



PUBLIC NOTICE

Federal Communications Commission
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PROTESTED TARIFF TRANSMITTALS NO ACTIONS TAKEN

Transmittal Nos. 1861, 1862, 131, 302, 554, and 3445

Pursuant to authority delegated under section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, the Pricing Policy Division of the Wireline Competition Bureau reviewed the Windstream Services LLC (Windstream) petition to reject or to suspend and investigate the August 29, 2017 AT&T tariff transmittals and related filings.¹

Based on our review of the record, we have concluded that Windstream failed to present compelling arguments that the transmittals are so patently unlawful as to require rejection. Similarly, we have concluded that Windstream did not present issues regarding the tariff transmittals that raise significant questions of lawfulness which require investigation. In particular, we have concluded that the tariff revisions do not violate the six-month price freeze provision of the Commission's *BDS Order*,² because the revisions do not raise any rates, and the *BDS Order* does not prohibit a price cap LEC from discontinuing a term plan, and thus removing an offer entirely from its tariffs.³ By allowing these revisions to go into effect, we have not foreclosed Windstream's ability to pursue a formal complaint with

¹ See Petition of Windstream Services, LLC to Reject or Suspend and Investigate AT&T Tariff Filings, Transmittal Nos. 1861, 1862, 131, 302, 554, and 3445 (filed Sept. 5, 2017). This Petition challenges the following tariff transmittals, either in whole or in part: Ameritech Transmittal Nos. 1861 and 1862, Tariff F.C.C. No. 2; BellSouth Transmittal No. 131, Tariff F.C.C. No. 1; Nevada Bell Transmittal No. 302, Tariff F.C.C. No. 1; Pacific Bell Transmittal No. 554, Tariff F.C.C. No. 1; SWBT Transmittal No. 3445, Tariff F.C.C. No. 73 (AT&T August 29, 2017 Tariff Transmittals). See also Opposition of AT&T Services Inc. to Petition to Reject or Suspend and Investigate, Transmittal Nos. 1861 and 1862, 131, 302, 554, and 3445 (filed Sept. 11, 2017); Letter from John Nakahata, Counsel to Windstream, to Marlene H. Dortch, Secretary, FCC, Transmittal Nos. 1861 and 1862, 131, 302, 554, and 3445 (filed Sept. 12, 2017). Letter from Karen Reidy, Vice President, Regulatory Affairs, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, Transmittal Nos. 1861 and 1862, 131, 302, 554, and 3445 (filed Sept. 12, 2017).

² *Business Data Services in an Internet Protocol Environment; Technology Transitions; Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 16-143, GN Docket No. 13-5, WC Docket No. 05-25, RM-10593, Report and Order, 32 FCC Red 3459, 3533, para. 167 (2017) (*BDS Order*).

³ See *BellSouth Telecommunications v. FCC*, 469 F.3d 1052, 1057 (D.C. Cir 2006) (explaining that telecommunications carriers have no obligation to offer a discount plan at all).

respect to the contract tariff that is the focus of Windstream's concern, pursuant to Section 208 of the Communications Act of 1934, as amended.⁴

Accordingly, the petition to reject or to suspend and investigate the tariff transmittals at issue is denied. Pursuant to section 204(a)(3) of the Act, the AT&T August 29, 2017 Tariff Transmittals became effective on September 13, 2017. Applications for review and petitions for reconsideration of this decision may be filed within 30 days from the date of this public notice in accordance with sections 1.115 and 1.106 of the Commission's rules, 47 C.F.R. §§ 1.115, 1.106. In addition, parties may avail themselves of the Commission's Section 208 complaint process.⁵

For further information, please contact Robin Cohn at (202) 418-2747 or via email at robin.cohn@fcc.gov.

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⁴ See 47 U.S.C. § 208; see also *BDS Order*, 32 FCC Rcd at 3505-06, para. 102 (“customers are protected in the near term from harm that would result from any rates, terms, or conditions that are unjust and unreasonable or unjust and unreasonably discriminatory because the Commission’s section 208 complaint process continues to be available for common carriage services”).

⁵ 47 U.S.C. § 208.