Transitions Order* required, among other things, with respect to wholesale services:

- Comparable services must be available "at equivalent prices, terms and conditions." (¶ 59)
- Replacement wholesale inputs must "offer substantially similar wholesale access to the applicant's network." (¶ 59)
- The applicant's plan must "ensure that neither wholesale nor retail customers are penalized as a result of the experiment (*e.g.*, purchases of alternative services count towards discounts for purchases outside of the experiment areas, early termination fees are waived if early termination is caused by the experiment)." (Appendix B ¶ 35)

AT&T's Trial Proposal:

- No delineation of comparable bandwidth services. Minimum bandwidth is 100 Mbps, which is substantially greater than what DS0, DS1 and DS3 customers need.
- Rates will increase. Rates terms and conditions are only "commercial" – meaning without any upper limit other than what AT&T can extract.
- DS1 and DS3 UNEs terminated. AT&T Reply (at 40-42) asserts that no DS1 or DS3 UNEs will be available under Section 251(c)(3) following the transition.
- No provision for discounts. Given the prevalence of Minimum Revenue Commitments, AT&T needs to make clear that any alternatives count towards the MRCs of services they are replacing.

Last-Mile Access Must be Preserved.

- Change from TDM to IP electronics does not change the economic analysis of the impediments to self-deployment on which the *TRRO*'s DS1 and DS3 impairment findings were based. *See e.g. TRRO*, 20 FCC Rcd 2533, 2636 ¶¶ 150-151 (2004).
- The elimination of TDM alternatives removes a critical basis for packet-switched forbearance. *Petition of AT&T for Forbearance Under 47 U.S.C. 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, Memorandum Opinion and Order, 22 FCC Rcd 18705, 18717 ¶ 20 and n.86 (2007).

The Commission Should Lower Barriers to Other Providers' IP Services.

- Ensure that wholesale customers actually have equivalent IP alternatives at equivalent prices, terms and conditions for a smooth transition.
- Ban Minimum Revenue Commitments that penalize wholesale purchasers seeking to replace TDM circuits with IP circuits.
- Provide greater clarity – and limits – on special construction charges.