



PUBLIC NOTICE

Federal Communications Commission
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DA 19-1299
December 19, 2019

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF
CERTAIN ASSETS OF TALK AMERICA SERVICES, LLC
BY WINDSTREAM COMMUNICATIONS, LLC AND AFFILIATES**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 19-326

Comments Due: January 2, 2020
Reply Comments Due: January 9, 2020

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by Talk America Services, LLC (Talk America), Windstream Communications, LLC (Windstream Communications), Windstream D&E Systems, Inc. (Windstream D&E), and Windstream NuVox, LLC (Windstream NuVox) (together, Windstream Entities, and, collectively with Talk America, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent to transfer certain assets of Talk America to the Windstream Entities.²

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Windstream Communications, Windstream D&E, and Windstream NuVox are all currently operating as debtors-in-possession. See Letter from Russell M. Blau and Danielle Burt, Counsel for Windstream Holdings, Inc., to Marlene H. Dortch, Secretary, FCC, (filed Mar. 27, 2019) (notice of pro forma transaction resulting from the filing of the Chapter 11 bankruptcy of Windstream Services, LLC and its subsidiaries); *Windstream Holdings, Inc., et al, Chap. 11*, Case No. 19-22312 (Bankr. S.D.N.Y. Feb. 23, 2019).

² Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Talk America Services, LLC by Windstream Communications, LLC and Affiliates, WC Docket No. 19-326 (filed Oct. 28, 2019) (Application). Applicants are also filing an application for the transfer of control of international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications. The Windstream Entities filed supplements to the Application on December 10, 2019 and December 16, 2019. Letter from Nicole Winters, Counsel to Windstream Entities, to Marlene H. Dortch, Secretary, FCC (Dec. 16, 2019) (on file in WC Docket No. 19-326) (Windstream December 16 *Ex Parte* Letter) (stating that the proposed transaction does not require Bankruptcy Court approval); Letter from Nicole Winters, Counsel to Windstream Entities, to Marlene H. Dortch, Secretary, FCC (Dec. 10, 2019) (on file in WC Docket No. 19-326) (Windstream December 10 *Ex Parte* Letter).

Talk America, a Delaware limited liability company, provides domestic resold local exchange carrier (LEC) and interexchange services in multiple states. Windstream Communications, a Delaware limited liability company, currently offers LEC services and other telecommunications services in multiple states.³ Windstream D&E Systems, Inc., a Pennsylvania corporation, currently offers LEC services and other telecommunications services in Pennsylvania. Windstream NuVox, LLC, a Delaware limited liability company, currently offers LEC services and other telecommunications services in multiple states. The Windstream Entities are subsidiaries of Windstream Services, LLC (Windstream Services), a Delaware corporation, which is in turn a subsidiary of Windstream Holdings, Inc., a publicly traded Delaware corporation with no 10% or greater owners.

Under the terms of the proposed transaction, Talk America will transfer a subset of its residential customers, including approximately 70 customers in Pennsylvania and 1,108 customers in North Carolina, to the Windstream Entities that currently provide the underlying wholesale services for those customers.⁴ Although certain affiliates of the Windstream Entities provide service as incumbent LECs, Applicants state that the affected Talk America customers are located outside of those incumbent LEC service areas.⁵ Applicants further state that the affected customers will continue to receive service under the same rates, terms, and conditions.

Applicants assert that the proposed transaction is entitled to streamlined treatment under the Commission's rules and that a grant of the application would serve the public interest, convenience, and necessity. We accept this application for filing under section 63.03(b)(2)(ii) of the Commission's rules.⁶

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Talk America Services, LLC by Windstream Communications, LLC and Affiliates, WC Docket No. 19-326 (filed Oct. 28, 2019).

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before January 2, 2020**, and reply comments **on or before January 9, 2020**. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.

³ Applicants provided a list of states where the Windstream Entities provide telecommunications services in the Application. Application at 9-10.

⁴ Applicants state that Talk America is discontinuing service to a majority of its other customers. Application at 3-4.

⁵ See Windstream December 10 *Ex Parte* Letter at 1-2.

⁶ 47 CFR § 63.03(b)(2)(ii).

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 3) Sumita Mukhoty, Policy Division, International Bureau, smita.mukhoty@fcc.gov;
- 4) David Krech, Policy Division, International Bureau, david.krech@fcc.gov; and
- 5) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

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The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Tracey Wilson at (202) 418-1394 or Dennis Johnson at (202) 418-0809.

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