

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Application of)
Windstream Communications, LLC for)
Designation as an Eligible)
Telecommunications Carrier to Receive)
Rural Digital Opportunity Fund Support)

Case No. TA-2021-0354

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Recommendation* in this matter hereby states:

1. On April 16, 2021, Windstream Communications, LLC, (Company or Windstream) filed *Application of Windstream Communications LLC, for Designation as an Eligible Telecommunications Carrier to Receive Rural Digital Opportunity Fund Support* with the Commission requesting that the Commission issue an order granting the Company eligible telecommunications carrier (ETC) status. The Commission found the initial *Application* deficient and the Company twice-supplemented its filing. The Company’s request, if approved, would permit it to receive federal high-cost and low-income support pursuant to the Rural Digital Opportunity Fund (RDOF) auction held by the Federal Communications Commission (FCC).

2. The RDOF program is part of the FCC’s attempt to bridge the digital divide. It seeks to expand high-speed fixed broadband service to rural homes and small businesses presently lacking the service. Phase one of the auction began October 29, 2020, and targeted over six million homes and businesses unserved by voice and broadband speeds with downloads of at least 25mbps. Phase two of the auction will cover areas that are partially unserved and those areas not covered in Phase one.

Winning bidders must submit to the FCC proof of their ETC status within 180 days of being announced as a winning bidder.

3. The Company is presently registered in the state of Missouri as an interconnected voice over internet protocol (IVoIP) services provider. The Company included Exhibit A with its *Application*, identifying the specific census blocks for which it requests ETC designation.

4. Commission rule 20 CSR 4240-31.016 governs the specific eligible telecommunications carrier requirements that each applicant must meet. Applications must also comply with 20 CSR 4240-2.060 and shall be verified by oath as to the truthfulness contained in the application by an officer or director of the applicant.

5. The FCC requires all winning bidders to submit a Long Form that includes information about a company and its plans to fulfill its bid requirements, which must be approved prior to a company receiving any funds. The ETC process under 20 CSR 4240-31.016 does not address and is not designed to assess a company's technology broadband speed and latency capabilities.

6. Staff conducted an investigation and has provided a memorandum attached to this pleading as Appendix A. Staff's memorandum outlines the reasons why Staff believes Windstream has met the requirements of 20 CSR 4240-31.016 and should receive ETC designation.

7. Windstream sought waiver of the 60-day notice requirement pursuant to the Commission's rule 20 CSR 4240-4.017. Staff recommends that the waiver be granted.

8. Staff would also note that RDOF auction winners are required to file with the FCC by June 7, 2021, a state commission order granting ETC designation for the awarded area. Failure to obtain a state commission order by this deadline jeopardizes the company's RDOF funding.

WHEREFORE, Staff recommends that the Commission approve Windstream Communications, LLC's, request for designation as an eligible telecommunications carrier for the purpose of receiving federal high-cost and low-income support for the census blocks identified in Exhibit A of its *Application*; that it grant a waiver of the 60-day notice requirement; and that it grant such other and further relief as the Commission considers just in the circumstances.

/s/ Whitney Payne

Whitney Payne
Senior Counsel
Missouri Bar No. 64078
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8706 (Telephone)
(573) 751-9285 (Fax)
whitney.payne@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 24th day of May, 2021, to all counsel of record.

/s/Whitney Payne

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TA-2021-0354

From: Kari Salsman, Research/Data Analyst
John Van Eschen, Regulatory Compliance Manager
Telecommunications Department

Subject: Staff's Recommendation to Approve Windstream Communications,
LLC's Request for ETC Designation

Date: May 24, 2021

On April 16, 2021, Windstream Communications, LLC (Windstream) filed an application for designation as an Eligible Telecommunications Carrier (ETC) for the purpose of receiving federal high cost and low-income universal service fund support.¹ The company later supplemented its application. Windstream is a registered IVoIP provider in Missouri.² The company was recently awarded federal Rural Digital Opportunity Fund (RDOF) support to build broadband facilities in more rural areas.³ The RDOF funding requires the company to extend broadband service to a designated number of locations in certain census blocks.⁴ Windstream seeks ETC designation in the won census blocks.

Federal authority enables state commissions to grant ETC status to a company.⁵ Missouri's ETC application requirements are contained in existing Missouri Commission rule 20 CSR 4240-31.016. Staff reviewed the company's request for compliance with Missouri's rule as well as federal requirements. In Staff's opinion the company has adequately met all ETC application requirements. Consequently Staff supports the company's application for ETC status.

Staff recommends the Commission grant ETC status to Windstream Communications, LLC for the purpose of receiving federal high-cost and low-income support in the area identified by census blocks in Exhibit A of the company's application.

The Missouri Commission should be aware RDOF auction winners are required to file with the FCC by June 7, 2021 a state commission order granting ETC designation for the award area. Failure to obtain a state commission order by this deadline jeopardizes the company's RDOF funding.

¹ Windstream is a subsidiary of Windstream Holdings II, LLC.

² Case No. DA-2018-0183. The company's principal office is located in Little Rock, Arkansas.

³ The company has been awarded \$3,078,402 over 10 years to extend broadband service to 1,342 locations and deploys fiber as the last mile technology.

⁴ Census Block Service areas are listed in Exhibit A of ETC application.

⁵ 47 U.S.C. §214(e)(2) and FCC rule §54.201.