

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

<i>In the Matter of</i>)	
)	
WINDSTREAM HOLDINGS, INC. and)	
)	WC Docket No. _____
EARTHLINK HOLDINGS CORP.)	
)	File Nos. ITC-T/C-_____
Application for Consent to Transfer Control of)	
Authority to Provide Global Facilities-Based)	
and Global Resale International)	
Telecommunications Services and to Transfer)	
Control of Domestic Common Carrier)	
Transmission Lines, Pursuant to Section 214 of)	
the Communications Act of 1934, as Amended)	
_____)	

**CONSOLIDATED APPLICATIONS FOR TRANSFER OF CONTROL OF
INTERNATIONAL AND DOMESTIC SECTION 214 AUTHORITY**

Pursuant to Section 214 of the Communications Act of 1934, as amended (“the Act”),¹ and Sections 63.04, 63.18, and 63.24 of the Commission’s rules,² Windstream Holdings, Inc. (“Windstream”) and EarthLink Holdings Corp. (“EarthLink”) (collectively, “Applicants”) request Commission consent to transfer control of certain international and domestic Section 214 authorizations held by various EarthLink wholly-owned subsidiaries to Windstream. Such authority is necessary to effect the transfer to Windstream of EarthLink, whose authorized subsidiaries provide data, voice, and managed network services to enterprise, small- and

¹ 47 U.S.C. § 214.

² 47 C.F.R. §§ 63.04, 63.18, 63.24.

medium-sized business and wholesale customers as well as Internet access and other related services to consumers.

The proposed transaction is a stock transaction in which each EarthLink shareholder will receive 0.818 shares of common stock of Windstream for each share of common stock of EarthLink upon closing. As described in more detail in Exhibit 1, EarthLink will be merged with and into Merger Sub 2, an entity created for the transaction, with Merger Sub 2 continuing as the surviving company renamed as EarthLink Holdings, LLC. EarthLink's subsidiaries will therefore be indirect wholly-owned subsidiaries of Windstream. The Applicants seek consent to the following transfers of control:³

Transfer of Control Applications:

1. Transfer of control of international Section 214 authority held by EarthLink Business, LLC from EarthLink to Windstream, International Section 214 Authorization (Global and Limited Global Facilities-Based and Resale Services), IB File No. ITC-214-20020514-00229;
2. Transfer of control of international Section 214 authority held by DeltaCom, LLC from EarthLink to Windstream, International Section 214 Authorization (Global and Limited Global Facilities-Based and Resale Services), IB File No. ITC-214-20050325-00139;
3. Transfer of control of international Section 214 authority held by Business Telecom, LLC from EarthLink to Windstream, International Section 214 Authorization (Global Facilities-Based and Resale Services), IB File No. ITC-214-20040708-00260;
4. Transfer of control of international Section 214 authority held by EarthLink Carrier, LLC from EarthLink to Windstream, International Section 214

³ As described in Exhibit 1, the transaction will not result in a transfer of control of Windstream. Windstream's current shareholders will hold approximately 51 percent of the shares of the combined company after the transaction and the exchange of shares, and will therefore maintain de jure and de facto control. Current Windstream management, including the President and Chief Executive Officer and the Chief Financial Officer, are expected to continue in their current roles at the combined company.

Authorization (Global Facilities-Based and Resale Services), IB File No. ITC-214-20070427-00165;

5. Transfer of control of domestic Section 214 authority held by EarthLink's subsidiaries from EarthLink to Windstream.

This narrative provides the information required by Sections 63.04 and 63.18 of the Commission's rules. Additionally, Exhibit 1 provides a statement demonstrating that the transaction is in the public interest, including a description of the parties and of the proposed transaction.

I. RESPONSE TO ITEMS ON IBFS ELECTRONIC FORM: INFORMATION REQUIRED BY 47 C.F.R. § 63.18

EarthLink is a holding company that has a number of wholly-owned subsidiaries that provide communications services and hold FCC authorizations. EarthLink is transferor for all Section 214 applications included in this transaction. Windstream is the transferee for all applications included in this transaction.

A. Answer to Question 10 – Section 63.18(a)-(d)

(a) Name, address, and telephone number of each applicant

Transferor:

EarthLink Holdings Corp.
1170 Peachtree St., Suite 900
Atlanta, Georgia 30309
Tel: 404-815-0770

Authorized Carriers (international and/or domestic, with FRN numbers):

A list of authorized carriers and their FRNs is attached as Exhibit 2. The address and telephone number for all of the entities listed in Exhibit 2 post-transaction will be:

Windstream Holdings, Inc.
4001 Rodney Parham Road
Little Rock, Arkansas 72212
Tel: 501-748-7000

Transferee:

Windstream Holdings, Inc.
4001 Rodney Parham Road
Little Rock, Arkansas 72212
Tel: 501-748-7000

(b) Place of organization

Transferor:

EarthLink is a Delaware corporation.

Transferee:

Windstream is a Delaware corporation.

(c) Name, title, post office address, and telephone number of official and any other contact point

Correspondence concerning these applications should be directed to:

For EarthLink and the EarthLink subsidiaries:

Samuel R. DeSimone, Jr.
EarthLink Holdings Corp.
1170 Peachtree St., Suite 900
Atlanta, Georgia 30309
Tel: 404-815-0770
Fax: 404-892-7616

with a copy to

Tamar E. Finn
Morgan, Lewis & Bockius LLP
2020 K Street NW
Washington, DC 20006
Tel: 202-373-6000
Fax: 202-739-3001

For Windstream:

Eric N. Einhorn
Windstream Holdings, Inc.
1101 17th Street N.W.
Suite 802
Washington, D.C. 20036-4718
Tel: 202-223-7668
Fax: 330-487-2740

with a copy to:

Julie A. Veach
Harris, Wiltshire & Grannis LLP
1919 M Street N.W.
Suite 800
Washington, D.C. 20036
Tel: 202-730-1311
Fax: 202-730-1301

(d) Statement as to whether applicants have previously received authority under Section 214

EarthLink does not hold any international Section 214 authorizations, but directly or indirectly controls subsidiaries that hold such authorizations to provide global or limited global facilities-based and resale services.

Authorized Carriers

Carrier	International Section 214 Authorization
DeltaCom, LLC	International Section 214 Authorization (Global and Limited Global Facilities-Based and Resale Services) IB File No. ITC-214-20050325-00139
Business Telecom, LLC	International Section 214 Authorization (Global Facilities-Based and Resale Services) IB File No. ITC-214-20040708-00260

<p>EarthLink Carrier, LLC</p>	<p>International Section 214 Authorization (Global and Limited Global Facilities-Based and Resale Services)</p> <p>IB File No. ITC-214-20070427-00165</p>
<p>EarthLink Business, LLC</p> <p>The following subsidiaries operate under this International Section 214 Authorization:</p> <ul style="list-style-type: none"> • CTC Communications Corp. • CTC Communications of Virginia, Inc. • Lightship Telecom, LLC • Connecticut Broadband, LLC • Connecticut Telephone & Communication Systems, Inc. • Choice One Communications of Connecticut Inc. • Choice One Communications of Maine Inc. • Choice One Communications of Massachusetts Inc. • Choice One Communications of New York Inc. • Choice One Communications of Ohio Inc. • Choice One Communications of Pennsylvania Inc. • Choice One Communications of Rhode Island Inc. • Choice One of New Hampshire Inc. • Choice One Communications Resale L.L.C. • Conversent Communications of Connecticut, LLC • Conversent Communications of Maine, LLC • Conversent Communications of Massachusetts, Inc. • Conversent Communications of New Hampshire, LLC • Conversent Communications of New Jersey, LLC 	<p>International Section 214 Authorization (Global and Limited Global Facilities-Based and Resale Services)</p> <p>IB File No. ITC-214-20020514-00229</p>

<ul style="list-style-type: none"> • Conversent Communications of New York, LLC • Conversent Communications of Pennsylvania, LLC • Conversent Communications of Rhode Island, LLC • Conversent Communications of Vermont, LLC • Conversent Communications Resale L.L.C. • US Xchange of Illinois, L.L.C. • US Xchange of Indiana, L.L.C. • US Xchange of Michigan, L.L.C. • US Xchange of Wisconsin, L.L.C. • US Xchange, Inc. 	
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Windstream does not hold any international Section 214 authorizations, but directly or indirectly controls subsidiaries that hold international 214 authorizations:

Carriers	International Section 214 Authorization
<p>Windstream Services, LLC</p> <p>The following wholly-owned subsidiaries provide international service under its international section 214 authorization:</p> <ul style="list-style-type: none"> • Cavalier Telephone Mid-Atlantic, L.L.C. • Cavalier Telephone, L.L.C. • Intellifiber Networks, Inc. • LDMI Telecommunications, Inc. • McLeodUSA Telecommunications Services, L.L.C. • Network Telephone Corporation • PaeTec Communications, Inc. • PaeTec Communications of Virginia, Inc. • Talk America, Inc. • The Other Phone Company, Inc. • US LEC Communications LLC • US LEC of Alabama LLC • US LEC of Florida LLC • US LEC of Georgia LLC 	<p>Global Facilities-Based/Global Resale Service</p> <p>ITC-214-19980925-00658</p>

<ul style="list-style-type: none"> • US LEC of Maryland LLC • US LEC of North Carolina LLC • US LEC of Pennsylvania LLC • US LEC of South Carolina LLC • US LEC of Tennessee LLC • US LEC of Virginia LLC • Windstream Communications, Inc. • Windstream D&E Systems, Inc. • Windstream Iowa Communications, Inc. • Windstream KDL, Inc. • Windstream KDL-VA, Inc. • Windstream Kerrville Long Distance, LLC • Windstream Lexcom Long Distance, LLC • Windstream Norlight, Inc. • Windstream NTI, Inc. • Windstream NuVox Arkansas, Inc. • Windstream Southwest Long Distance, LP • Windstream Systems of the Midwest, Inc. 	
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B. Answer to Question 11 – Section 63.18(h)

Windstream is, and will remain post-closing, a publicly traded company. To its knowledge, Windstream has one 10 percent or greater interest holder, The Vanguard Group, Inc., a U.S.-based investment management company, which holds approximately 13.4 percent of Windstream common stock. The Vanguard Group also holds approximately 13.9 percent of EarthLink common stock. Accordingly, following the transaction, The Vanguard Group will hold approximately 13.7 percent of the combined company.

The Vanguard Group, Inc.
P.O. Box 2600
Valley Forge, PA 19482

Citizenship: United States
Principal business: Investment management

C. Answer to Question 12 – Section 63.18(h)

Windstream has one interlocking directorate with a foreign carrier. Tony Thomas, who is Chief Executive Officer of Windstream, is also President and Chief Executive Officer of Intellifiber Networks, Inc. (“Intellifiber”), a carrier authorized to provide service in Canada and wholly-owned subsidiary of Windstream.

D. Answer to Question 13 – Narrative of Transfer of Control and Public Interest Statement

A description of the transaction and demonstration of how the transaction is in the public interest is attached as Exhibit 1.

E. Answer to Question 14 – Foreign Carrier Affiliates

Windstream is not a foreign carrier, but is affiliated with Intellifiber, a foreign carrier pursuant to Section 63.09(d), authorized in Canada. As of the date of filing, although Intellifiber is authorized to provide service in Canada, it does not provide services outside the United States. EarthLink is not a foreign carrier, but is affiliated with EarthLink Business, LLC, a foreign carrier pursuant to 63.09(d). EarthLink Business, LLC holds Basic International Telecommunications Services and Reseller licenses in Canada.

Accordingly, upon consummation, one of the Section 214 holders would be a foreign carrier, and the remaining Section 214 holders would be affiliated with foreign carriers in Canada.

F. Answer to Question 15

Following the transaction, the Section 214 holders would provide international telecommunications services between the United States and Canada—the only country in which Windstream controls a foreign carrier. Specifically, following the transaction, Windstream will control Intellifiber and EarthLink Business, LLC.

G. Answer to Question 16

Pursuant to Section 63.10 of the Commission's rules, the Applicants request non-dominant status for Windstream on all routes between the United States and Canada. None of the foreign carriers are dominant providers in Canada, and each lacks 50 percent market share in the international transport and local access markets on the foreign end of the route. Accordingly, each foreign carrier lacks sufficient market power on the foreign end of the international route to affect competition adversely in the U.S. market.

H. Answer to Question 20 – Section 63.12

The applicants do not request streamlined treatment of the Application.

I. Answer to Question 21 – Section 63.18(n)

Windstream certifies that it has not agreed to accept special concessions directly or indirectly from a foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into any such agreements in the future.

J. Answer to Question 25 – Section 63.18(o)

The Applicants certify that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance.

II. INFORMATION REQUIRED BY SECTION 63.04 OF THE COMMISSION'S RULES IN RELATION TO TRANSFER OF DOMESTIC 214 AUTHORIZATION

In support of the Applicants' request for consent to transfer control to Windstream of the domestic Section 214 authorizations in the identified areas, the following information is submitted pursuant to Section 63.04 of the Commission's rules. Specifically, Section 63.04(b) provides that applicants submitting a joint domestic/international Section 214 transfer of control

application should submit as an attachment to the international Section 214 application responses to the information requested in paragraphs (a)(6) through (a)(12) of Section 63.04.

A. Section 63.04(a)(6) – Description of the transaction

A description of the transaction and demonstration of how the transaction is in the public interest is attached as Exhibit 1.

B. Section 63.04(a)(7) – Description of the geographic area in which the transferor and transferee (and affiliates) offer domestic telecommunications services, and what services are provided in each area

The Applicants' wireline domestic interstate and international services are described in detail in Exhibit 1. Windstream's subsidiaries provide IP-based voice and data services, Multiprotocol Label Switching ("MPLS") networking, and cloud computing services to businesses and government agencies. To carriers and network operators, the company provides special access services, Ethernet and Wave transport, fiber-to-the-tower connections, and wholesale voice and data services. As an ILEC, the company also delivers phone, broadband, Internet security services, and online backup to approximately 1.4 million residential customers primarily located in rural areas.

EarthLink's subsidiaries offer domestic interstate and international telecommunications services in their service territories. EarthLink's subsidiaries offer data, voice, and managed network services to small- and medium-sized business, enterprise and wholesale customers. To the extent it operates as a common carrier, EarthLink operates as a CLEC. EarthLink is authorized to provide telecommunications services in all 50 states. Through a subsidiary, EarthLink also provides nationwide Internet access (including dialup, DSL, and cable broadband) and related services to approximately 400,000 residential customers over leased

facilities. Following consummation of the merger, Windstream subsidiaries of the combined companies will continue to offer such services pursuant to current contracts.

Windstream and EarthLink are affiliated with carriers as a result of Vanguard's ownership of 10 percent or more of each applicant's common stock. To the best of their knowledge, the following are either carrier affiliates, or it was not possible to determine whether they offer telecommunications services; in the latter case, the applicants are disclosing them out of an abundance of caution:

- Cincinnati Bell Telephone (in which Vanguard holds approximately 13.3 percent) is an incumbent local exchange carrier serving parts of Indiana, Kentucky, and Ohio.⁴
- Cogent Communications Holdings (in which Vanguard holds approximately 10.5 percent) is a provider of Internet access, IP transit, and related services in the United States and other countries.⁵
- Consolidated Communications Holdings Inc. (in which Vanguard holds approximately 10.1 percent) or its subsidiaries provide business and broadband communications to customers in California, Kansas, Missouri, Illinois, Texas, Pennsylvania, Minnesota, Iowa, North Dakota, South Dakota, and Wisconsin.⁶

⁴ FCC Form 499 Filer Database, Cincinnati Bell Telephone Company, LLC, <http://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=805713> (last visited Nov. 17, 2016).

⁵ Cogent, *About Cogent*, <http://cogentco.com/en/about-cogent> (last visited Nov. 17, 2016).

⁶ Consolidated Communications, *About Us*, <https://www.consolidated.com/about-us> (last visited Nov. 17, 2016).

- CSG Systems International, Inc. (in which Vanguard holds approximately 11.2 percent) provides business support solutions, primarily to the communications industry.⁷
- CyrusOne Inc. (in which Vanguard holds approximately 13.3 percent) provides data center services in 10 states and related services, also in at least two other countries.⁸
- Dupont Fabros Technology (in which Vanguard holds approximately 17.8 percent) provides outsourced data center management near Northern Virginia, Chicago, Illinois, and Santa Clara, California.⁹
- EarthLink Holdings Corp. (in which Vanguard holds approximately 13.9 percent) (and whose service areas and services are described above).
- Equinix Inc. (in which Vanguard holds approximately 16.5 percent) operates data centers in approximately 12 U.S. markets and offers related services; it also provides services in other countries.¹⁰
- IDT Corporation (in which Vanguard holds approximately 10.5 percent) offers communication and payment services through its retail division and provides international voice termination through its wholesale division in all 50 states, Washington, D.C., and a number of U.S. territories.¹¹

⁷ CSG International, *About CSG*, <http://www.csgi.com/about> (last visited Nov. 17, 2016).

⁸ CyrusOne, *Company*, <http://www.cyrusone.com/about-enterprise-data-center-provider/> (last visited Nov. 17, 2016).

⁹ DuPont Fabros Technology, *Data Centers*, <https://www.dft.com/data-centers> (last visited Nov. 17, 2016).

¹⁰ Equinix, *Locations – Americas*, <http://www.equinix.com/locations/americas-colocation/americas-data-centers/> (last visited Nov. 17, 2016).

¹¹ IDT, *About Us*, <http://www.idt.net/> (last visited Nov. 17, 2016).

- Lumos Networks Corporation (in which Vanguard holds approximately 11.6 percent) or its subsidiaries provide enterprise network solutions, including data, voice, high speed Internet, and data center connectivity on the East Coast (Maryland, Pennsylvania, Virginia, West Virginia, North Carolina, Ohio, and Kentucky).¹² Lumos also offers broadband Internet and phone for residential customers.¹³
- Spok Holdings, Inc. (in which Vanguard holds approximately 10.4 percent) provides communications for healthcare, government, public safety, and other industries.¹⁴
- Tech Data Corporation (in which Vanguard holds approximately 10.1 percent) distributes technology products, services, and various business support solutions.¹⁵
- Teradata Corporation (in which Vanguard holds approximately 10.8 percent) provides data warehousing and analytics, including cloud services.¹⁶
- Windstream Holdings, Inc. (in which Vanguard holds approximately 13.4 percent) (and whose services areas and services are described above).

¹² Lumos Networks, *Carrier*, <https://www.lumosnetworks.com/> (last visited Nov. 17, 2016).

¹³ Lumos Networks, *Residential*, <https://rsb.lumosnetworks.com/residential> (last visited Nov. 17, 2016).

¹⁴ Spok, *Meet Spok*, <http://www.spok.com/our-company> (last visited Nov. 17, 2016).

¹⁵ Tech Data, <https://www.techdata.com/> (last visited Nov. 17, 2016).

¹⁶ Teradata, *About – Who is Teradata*, <http://www.teradata.com/about-us/?LangType=1033&LangSelect=true> (last visited Nov. 17, 2016).

C. Section 63.04(a)(8) – Statement as to how the Application qualifies for streamlined treatment

The applicants do not request streamlined treatment of the Application.

D. Section 63.04(a)(9) – Identification of all other Commission applications related to this transaction

The only Commission applications being filed related to this application are the international and domestic Section 214 authorizations detailed in this application.

E. Section 63.04(a)(10) – Statement of whether the Applicants request special consideration because either party is facing imminent business failure

The Applicants do not request special consideration because no parties to this transaction are facing imminent business failure.

F. Section 63.04(a)(11) – Identification of any separately filed waiver requests being sought in conjunction with this Application

No separately filed waiver requests are sought in conjunction with this application.

G. Section 63.04(a)(12) – Statement showing how grant of the Application will serve the public interest, convenience and necessity

A demonstration of how the transaction will serve the public interest, convenience and necessity is attached as Exhibit 1.

III. CONCLUSION

For the reasons stated above and in Exhibit 1 to this application, the Applicants respectfully request that the Commission grant these applications for consent to transfer control of international and domestic Section 214 authorizations of EarthLink and its subsidiaries to Windstream.

Respectfully submitted,

BY: WINDSTREAM HOLDINGS, INC.



Eric N. Einhorn

Senior Vice President – Government Affairs
WINDSTREAM HOLDINGS, INC.
1101 17th Street N.W., Suite 802
Washington, D.C. 20036-4718

BY: EARTHLINK HOLDINGS CORP.



Samuel R. DeSimone, Jr.

Executive Vice President, General Counsel
and Secretary
EARTHLINK HOLDINGS CORP.
1170 Peachtree Street NE, Suite 900
Atlanta, GA 30309

Dated: November 17, 2016

EXHIBIT 1 – PUBLIC INTEREST STATEMENT

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ATTACHMENT A – CORPORATE STRUCTURE AND TRANSACTION DIAGRAMS
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I. DESCRIPTION OF THE PARTIES

Windstream Holdings, Inc. (“Windstream”), a publicly traded Delaware corporation (NASDAQ: WIN) headquartered in Little Rock, Arkansas, is a communications and technology solutions provider with operations throughout the United States and approximately \$5.5 billion in annual service revenues.¹ Windstream’s subsidiaries provide IP-based voice and data services, MPLS networking, and cloud computing services to businesses and government agencies, both in areas in which it is the incumbent local exchange carrier (“ILEC”) and outside of its ILEC service areas with its operations roughly balanced between its ILEC areas and all other areas.² To carriers and network operators, the company provides special access services, Ethernet and Wave transport, fiber-to-the-tower connections, and wholesale voice and data services. Windstream operates a local and long-haul fiber network spanning approximately 129,000 route miles and provides services over fixed wireless infrastructure in 40 markets. As an ILEC, the company also delivers phone, broadband, Internet security services, and online backup to approximately 1.4 million residential customers primarily located in rural areas. Windstream offers video services predominantly through a partnership with DISH Networks. In four markets, Windstream has launched an IP video entertainment platform called “Kinetic,” which is currently available to approximately 192,000 households.

¹ Revenue information is as of September 30, 2016.

² Windstream’s ILEC subsidiaries offer local exchange and intrastate, interstate and international long distance telecommunications services in Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, and Texas. Its CLEC subsidiaries offer services in portions of all states except Alaska, although all services are not provided in all areas.

Windstream-EarthLink Transfer of Control Appl.
Public Interest Statement

EarthLink Holdings Corp. (“EarthLink”), a publicly traded Delaware corporation (NASDAQ: ELNK) headquartered in Atlanta, Georgia, is a managed network, security, and cloud services provider with approximately \$990 million in annual revenues.³ EarthLink’s subsidiaries⁴ offer data, voice, and managed network services to small- and medium-sized business, enterprise, and wholesale customers. To the extent it operates as a common carrier, EarthLink operates as a CLEC. EarthLink is authorized to provide telecommunications service in all fifty states. EarthLink’s local and long-haul fiber network spans 29,000 route miles in the Southeast, Northeast, and Southwest. EarthLink also operates a data center in Atlanta. Through a subsidiary, EarthLink offers nationwide Internet access (including dialup, DSL, and cable broadband) and related services to approximately 400,000 residential customers over a mix of facilities leased from ILECs and cable operators.

There is no question regarding the character or qualifications of Windstream⁵ or EarthLink⁶ to hold Commission authorizations.

³ Revenue information is as of September 30, 2016.

⁴ EarthLink’s authorized subsidiaries are identified in Exhibit 2 to the Consolidated Applications.

⁵ *Cf. Applications Granted for the Transfer of Control of PAETEC Holding Corp. to Windstream Corp.*, Public Notice, DA 11-1934, 26 FCC Rcd. 16,078 (Wireline Comp. Bur. & Int’l Bur. 2011) (approving transfer of control of PAETEC and its subsidiaries to Windstream); *Applications Granted for the Transfer of Control of Q-Comm Corp. to Windstream Corp.*, Public Notice, DA 10-2210, 25 FCC Rcd. 16,099 (Wireline Comp. Bur., Wireless Telecomms. Bur & Int’l Bur. 2010) (accounting approval of Windstream’s acquisition of Q-Comm Corporation and its subsidiaries).

⁶ *Cf. Notice of Domestic Section 214 Authorization Granted*, Public Notice, DA 11-218, 26 FCC Rcd. 1115 (Wireline Comp. Bur. 2011) (announcing approval of EarthLink’s acquisition of One Communications Corp.); *Notice of Domestic Section 214 Authorizations Granted*, Public Notice, DA 10-2199, 25 FCC Rcd. 16,029 (Wireline Comp. Bur. 2010) (announcing approval of EarthLink’s acquisition of ITC^DeltaCom, Inc. and its subsidiaries).

II. DESCRIPTION OF THE TRANSACTION

On November 5, 2016, Windstream, EarthLink, Europa Merger Sub, Inc. (“Merger Sub 1,” a Delaware corporation and an indirect, wholly-owned subsidiary of Windstream), and Europa Merger Sub, LLC (“Merger Sub 2,” a Delaware limited liability company and an indirect, wholly-owned subsidiary of Windstream), entered into an Agreement and Plan of Merger (the “Merger Agreement”). Under the terms of the Merger Agreement, first, Merger Sub 1 will be merged with and into EarthLink (the “Merger”) with EarthLink continuing as the surviving corporation (the “Surviving Corporation”). Second, immediately following the Merger, the Surviving Corporation will be merged with and into Merger Sub 2 (together with the Merger, the “Combination”), with Merger Sub 2 continuing as the surviving company renamed as EarthLink Holdings, LLC (the “Surviving Company”). Immediately following the closing of the Combination, the Surviving Company will be a direct, wholly-owned subsidiary of Windstream Services, LLC. Attachment A depicts the companies’ corporate structure before, during, and after the transaction.⁷

Under the terms of the Merger Agreement, stockholders of EarthLink will receive 0.818 shares of common stock of Windstream (“Windstream Common Stock”) for each share of common stock of EarthLink upon the closing of the Merger. No fractional shares of Windstream Common Stock will be issued in the Merger, and EarthLink stockholders will receive cash in lieu of any fractional shares. The transaction is valued at approximately \$1.1 billion, including the assumption or satisfaction of EarthLink debt. Upon the closing of the Combination, Windstream

⁷ The parties may also insert one or more intervening holding companies. Such additional holding companies would not change the indirect control or overall ownership, would be pro forma changes under the Commission’s rules, and are thus immaterial to this application.

Windstream-EarthLink Transfer of Control Appl.
Public Interest Statement

stockholders are expected to hold approximately 51 percent of the combined company, and EarthLink stockholders are expected to hold approximately 49 percent.

After the transaction, Windstream and its wholly-owned subsidiaries will own and control the assets, customer relationships, and operations of EarthLink as well as Windstream's current businesses. Current Windstream management, including the President and Chief Executive Officer and the Chief Financial Officer, are expected to continue in their current roles at the combined company. The parties are evaluating whether members of EarthLink management will join the combined company and, if so, in what capacity. The combined company will remain headquartered at Windstream's present facility in Little Rock. Windstream's Board of Directors will be expanded to twelve directors. EarthLink will select three directors from its existing Board to join the expanded Board of Windstream, subject to Windstream's normal corporate governance process for evaluating candidates for its Board of Directors.

Following the transaction, the only holder of 10 percent or more of Windstream's stock is expected to be The Vanguard Group, Inc. ("Vanguard"), a U.S.-based investment management company providing mutual funds and exchange-traded funds for individual and institutional investors. Vanguard is expected to hold approximately 13.7 percent of the combined company.

III. DEMONSTRATION THAT THE TRANSACTION IS IN THE PUBLIC INTEREST

This transaction is about bringing together two companies with similar strategies and complementary network assets. The combined company will be a stronger competitor, more able to continue to compete against much larger providers, and ready to offer a broader portfolio of services to current customers of the two individual companies as well as to future customers. The transaction will bring network efficiencies that strengthen the combined entity's position as a competitive alternative and may open up opportunities for further investment. Put simply, it

will yield substantial public interest benefits by enhancing competition. It should be approved expeditiously.

A. The Transaction Will Generate Substantial Public Benefit by Yielding a More Vibrant and Viable Competitor

The transaction will yield tangible, clear, and significant public interest benefits. The combination of EarthLink's assets, talent, and customer base with Windstream's larger CLEC operations and fiber network will allow the combined company to increase its competitiveness by expanding its portfolio of services, generating efficiencies that benefit customers, and serving more customers over its own facilities where it can.

1. Customers will have access to an expanded and evolving portfolio of services

The transaction will directly benefit business and wholesale customers by offering them services that today are only offered by either Windstream or EarthLink. For example, EarthLink has successfully launched a cloud-based, software-defined wide area network management service ("SD-WAN") that adds a layer of intelligence to businesses' traditional wide area networks. SD-WAN offers multi-location businesses a way to optimize their networks by providing real-time visibility and control over network and application performance, including the ability to prioritize applications that may be the most critical for that particular customer or the most latency-sensitive. EarthLink's SD-WAN "concierge" service includes an assigned expert within EarthLink who can help the customer manage the service. Windstream expects to offer this SD-WAN service wherever possible in the Windstream service area, almost instantly expanding the reach of a service that Windstream does not offer today.

Similarly, to EarthLink's customers, the combined company would offer not only the suite of Windstream enterprise and wholesale solutions, but also the greater reach of

Windstream's fiber network. Windstream's ability to offer service to multi-location businesses over its own metro and inter-city networks (and, where possible, its own last-mile facilities) will only be enhanced by the addition of EarthLink's fiber and will offer more customers the benefits that come from on-net services (described below).

Additionally, the combination will improve the enterprise customer experience. For example, EarthLink has developed and implemented scalable, automated ordering platforms. This functionality allows consumers to easily integrate a broad range of technologies seamlessly and speeds provisioning. The combination will expand the availability of these innovations and efficiencies to more customers.

2. Combining Windstream's and EarthLink's operations and networks will generate significant network efficiencies

The transaction offers an opportunity for greater network efficiencies. In addition to the synergies to be achieved through reduced overhead, the parties expect at least \$50 million annually in network access synergies in a relatively short timeframe, including the following: Wherever possible, the combined company will bring customers on-net. Initially this means identifying where Windstream has last-mile facilities that could serve customers that today EarthLink serves over leased facilities and bringing them onto Windstream's network. In areas where EarthLink has metro or inter-city fiber but Windstream is leasing access to similar facilities, the combined company will bring Windstream's customers onto the network; similarly, EarthLink's customers will be brought onto the combined fiber network where Windstream's network serves the area or route. These measures allow more retail customers to experience the benefits of on-net services as well as eliminate the need of the combined company to purchase wholesale access in these locations, which generates efficiencies that also may benefit the

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ultimate consumers.⁸ These improvements and efficiencies will persist over time and can grow as the combined company offers facilities-based services to *new* customers that would have been served over leased facilities.

In addition, the combined company will consolidate redundant circuits and expenses wherever possible. For example, where both parties today purchase transport for a route over which neither has fiber facilities, they can identify the amount of capacity the combined company needs for that route and attempt to purchase a higher capacity connection at a lower price per megabit per second (“Mbps”). Similarly, where both Windstream and EarthLink can use the same facility to house and maintain fiber connections and network equipment, the combined company will be able to reduce costs by combining connections and equipment into a single collocation arrangement, thereby reducing space needs and reducing the costs of rent and power.

These efficiencies have multiple benefits. Some directly reduce the incremental cost of providing service, offering the opportunity for Windstream to be more competitive with larger providers with the advantages of incumbency, scale, or both. In addition, the network efficiencies—and other synergies the parties identified totaling \$125 million annually—will better position the combined company to invest where that investment is otherwise economic.

⁸ These types of synergies were recently recognized as cognizable public interest benefits in another transaction. *See Applications of XO Holdings & Verizon Commc'ns Inc. for Consent to Transfer Control of Licenses & Authorizations*, Memorandum Opinion and Order, DA 16-1281, WC Docket No. 16-70, ¶ 48 (rel. Wireline Comp. Bur., Int'l Bur. & Wireless Telecomms. Bur. Nov. 16, 2016) (“*Verizon-XO Order*”) (finding that the proposed transaction would lead to “operational and economic synergies,” such as elimination of third-party network access fees, “that are likely to be passed on to end users and therefore are cognizable as a public interest benefit of the Transaction”).

3. The combined company will offer more on-net service to existing and new customers

While it will still have to rely on leased last-mile inputs to connect to most locations, the combined company will have the ability to offer services to more customers over its own last-mile and other transmission facilities than either predecessor entity before. The combination should result in better service for customers in several ways.

First, reducing the number of entities in the supply chain reduces the number of potential failure points. Second, by eliminating the need for a wholesale provider at some locations, the combined company will gain more control of the provisioning and upgrade process. If a customer needs service turned up or augmented quickly, the combined company will not be reliant on the cooperation of a third-party competitor to meet that customer's needs. Finally, by owning and controlling more of the facilities involved in providing service, the combined company will have greater transparency into the network, thereby allowing more flexible management of the service and faster resolution of any trouble tickets by avoiding the need to involve a third-party competitor and/or wholesale provider.

In sum, the transaction will enable Windstream to be a stronger competitor in a market dominated by a few much larger providers. The transaction will expand the reach of competitive services to address more customers. And by bringing more customers on-net and leveraging the combined metro and inter-city fiber assets, the combined company will be better positioned to compete and offer the highest-quality services possible.⁹

⁹ Recent precedent recognizes that these benefits are pro-competitive and support transaction approval. *See, e.g., Verizon-XO Order* ¶ 61 (agreeing that Verizon's acquisition of XO's fiber assets will allow Verizon to better service customers outside Verizon's ILEC footprint and that Verizon would likely be "a stronger competitive provider to the incumbent LECs,

B. The Transaction Will Not Reduce Competition or Harm Retail or Wholesale Customers

The transaction will generate these public interest benefits without causing countervailing harms. There will be no noticeable diminution of competition in the business data service markets or any others. Today, Windstream owns last-mile connections to a small percentage of the 1.2 million buildings identified in the Business Data Services proceeding.¹⁰ Adding EarthLink's last-mile connections—fewer than 100 nationwide—will not move that needle. In addition, the parties will honor existing contracts with retail and wholesale EarthLink customers, while over time expanding and improving the combined company's portfolio of offerings for many locations.

1. The transaction will not reduce competition in the enterprise or wholesale markets

The parties today do not own overlapping last-mile facilities (i.e., they do not both serve the same customer location over their own last-mile facilities). Specifically, the parties have not found any EarthLink-owned dedicated last-mile facilities within Windstream's ILEC service area or to buildings or other locations that Windstream serves as a CLEC over its own last-mile facilities. This is a critical fact. In other transactions involving the combination of an ILEC and a CLEC, "the Commission has identified competitive harm where both carriers provide service

large cable companies, and other nationwide competitive providers in the wholesale and enterprise BDS market").

¹⁰ See Dr. Marc Rysman, *Empirics of Bus. Data Servs.*, attached as Appendix B to *Bus. Data Servs. in an Internet Protocol Env't; Investigation of Certain Price Cap Local Exch. Carrier Bus. Data Servs. Tariff Pricing Plans; Special Access for Price Cap Local Exch. Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exch. Carrier Rates for Interstate Special Access Servs.*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, FCC 16-54, 31 FCC Rcd. 4723 (2016).

to a building over their own facilities and there is no evidence that another competitive LEC is likely to connect the building to its network.”¹¹ Here there is no such competitive harm.¹²

Indeed, at the limited number of locations served by EarthLink’s dedicated last-mile facilities, this transaction will improve, not harm, competitive conditions. EarthLink owns fewer than 100 last-mile fiber connections nationwide. These facilities will augment Windstream’s network and enable the combined entity to act as a stronger competitor, thus benefitting competition and the public interest. And given that the parties have found no overlap with Windstream’s on-net last-mile facilities, there is no offsetting diminution of competition.¹³

Likewise, this transaction will enhance rather than reduce competition in the market for small- and medium-sized business and wholesale services where EarthLink does not own its own

¹¹ *Applications Filed by Qwest Commc’ns Int’l Inc. & CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, Memorandum Opinion and Order, FCC 11-47, 26 FCC Rcd. 4194, 4203 ¶ 17 (2011) (“*Qwest-CenturyLink Order*”).

¹² Thus, this is a simpler case even than the just-approved application of Verizon to acquire XO when XO did in fact have last-mile connections to buildings served by Verizon. *See Verizon-XO Order* ¶ 17.

¹³ Potential competition does not change this analysis. Both Windstream and EarthLink have filed comments in the Business Data Services rulemaking attesting to the substantial barriers to entry that exist to extending last-mile facilities to additional buildings. *See* Declaration of David Schirack and Mike Baer ¶ 16, appended as Attachment A to Comments of Windstream Services, LLC on the Further Notice of Proposed Rulemaking, WC Docket Nos. 05-25, 16-143, RM-10593 (filed June 28, 2016). *See also* Letter from Jennie B. Chandra, Vice President, Public Policy and Strategy, Windstream, to Marlene H. Dortch, Secretary, FCC, at 3-6, WC Docket Nos. 16-143, 05-25, RM-10593 (filed Oct. 17, 2016) (citing record evidence submitted by other competitive providers on the existing barriers to competitive facilities-based entry). Accordingly, each is not a significant competitor to locations served by the other. If, however, contrary to the information submitted in the Business Data Services rulemaking, the Commission were to conclude that barriers to entry are low, the combination of EarthLink and Windstream would not materially reduce potential competition. *See, e.g.*, Comments of AT&T Inc. at 2, WC Docket Nos. 05-25, 16-143, RM-10593 (filed June 28, 2016) (discussing existing competitive fiber near buildings with business data services demand).

last-mile facilities. The Commission has found in multiple instances that loss of a provider that leases facilities does not result in competitive harm.¹⁴ In the case of EarthLink, most of its services are offered by leasing last-mile capacity from the ILEC or, in some cases, from a CLEC. Of the total amount EarthLink spends on a monthly basis with other carriers—including for switched access, dedicated access, and related services—less than two percent goes to Windstream. And less than half a percent goes to Windstream where it operates as the incumbent LEC. Quite simply, EarthLink does not significantly rely on Windstream today for wholesale inputs either within Windstream’s ILEC service area or elsewhere. By combining EarthLink’s customer base with Windstream’s presence and larger fiber network, the combined company will have the opportunity to serve more of EarthLink’s current customers on its own last-mile facilities—enabling potential improvements to the quality of service and achieving efficiencies through the elimination of the cost of wholesale inputs.¹⁵

Finally, the addition of EarthLink’s metro and long-haul fiber to Windstream’s own fiber network is largely accretive and thus will benefit the public interest. Windstream today has 129,000 route miles of fiber. EarthLink has a much smaller network of approximately 29,000 route miles in the Southeast and Northeast and also in critical parts of the Southwest where

¹⁴ As stated by Commission Bureaus recently, “[w]ith respect to Type II BDS, in prior incumbent LEC-competitive LEC transactions, the Commission has either declined to even consider and analyze separately competitive harm due to the loss of a Type II provider, or concluded, as we do here, that the ability of other competitive providers to move in quickly alleviates any competitive harm concerns due to the loss of a Type II special access provider.” *Verizon-XO Order* ¶ 18 n.53 (citations omitted).

¹⁵ *Cf. Verizon-XO Order* ¶ 28 (finding that “Verizon’s acquisition of XO’s fiber facilities outside of Verizon’s incumbent LEC territory is unlikely to result in any public interest harm [and] likely will result in a stronger combined competitive provider to incumbent LECs, large cable companies, and other nationwide competitive providers in the wholesale and enterprise BDS market.”).

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Windstream currently has no fiber assets. (The parties' fiber maps are shown in Attachment B.)

Augmenting Windstream's fiber network will allow the combined entity to be a stronger competitor where it can bring EarthLink's customers' traffic onto its fiber network in areas where EarthLink lacks fiber and offer facilities-based services to more multi-location customers.

More than 71.8 percent of EarthLink's fiber miles serve routes that Windstream does not serve today.¹⁶ The majority of the EarthLink fiber network does not overlap at all with Windstream's, and EarthLink has deployed more capacity on average on the non-overlapping routes. The routes that both parties serve offer an opportunity for efficiencies. Specifically, where both Windstream and EarthLink can use the same facility to house and maintain fiber connections and network equipment, the combined company will be able to reduce its costs by combining their facilities into a single collocation arrangement, thereby reducing their space and power needs and reducing their rent expenses. And in any event, the relatively modest expansion of Windstream's fiber network would not bring it anywhere near the scope of the nation's largest fiber networks (e.g., AT&T has 500,000 route miles of fiber).¹⁷ Competition overall benefits by this transaction to enable a strengthened competitor to persist in competing

¹⁶ Fiber miles describe the total length of fiber measuring each fiber strand separately. Thus, if one route is 100 miles in length and the provider has deployed 2 strands of fiber along that route, the provider has 200 fiber miles.

¹⁷ See News Release, AT&T, AT&T Invests More Than \$875 Million over 3-Year Period to Enhance Local Network in Mississippi (May 24, 2016) https://about.att.com/content/dam/snrdocs/Capex%202016/mississippi_capex_2016.pdf. CenturyLink and Charter also both have networks much larger than Windstream's, even with the addition of new EarthLink routes. See CenturyLink, *Company Profile*, <http://ir.centurylink.com/CorporateProfile.aspx?iid=4057179> (last visited Nov. 17, 2016) (250,000 route miles); Charter *Communications Merges with Time Warner Cable and Acquires Bright House Networks*, <https://go.enterprise.spectrum.com/spectrumenterpriseinfo.html> (last visited Nov. 17, 2016) (230,000 route miles).

against its much larger rivals in the enterprise, small- and medium-sized business and wholesale markets.

2. The transaction will not reduce competition for any other services

In other product markets, the parties are not today meaningful competitors, nor is there any likelihood that they would become so.

Residential Consumer. There is no meaningful overlap between the parties in the residential market. EarthLink's residential portfolio consists of broadband Internet access provided over facilities it leases from cable operators and ILECs as well as dial-up services. EarthLink also offers add-on services to its Internet access customers, including email and security software, and over-the-top VoIP service to approximately 2,500 residential customers nationwide. EarthLink does not offer residential video services in any market.

Within Windstream's ILEC footprint, it offers broadband Internet access service to residential consumers.¹⁸ EarthLink has approximately 3,000 broadband customers within Windstream's ILEC service area that it serves over leased cable facilities (representing only 1.5 percent of EarthLink's broadband Internet access subscriber base and 2.5 percent of its customers served over leased cable). The parties, however, have determined that EarthLink does not rely on any DSL loops from Windstream. Windstream's acquisition of a provider with a *de minimis* number of consumers who rely on resold lines does not give rise to competitive harm that warrants Commission action.

International Services. Neither party owns either submarine cables or satellites, and they have only *de minimis* shares of the market for U.S.-international telecommunications services.

¹⁸ Windstream also provides broadband Internet access to a small number of residential customers outside its ILEC service areas.

Both provide U.S.-international services by reselling the services of other companies. Neither is deemed dominant on any U.S.-international route.

3. The transaction will not cause any disruption or other harm to retail or wholesale customers

But for a potential brand name change, the transaction will largely be seamless to EarthLink customers, all of whom will continue to receive their EarthLink services pursuant to their current contracts. Post-transaction, the parties will continue to honor all contracts with their retail and wholesale customers. The transaction itself is not expected to adversely affect the rates or other terms of service that customers currently experience. Nor is it expected to have any adverse effect on the already high quality of service that EarthLink's customers currently receive. As the parties integrate their operations, they expect to be able to offer each other's unique services to all the customers of the combined company, thus increasing the competitive strength of the combined company and benefitting competition by creating a stronger challenger to the ILEC, to cable operators, and to other CLECs.

IV. ADMINISTRATIVE MATTERS

The authorizations referenced in the application are intended to be a complete list that includes all of the authorizations held by EarthLink that are subject to the transaction. EarthLink, however, may now have on file, or may hereafter file, additional requests for authorizations for new or modified facilities, which may be granted before the Commission takes action on this application. Accordingly, the Applicants request that any Commission approval of the applications filed for this transaction include authority for Windstream to acquire control of:

1. Any license or authorization issued to EarthLink during the Commission's consideration of the applications and the period required for consummation of the transaction following approval;
2. Any construction permits held by EarthLink that mature into licenses after closing; and

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3. Applications that are filed after the date of these applications and that are pending at the time of consummation.

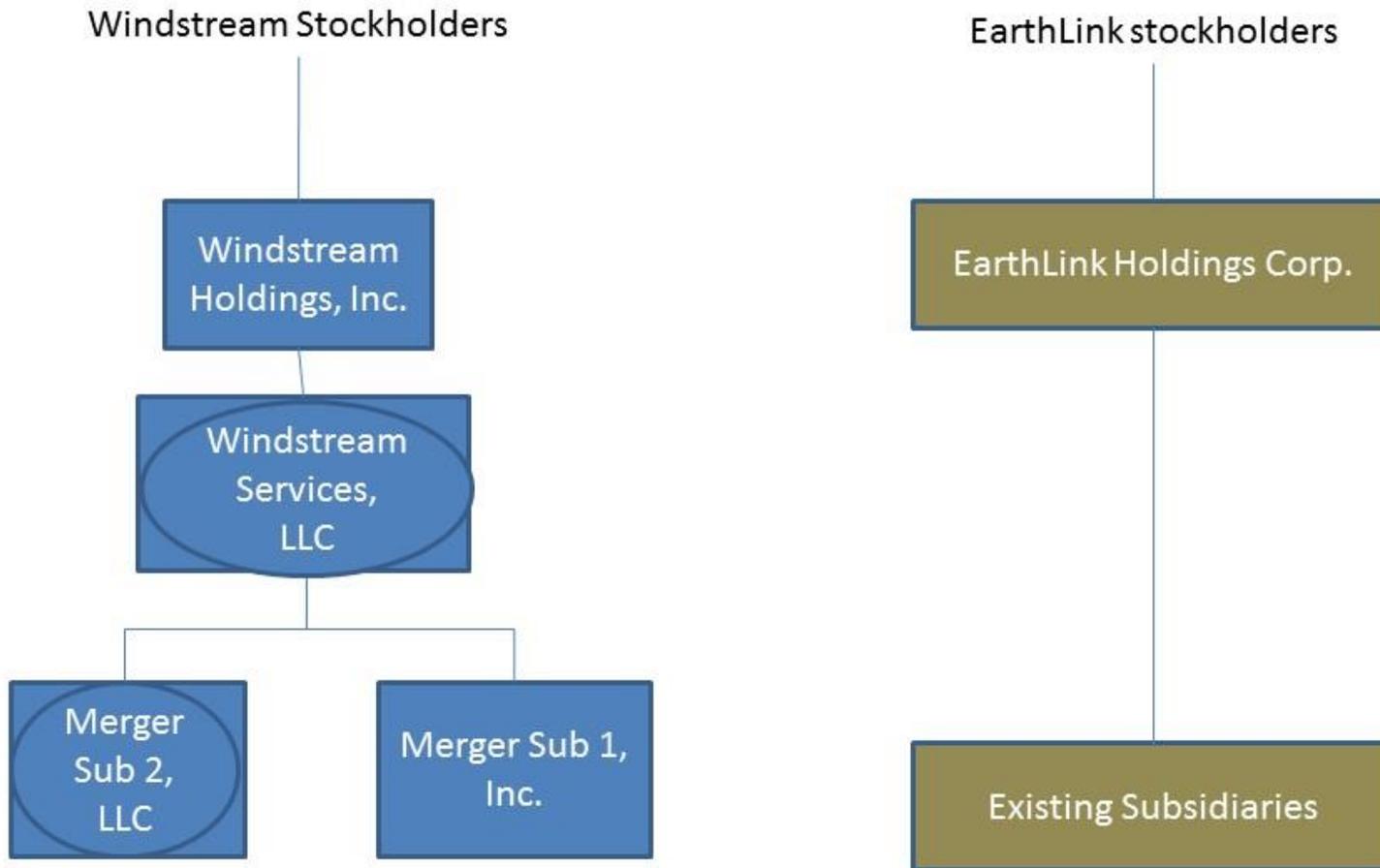
Such authorization would be consistent with Commission precedent.¹⁹ The parties also request that the Commission's approval of the applications include any authorizations or facilities that may have been inadvertently omitted.

¹⁹ See *Qwest-CenturyLink Order*, 26 FCC Rcd at 4214-15 ¶ 46; *Applications Filed by Frontier Commc 'ns Corp. & Verizon Commc 'ns Inc. for Assignment or Transfer of Control*, Memorandum Opinion and Order, FCC 10-87, 25 FCC Rcd. 5972, 5996 ¶ 64 (2010); *Applications of AT&T Wireless Servs., Inc. & Cingular Wireless Corp. for Consent to Transfer Control of Licenses & Authorizations, et al.*, Memorandum Opinion and Order, FCC 04-255, 19 FCC Rcd. 21,522, 21,626 ¶ 275 (2004); *Application of WorldCom, Inc., & MCI Commc 'ns Corp. for Transfer of Control of MCI Commc 'ns Corp. to WorldCom, Inc.*, Memorandum Opinion and Order, FCC 98-225, 13 FCC Rcd. 18,025, 18,153 ¶ 226 (1998); *Applications of NYNEX Corp., Transferor, & Bell Atl. Corp., Transferee, for Consent to Transfer Control of NYNEX Corp. & Its Subsidiaries*, Memorandum Opinion and Order, FCC 97-286, 12 FCC Rcd. 19,985, 20,097 ¶ 247 (1997); *Applications of Craig O. McCaw, Transferor, & Am. Tel. & Tel. Co., Transferee for Consent to the Transfer of Control of McCaw Cellular Commc 'ns, Inc. & Its Subsidiaries*, Memorandum Opinion and Order, FCC 94-238, 9 FCC Rcd 5836, 5909 ¶ 137 n.300 (1994).

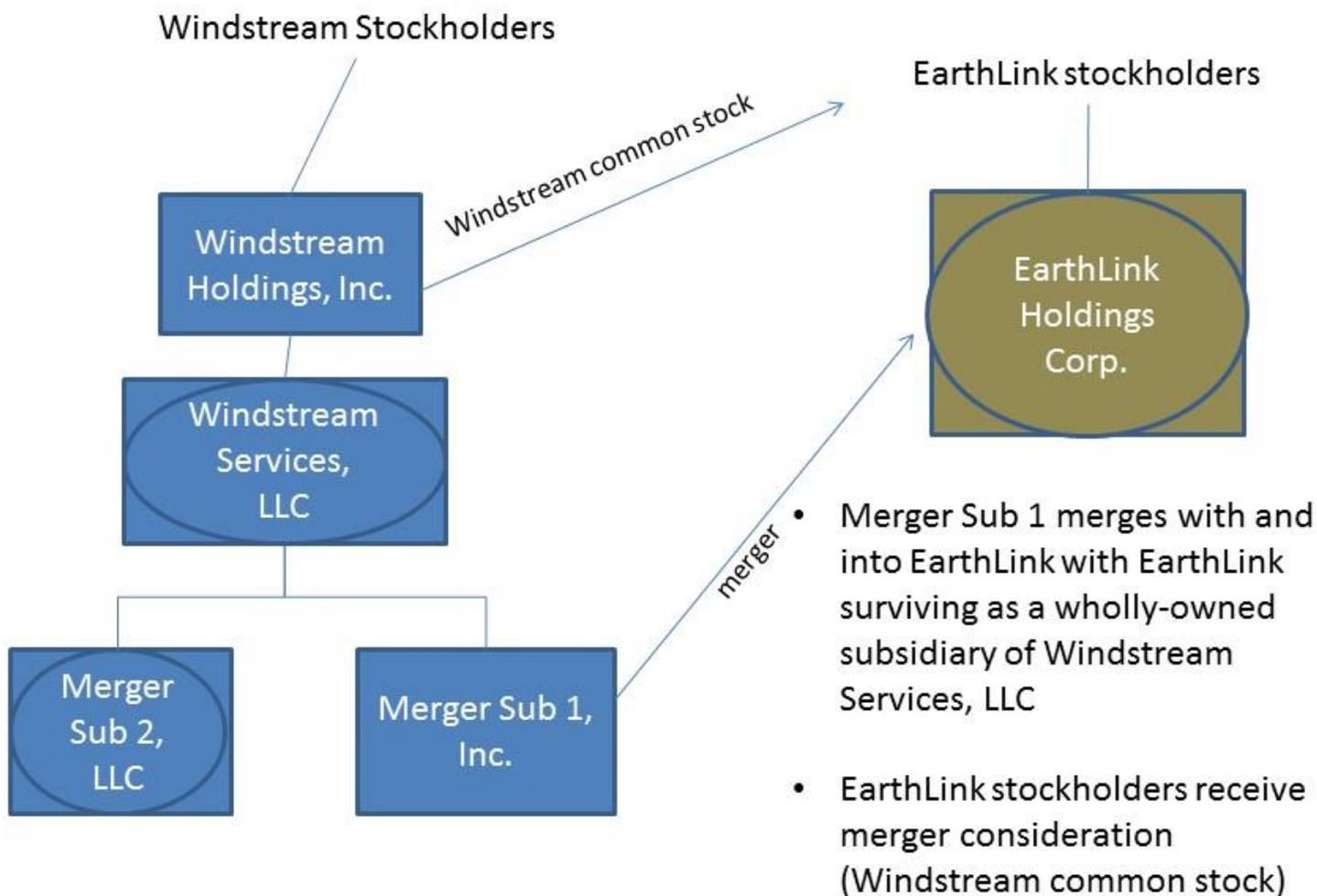
ATTACHMENT A

Corporate Structure and Transaction Diagrams

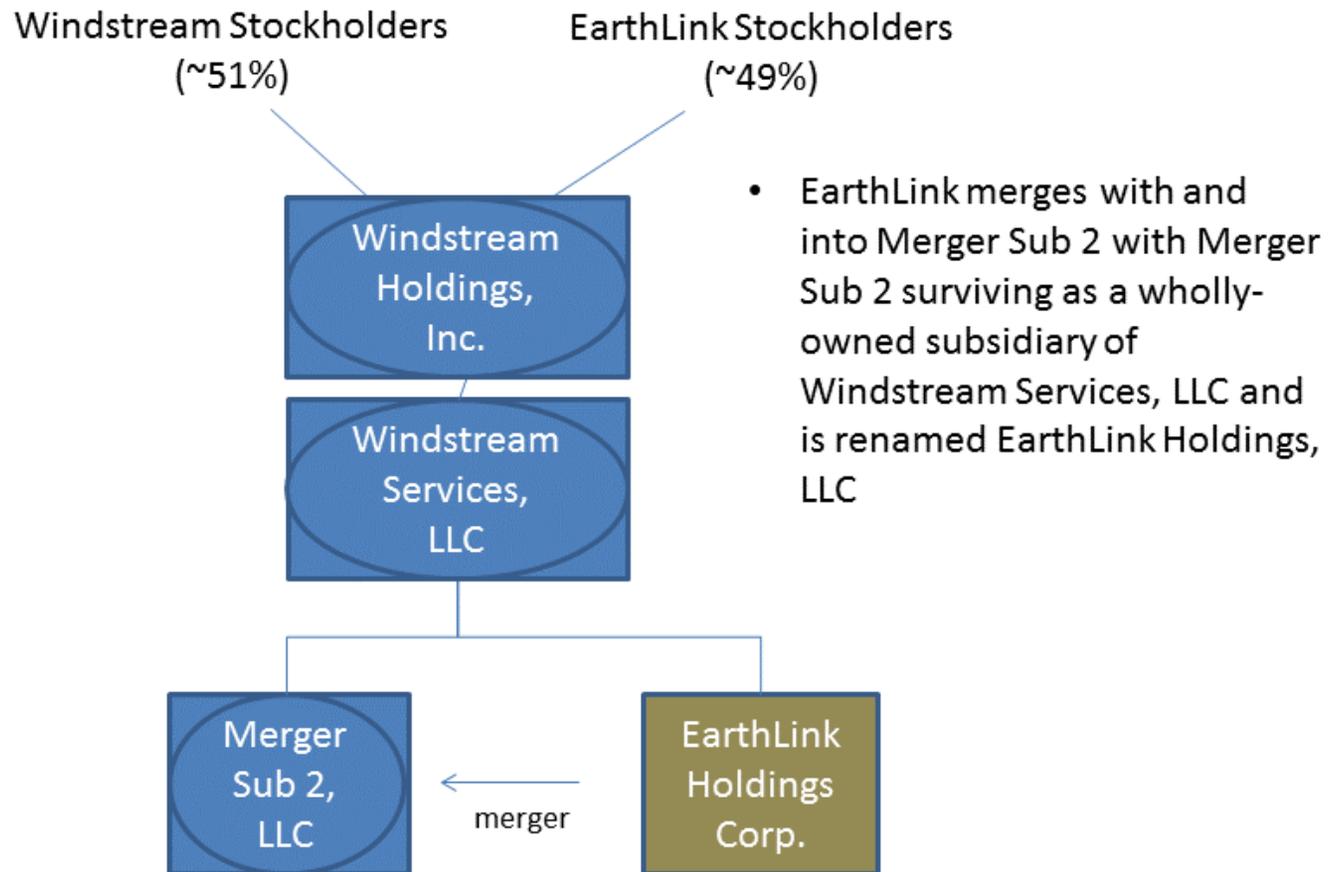
Abbreviated Current Structure



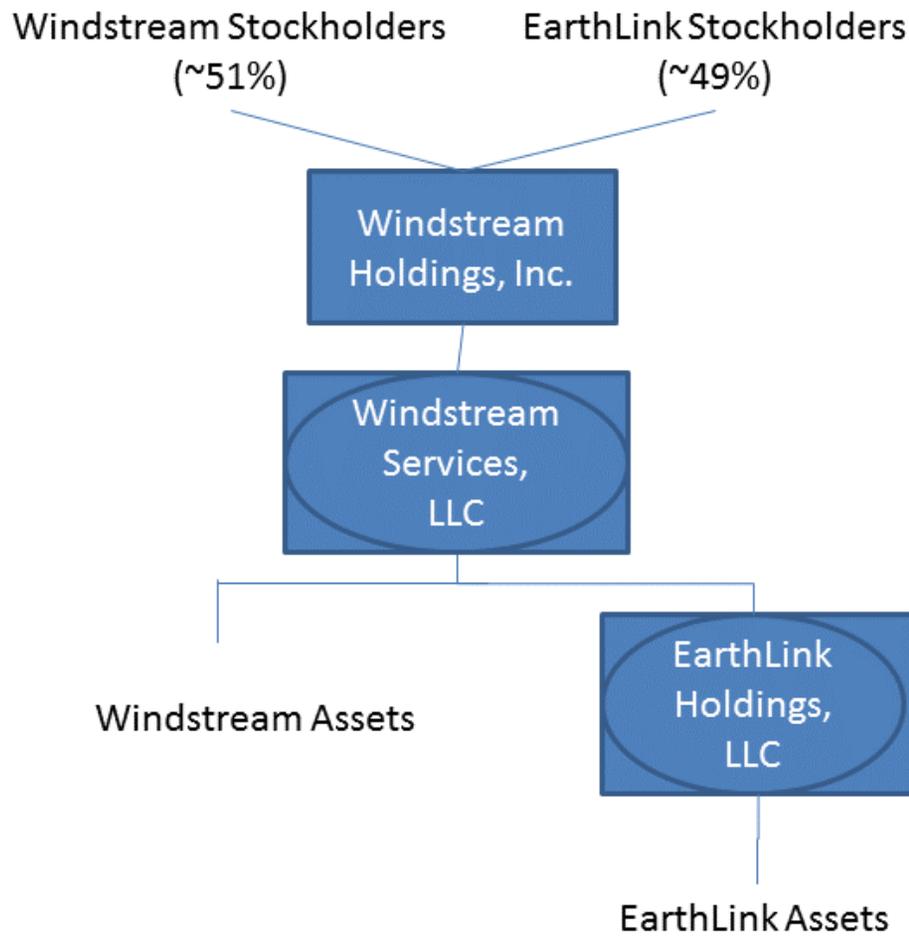
Step 1: Reverse Merger



Step 2: Forward Merger



Abbreviated Final Structure



ATTACHMENT B

NETWORK MAP

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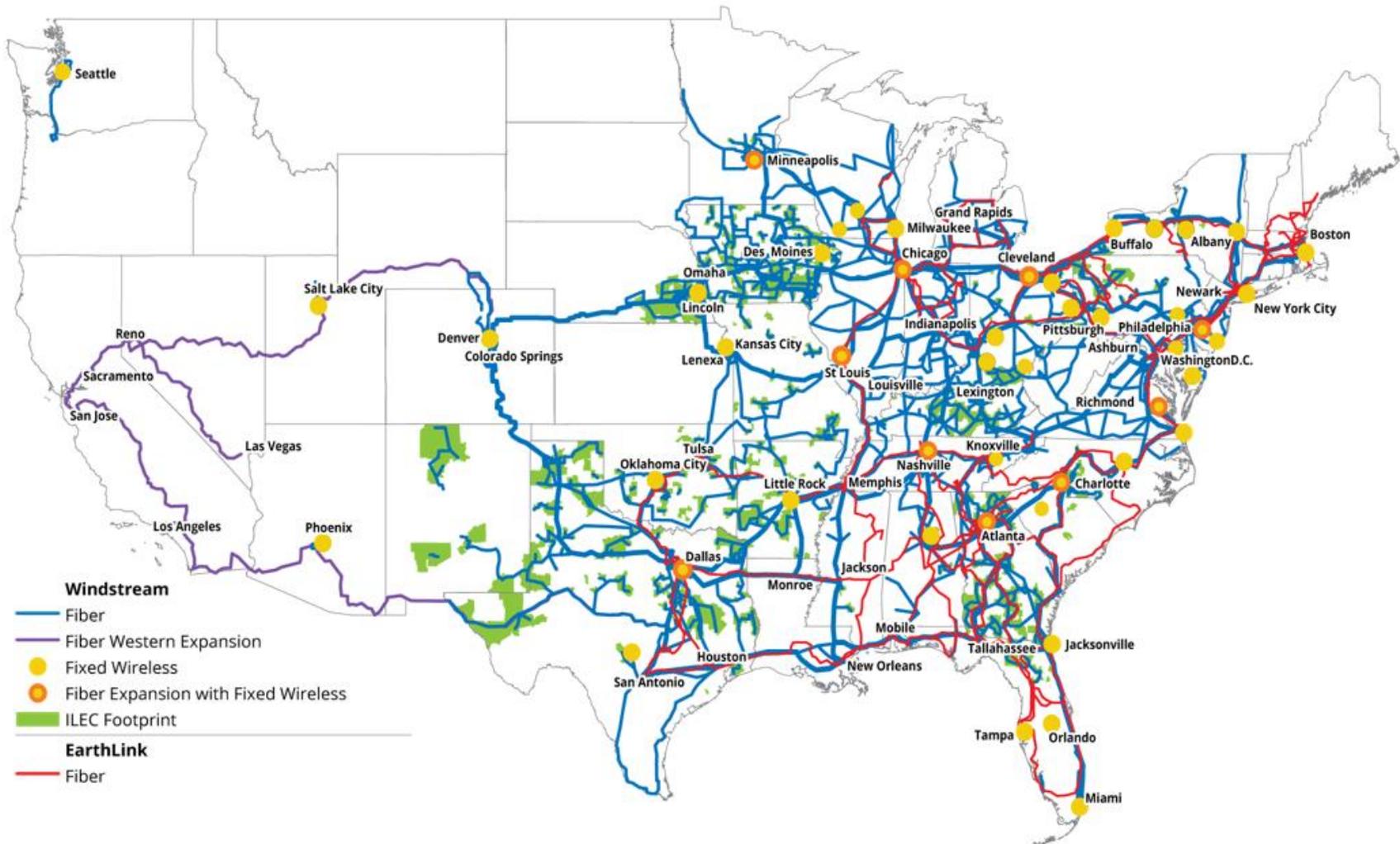


EXHIBIT 2

Authorized Carriers (international and/or domestic, with FRN numbers):

<u>Carrier</u>	<u>FRN</u>
Business Telecom, LLC	0003744935
Choice One Communications of Connecticut Inc.	0004328464
Choice One Communications of Maine Inc.	0008190662
Choice One Communications of Massachusetts Inc.	0004328480
Choice One Communications of New York Inc.	0004328506
Choice One Communications of Ohio Inc.	0004328530
Choice One Communications of Pennsylvania Inc.	0004328555
Choice One Communications of Rhode Island Inc.	0004328563
Choice One Communications Resale L.L.C.	0018746727
Choice One of New Hampshire Inc.	0004328498
Connecticut Broadband, LLC	0005078829
Connecticut Telephone & Communication Systems, Inc.	0003753316
Conversent Communications Long Distance, LLC	0006209787
Conversent Communications of Connecticut, LLC	0008841959
Conversent Communications of Maine, LLC	0008841900
Conversent Communications of Massachusetts, Inc.	0008841876
Conversent Communications of New Hampshire, LLC	0008842007
Conversent Communications of New Jersey, LLC	0008841983
Conversent Communications of New York, LLC	0008841991
Conversent Communications of Pennsylvania, LLC	0008841934
Conversent Communications of Rhode Island, LLC	0008841975
Conversent Communications of Vermont, LLC	0008841942
Conversent Communications Resale L.L.C.	0018746735
CTC Communications Corp.	0005013669
CTC Communications of Virginia, Inc.	0005013685
DeltaCom, LLC	0005183025
EarthLink Business, LLC	0003720471
EarthLink Carrier, LLC	0004329363
Lightship Telecom, LLC	0006194187
US Xchange Inc.	0012070645
US Xchange of Illinois, L.L.C.	0004328605
US Xchange of Indiana, L.L.C.	0004328597
US Xchange of Michigan, L.L.C.	0004328589
US Xchange of Wisconsin, L.L.C.	0004328613