

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

In the Matter of the Application of	)	
Windstream Missouri, Inc. for Approval	)	
Of an Amendment to a Commercial Mobile	)	
Radio Services Interconnection Agreement	)	Case No. _____
With United States Cellular Corporation	)	
Under 47 U.S.C. § 252.	)	

**APPLICATION OF WINDSTREAM MISSOURI, INC.  
FOR APPROVAL OF AN AMENDMENT TO A COMMERCIAL MOBILE RADIO  
SERVICES INTERCONNECTION AGREEMENT WITH  
UNITED STATES CELLULAR CORPORATION**

**COMES NOW** Windstream Missouri, Inc. (“Windstream” or “Applicant”), pursuant to Missouri Public Service Commission ("Commission") Rule 4 CSR 240-3.513(6)(C), and hereby applies for approval by the Commission of the accompanying amendment to the Commercial Mobile Radio Services Interconnection Agreement (“Agreement”) voluntarily entered into by Applicant and United States Cellular Corporation (“USCC”) pursuant to the federal Telecommunications Act of 1996 (the "Act") under 47 U.S.C. § 252(e).

1. Windstream Missouri, Inc. is a Missouri corporation duly authorized to conduct business in Missouri, as evidenced by the Certificate of Amendment filed on June 21, 2006 in Case No. IN-2006-0481, and incorporated herein by reference pursuant to Commission Rule 4 CSR 240-2.060(1)(G). Windstream’s principal office is located at 4001 Rodney Parham Road, Little Rock, Arkansas 72212. Windstream is a “local exchange telecommunications company” and a “public utility,” and is duly authorized to provide “telecommunications service” within the State of Missouri as each of those phrases is defined in Section 386.020, RSMo 2000.

2. USCC holds authority from the Federal Communications Commission to operate as a cellular licensee to provide authorized services in Missouri, and provides commercial mobile radio services employing such licensed frequencies.

3. All correspondence, communications, and orders and decisions of the Commission issued in this matter should be sent to:

Ed Cadieux  
WINDSTREAM COMMUNICATIONS, INC.  
1390 Timberlake Manor Parkway, Suite 200  
Chesterfield, Missouri 63017  
Telephone: (636) 537-5743  
Facsimile: (330) 486-3690

4. Applicant has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the Application. No Missouri annual reports or assessment fees are overdue.

In support of this Application, Applicant states the following:

**I. AMENDMENT REACHED**

Applicant presents to this Commission for approval the attached amendment to the Commercial Mobile Radio Services Interconnection Agreement Between Windstream Missouri, Inc. and United States Cellular Corporation ("Amendment") that was negotiated and executed pursuant to the terms of the Act. Following good faith negotiations to address all of the complex issues involved in such an agreement, the parties signed the Amendment on March 26, 2013, and hereby file the Amendment with all pages sequentially numbered. There are no outstanding issues between the parties to the Amendment that need the assistance of mediation or arbitration.

## **II. REQUEST FOR APPROVAL**

Applicant seeks the Commission's approval of the Amendment, consistent with the provisions of the Act. Applicant believes that the implementation of this Amendment complies fully with Section 252(e) of the Act because the Amendment is consistent with the public interest, convenience and necessity, and does not discriminate against any telecommunications carrier. The Amendment promotes interconnectivity and diversity in providers, and will increase customer choices for telecommunications services. Specifically, the Amendment establishes bill-and-keep as the compensation arrangement for IntraMTA traffic exchanged between the parties, pursuant to the Report and Order and Further Notice of Proposed Rulemaking issued by the FCC on November 18, 2011 (FCC 11-161) and amended by the FCC on December 23, 2011 (FCC 11-189), prohibits the passing of wireline traffic as wireless, and updates company names and contacts information.

Applicant respectfully requests that the Commission grant approval of this Amendment, without change, suspension or other delay in its implementation. This is a bilateral amendment, reached as a result of negotiation and compromise between the Applicant and USCC.

## **III. STANDARD FOR REVIEW**

The statutory standards of review are set forth in Section 252(e) of the Act, which provides:

### **(e) APPROVAL BY STATE COMMISSION**

- (1) APPROVAL REQUIRED.** – Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.
- (2) GROUNDS FOR REJECTION.** – The State Commission

may only reject –

(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that –

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; . . . .

**WHEREFORE**, Windstream Missouri, Inc. respectfully requests the Commission to enter an Order approving the attached amendment to the Commercial Mobile Radio Services Interconnection Agreement Between Windstream Missouri, Inc. and United States Cellular Corporation.

Respectfully submitted,



Ed Cadieux MBN 29468  
WINDSTREAM COMMUNICATIONS, INC.  
1390 Timberlake Manor Parkway, Suite 200  
Chesterfield, Missouri 63017  
Telephone: (636) 537-5743  
Facsimile: (330) 486-3690  
Email: [edward.cadieux@windstream.com](mailto:edward.cadieux@windstream.com)

**VERIFICATION**

STATE OF ARKANSAS                    )  
  ) SS  
COUNTY OF PULASKI                )

I, S. Lynn Hughes, Director - Interconnection for Windstream Missouri, Inc., hereby verify and affirm that I have read the foregoing Application, and that the statements contained therein are true and correct to the best of my information and belief.

  
\_\_\_\_\_  
S. Lynn Hughes

Subscribed and sworn to before me on this 4 day of April, 2013.



  
\_\_\_\_\_  
Notary Public

My Appointment Expires:

1/3/17

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 11<sup>th</sup> day of April, 2013 to:

Office of the Public Counsel  
200 Madison Street  
Jefferson City, MO 65101

Kevin Thompson, General Counsel  
Missouri Public Service Commission  
200 Madison Street  
Jefferson City, MO 65101

US Cellular Corporation  
Attn: Mike Dienhart, Sr.  
Sr. Director – National Network Planning  
8410 West Bryn Mawr  
Suite 700  
Chicago, IL 60631

Stephen P. Fitzell, Esquire  
Sidley Austin LLP  
One S. Dearborn Street  
Chicago, IL 60603

  
\_\_\_\_\_  
Ed Cadieux

**AMENDMENT NO.1**

**to the**

**INTERCONNECTION AGREEMENT**

**between**

**WINDSTREAM MISSOURI, INC.  
AND**

**UNITED STATES CELLULAR CORPORATION**

**FOR THE STATE OF MISSOURI**

This Amendment No. 1 (the "Amendment"), by and between United States Cellular Corporation, a Delaware corporation, its wireless subsidiaries and wireless affiliates ("USCC"), a Wireless Services Provider ("WSP"), with offices at 8410 W. Bryn Mawr Avenue, Chicago, IL 60631, and Windstream Missouri, Inc. ("Windstream") with its principal place of business at 4001 Rodney Parham Road, Little Rock, Arkansas, 72212. (USCC and Windstream may be hereinafter referred to, each individually, as a "Party" and, collectively, as the "Parties"). The effective date of this Amendment (the "Amendment Effective Date") will be July 1, 2012. This Amendment covers services in the state of Missouri.

**WITNESSETH:**

WHEREAS, the Parties wish to amend the agreement to reflect the appropriate legal entities that will be bound by the terms and conditions of the Agreement that became effective January 1, 2008, and any subsequent amendments; and

WHEREAS, the Parties wish to update section 15.1 of the General Terms and Conditions of the Agreement, the provision entitled "Contract Notices," to identify the correct individuals who should receive notice under the Agreement and its amendments; and

WHEREAS, the Federal Communications Commission ("FCC") released on November 18, 2011 a "Report and Order and Further Notice of Proposed Rulemaking" in *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10- 208, FCC 11-161 ("*USF/ICC Transformation Order*"), as modified by Order on Reconsideration (rel. Dec. 23, 2011) ("*USF/ICC Transformation Order on Reconsideration*") (collectively referred to as the "*ICC Transformation Orders*"); and

WHEREAS, the *ICC Transformation Orders* adopted new rules for intercarrier compensation by amending the FCC's reciprocal compensation rules, including 47 C.F.R. § 20.11 and §§ 51.700 - 51.715, to provide that intercarrier compensation for non-access telecommunications traffic exchanged between Local Exchange Carriers ("LECs") and Commercial Mobile Radio Service ("CMRS") providers will be subject to a default bill-and-keep methodology for traffic exchanged on and after July 1, 2012; and

WHEREAS, the *ICC Transformation Orders* and the FCC's reciprocal compensation rules that they amend constitute a change of law; and

**WHEREAS**, the Parties, pursuant to the Communications Act of 1934, as amended, (the “Act”) and Section 22 of the General Terms and Conditions of the Agreement, wish to amend the Agreement in order to give contractual effect to the provisions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and the promises and mutual agreements set forth in the Agreement and in this Amendment, the Agreement is hereby amended to reflect the appropriate legal entities to be bound by the Agreement and any amendments to the Agreement and to ensure that the terms and conditions of the Agreement, and any Amendments to the Agreement, related to intercarrier compensation for all non-access traffic exchanged between the Parties is subject to the bill-and-keep compensation methodology are conformed so as to be consistent with applicable federal law:

1. Notices for USCC in Section 15.1 of the General Terms and Conditions of the Agreement shall be updated by deleting the contact information listed for USCC and replacing it with the following:

Mike Dienhart  
Senior Director, National Network Planning  
United States Cellular Corporation  
8410 West Bryn Mawr Avenue, Suite 700  
Chicago, IL 60631  
Phone: (773)399-7070  
Fax: (773)399-4832  
Email: [Mike.Dienhart@uscellular.com](mailto:Mike.Dienhart@uscellular.com)

With a copy to:

Stephen P. Fitzell  
c/o Sidley Austin LLP  
One South Dearborn  
Chicago, Illinois 60603  
Phone: (312) 853-7379  
Fax: (312) 853-7036  
Email: [sfitzell@sidley.com](mailto:sfitzell@sidley.com)

2. Notices for Windstream in Section 15.1 of the General Terms and Conditions of the Agreement shall be updated by deleting the contact information listed for USCC and replacing it with the following:

Windstream  
Attn: Staff Manager – Interconnection Services  
4001 Rodney Parham Road  
Mailstop: 1170 B1F2-12A  
Little Rock, Arkansas 72212

**Copy to:**  
Windstream  
Attn: Legal Department  
4001 Rodney Parham Road  
Mailstop: 1170 B1F3-53A  
Little Rock, Arkansas 72212

3. Amendment to the Agreement



- 3.1 Attachment 5 – Definitions, “Major Trading Area” is deleted and replaced in its entirety with the following:
- “Major Trading Area” (“MTA”) refers to the FCC-authorized wireless license territory, which serves as the definition for local service area for CMRS traffic for purposes of reciprocal compensation under Section 251(b)(5) as defined in 47 C.F.R. 24.202(a).
- 3.2 Attachment 5 – Definitions, a new definition of “bill-and-keep” is added as follows:
- “Bill-and-keep” is defined, as referenced in 47 C.F.R. 51.713, as an arrangement in which carriers exchanging telecommunications traffic do not charge each other for specific transport and/or termination functions or services. For purposes of this agreement, the only traffic type that is subject to “bill and keep”, is Local Traffic.
- 3.3 Add new definitions as follows which are only applicable to Appendix: Prohibited Traffic:
- “Intermediary Traffic” is traffic other than Roaming Traffic that is delivered from a third-party Local Exchange Carrier or other telecommunications carrier such as a CMRS provider, through the network of either Party as an intermediate carrier to an end user of the other Party.
- “Roaming Traffic” is CMRS traffic originated by a customer of a CMRS provider other than USCC which is carried by or over USCC’s network for termination to Windstream or other LECs or CMRS providers. Roaming Traffic includes all of the roaming and resale traffic described in section 20.12 of the FCC’s rules, 47 C.F.R. § 20.12. Roaming Traffic is considered to be the same as USCC originated traffic and thus is the responsibility of USCC for paying applicable Non-Local (InterMTA) terminating compensation to Windstream at Windstream’s applicable rates.
- 3.4 The Reciprocal Compensation Rate listed on Attachment 4 – Price List is deleted and replaced with “Bill-and-Keep”.
- 3.5 The attached Appendix: Prohibited Traffic is amended and incorporated to the Agreement.
- 4.0 Miscellaneous Provisions
- 4.1 Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement, this Amendment shall govern, *provided, however*, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 4
- 4.2 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
- 4.3 Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.
- 4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly in Sections 1 - 3 of this Amendment, and, except to the extent set

forth in Sections 1 - 3 of this Amendment, the terms and provisions of the Agreement shall remain in full force and effect after the Amendment Effective Date

**IN WITNESS WHEREOF**, the Parties hereto have caused this Amendment to be executed as of the Amendment Effective Date.

**Windstream Missouri, Inc.**

By: 

Printed: John P. Fletcher

Title: General Counsel

Date: 3/26/2013

**United States Cellular Corporation**

By: 

Printed: David Fiala

Title: Director Telco Billing, Contract & Number Management

Date: 3/15/2013

## **Appendix: Prohibited Traffic**

- 1.0 No Intermediary Traffic is to be routed by USCC over the interconnection service facilities covered under this Agreement for termination to Windstream. In the event USCC routes Intermediary Traffic over interconnection service facilities covered under this Agreement for any reason, upon discovery, Windstream shall notify USCC in writing of the existence of such Intermediary Traffic in violation of the terms of this Agreement. Unless otherwise mutually agreed to by the Parties, if such violation is not cured within thirty (30) days, Windstream may immediately convert any and all interconnection facilities to outbound from Windstream. For the avoidance of doubt, such conversion means traffic originated by USCC will not be allowed to traverse such facilities. USCC has the right to invoke the dispute resolution process as defined in this agreement to reach resolution after Windstream has converted the facilities to outbound Windstream originating traffic only (i.e., one way facilities). Notwithstanding the preceding, in the event the interconnection facilities are converted to outbound from Windstream, Windstream will convert the interconnection facilities back to their original state if USCC either 1) proves to Windstream or a regulatory commission or court having jurisdiction over the issue that Intermediary Traffic was not being delivered to Windstream or 2) proves to Windstream's satisfaction that USCC has taken steps to prevent such Intermediary Traffic from being routed to Windstream.