

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

Application of

TALK AMERICA SERVICES, LLC

For A Certificate Authority
to Provide Resold Local
Exchange and Interexchange
Telecommunications Services
in the State of South Dakota

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**APPLICATION OF TALK AMERICA SERVICES, LLC
FOR A CERTIFICATE OF AUTHORITY**

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Dated: September 25, 2014

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**APPLICATION OF TALK AMERICA SERVICES, LLC
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE
SERVICES IN SOUTH DAKOTA**

I. INTRODUCTION

Talk America Services, LLC ("TAS" or "Applicant"), by its undersigned counsel and pursuant to Sections 20:10:32:03 and 20:10:24:02 of the Rules of the South Dakota Public Service Commission ("Commission"), hereby applies for a Certificate of Public Convenience and Necessity ("Certificate" or "CPCN") to provide resold local exchange, interexchange and broadband telecommunications services to residential customers in South Dakota.

The State of South Dakota has adopted a policy of allowing competition in the local and long distance telecommunications markets, recognizing that it is in the public interest to develop effective competition to ensure that all consumers will have access to high quality, low cost, and innovative telecommunications services. The Federal Telecommunications Act of 1996 also seeks to promote competition and reduce regulation in order to secure lower prices and higher

quality telecommunications services for consumers. Both goals will be promoted by granting this Application.

This Application is being filed in connection with a transaction involving Windstream Holdings, Inc. ("Windstream"). Windstream, and certain of its indirect subsidiaries,¹ are planning to undertake a corporate transaction (the "Transaction") under which the business will be divided into two independent units: an operating unit that will continue to provide telecommunications and related services, and a real estate investment trust that will hold title to certain distribution plant assets (the "Subject Assets") and lease those assets exclusively to the Windstream Companies on a long term basis. The Subject Assets of the Windstream Companies, including copper, fiber, real estate and other network assets, will be transferred to Communications Sales and Leasing, Inc. ("CSL"), a newly established corporation, and CSL will lease them back to Windstream on a long term basis for the exclusive use and benefit of the Windstream Companies. Under the terms of the exclusive lease from CSL, the Windstream Companies will continue to be responsible for the operation and maintenance of the Subject Assets and also continue to have responsibility for meeting all relevant quality of service standards and all other regulatory obligations, just as they do today. Separately, the Windstream Companies intend to transfer all of their residential local exchange and long distance customers to Applicant. Applicant requests that the Commission associate this Application with the Transfer Notification Letter filed by the Windstream Companies concerning the Transaction.

¹ McLeodUSA Telecommunications Services, LLC ("McLeod"), PAETEC Communications, Inc. ("PAETEC"), Windstream Communications, Inc. ("Windstream Communications"), Windstream KDL, Inc. ("KDL"), Windstream Norlight, Inc. ("Norlight"), and Windstream NTI, Inc. ("NTI"), (collectively, the "CLEC Licensees" or the "Windstream Companies")

The Transaction is not being undertaken as a means of market entry as the entity that will be obtaining the Subject Assets will not be providing telecommunications services, but will rather be leasing those assets to the Windstream Companies in order for them to continue providing such services. Further, the transfer of customers to TAS will be undertaken only after TAS has obtained proper authority from the Commission in order to provide resold local exchange, resold interexchange and broadband telecommunications services to residential customers currently subscribed to the Windstream Companies in South Dakota.

At the consummation of the Transaction CSL will be spun-off from Windstream as its own separate publicly-traded company. When the Transaction is consummated, CSL will be owned by the same shareholders that own Windstream, and as such, the transfer of control of TAS that takes place at that time will be pro-forma as the ultimate owners of TAS will be the same before and after the spin-off. TAS requests that the authority requested herein granted by the Commission take into account, to the extent necessary, the ultimate ownership of TAS at the time that the Transaction is consummated: as a subsidiary of CSL, which in turn will be a publicly traded company.

The following information regarding Applicant's managerial qualifications, financial resources, and technical competence to provide resold local exchange, resold interexchange and broadband telecommunications services is submitted pursuant to the Commission's rules and regulations.

In support of its Application, Applicant submits the following information:

(1) 20:10:32:03(1) & 20:10:24:02(1). Name, Address, Telephone Number, Facsimile Number, Web Page URL, and E-mail address.

Applicant may be reached at its principal place of business

Talk America Services, LLC
4001 N. Rodney Parham Rd.
Little Rock, Arkansas 72212
Telephone: (501) 748-4491
Facsimile: (330) 425-0881
www.windstream.com

All correspondence and communications regarding this Application should be addressed to Applicant's attorneys:

Russell M. Blau
Jeffrey R. Strenkowski
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006
Tel: 202-373-6000
Fax: 202-373-6001
russell.blau@bingham.com
jeffrey.strenkowski@bingham.com

with a copy to:

Jeffery W. Small
Senior Vice President - Corporate Development and Operations
Talk America Services, LLC
4001 N. Rodney Parham Rd.
Little Rock, AR 72212
Tel: (501) 748-5870
Fax: (330) 425-0881
jeffery.w.small@windstream.com

(2) 20:10:32:03(2) & 20:10:24:02(2). Legal Structure

Applicant is a newly formed Delaware limited liability company and a subsidiary of Communications Sales and Leasing, Inc. ("CSL"). A copy the Company's Certificate of Formation documents are attached hereto as **Exhibit A.**

(3) 20:10:32:03(3) & 20:10:24:02(3). Name Under Which Applicant will provide Services.

Applicant will operate in South Dakota under its legal name, Talk America Services, LLC.

(4) 20:10:32:03(4) & 20:10:24:02(5). Location of Principal Office in South Dakota and Registered Agent.

Applicant does not currently have an office within South Dakota. Applicant's registered agent in South Dakota is:

CT Corporation System
319 South Coteau Street
Pierre, SD 57501

(5) 20:10:32:03(5) & 20:10:24:02(4). Authority to Transact Business in South Dakota.

A copy the Company's Authority to Transact Business in South Dakota is attached hereto as **Exhibit B.**

(6) 20:10:32:03(6) Prior Provision of Service

Applicant has not previously provided services in South Dakota and is not currently authorized to provide intrastate telecommunications services in any jurisdiction. Applicant is in the process of obtaining authority to provide local exchange and interexchange intrastate telecommunications services in all of the contiguous United States and the District of Columbia. Applicant is not seeking authority to provide services in Alaska or Hawaii.

(7) 20:10:32:03(7) & 20:10:24:02(4). Names and addresses of applicant's affiliates, subsidiaries, and parent organizations, if any.

Applicant is a subsidiary of Communications Sales and Leasing, Inc.

(8) 20:10:32:03(8) & 20:10:24:02(6) & (7). Proposed services.

Applicant will provide service to residential customers within South Dakota and will initially only resell the services of the Windstream Companies, and, in the future will amend its certificate if it decides to offer services as a facilities-based provider. Applicant will operate the business as currently configured as opposed to constructing any new facilities in the state at this time. Under the requested authority, Applicant will not engage in any construction of buildings, towers, conduits, poles, or trenches. TAS proposes to provide wireline local telecommunications service – specifically, local exchange service (including, among other things, access to emergency services, access to operator services, alternative operator services, access to interexchange service, access to directory assistance, toll limitation for qualifying low-income consumers, and any other ancillary functionalities that TAS must provide pursuant to applicable statutes and regulations) and broadband service. TAS will focus on service packages, marketing strategies and designing customers service standards catered to the residential CLEC customer segment. Having a separate management team dedicated solely to this segment of the market will significantly improve the customer experience and performance of the residential CLEC business. Applicant will enter in to a resale agreement with Windstream to provide local exchange, interexchange and broadband services to residential customers. Applicant plans on using the existing local exchange boundaries and established local calling scope of the incumbent local exchange carriers in South Dakota.

(9) 20:10:32:03(9) & 20:10:24:02(8). Geographic Area to be Served.

Applicant requests authorization to provide resold local exchange, resold interexchange and broadband telecommunications services to and from all points in the State of

South Dakota that are currently open, and that become open, to competition, and to provide interexchange telecommunications services statewide.

Initially, TAS intends to provide local exchange service in the areas served by CenturyLink (formerly Qwest) and does not plan to provide service in areas of any small or rural local exchange carriers. However, TAS seeks statewide authority so that it may expand into other service areas as market conditions warrant and as additional service areas become open to competition. TAS's exchanges will mirror those of the incumbent local exchange carrier (initially, only Qwest) in whose service territories TAS will provide service, therefore, Applicant has not included a map showing proposed service areas.

(10) 20:10:32:03(10) Technical Competence

a. 20:10:32:03(10)(a) Management Personnel

Applicant has the technical ability to provide the proposed services. Applicant will be managed and operated by capable, experienced executives and employees who possess extensive managerial, financial, and technical experience in the telecommunications industry. Resumes of the key personnel that will be managing Applicant are attached as **Exhibit C**. These individuals have both highly effective management skills and considerable telecommunications expertise. The biographies of these key executives are submitted as evidence that Applicant possesses the managerial qualifications required for the provision of telecommunications services on behalf of Applicant. Applicant will have the managerial and technical capability necessary to provide high quality services to customers in South Dakota. The officers and directors of Applicant are:

Officers and Directors:

Francis X. "Skip" Frantz - Chairman of the Board

Anthony W. Thomas - Chief Executive Officer
Jeffery W. Small - Senior Vice President – Corporate Development and Operations

All Officers and Directors may be contacted through the Applicant's offices at:

4001 N. Rodney Parham Rd.
Little Rock, AR 72212
Telephone: (501) 748- 4491

b. 20:10:32:03(10)(b) Customer Complaint and Maintenance.

The following toll-free number is available for end user consumer inquiries:

(855) 546-5000

The person responsible for customer service complaints is:

James "Jim" Severance
2134 W Laburnum Avenue
Richmond, VA 23227
(804) 422-4729
james.severance@windstream.com

(11) 20:10:32:03(11). Customer Access to 911, Operator Service, Interexchange Services Directory Assistance and Telecommunications Relay Service.

Applicant will comply with all applicable laws and regulations relevant to the provision of the proposed services.

(12) 20:10:32:03(12) & 20:10:24:02(9). Financial Qualifications.

Initially, Applicant will be funded by CSL through new debt to be issued in the public markets. With this financing, Applicant will be well-qualified financially to operate within the State of South Dakota. As a newly formed company, Applicant does not currently have historical financial statements. Therefore, Applicant submits under seal as **Exhibit D** confidential *pro forma* financial statements. Applicant requests that **Exhibit D** be afforded confidential treatment

as this exhibit contains financial information, which, if disclosed, would result in substantial harm to Applicant's competitive position. As shown in the information provided, Applicant is financially qualified to operate within South Dakota.

(13) 20:10:32:03(13). Interconnection.

Applicant intends to resell the services of the Windstream Companies, which in turn have interconnected with CenturyLink. To the extent the Applicant deploys its own facilities in the future, it will begin interconnection negotiations with CenturyLink.

(14) 20:10:32:03(14) & 20:10:24:02(16). Marketing.

Applicant intends to market its services to residential customers in the State of South Dakota through direct mail. In addition, TAS may also utilize sales agents to solicit customers by telephone or in person. TAS, however, has not yet developed brochures or other materials to be used in marketing its services in South Dakota. TAS does not plan to engage in multi-level marketing in South Dakota. TAS will comply with South Dakota law and the Federal Communications Commission's ("FCC") regulations governing changing a customer's primary carrier(s).

(15) 20:10:32:03(15). Rural Carrier Interconnection.

Applicant does not currently seek to offer service in the area of a rural telephone company.

(16) 20:10:32:03(16) & 20:10:24:02(15). Current Authority to Provide Service.

Applicant is not currently authorized to provide intrastate telecommunications services in any jurisdiction, but is in the process of obtaining authority to provide intrastate

telecommunications services in all of the contiguous United States and the District of Columbia. Applicant is not seeking authority to provide services in Alaska and Hawaii. TAS has not been denied requested certification in any jurisdiction, nor has any permit, license, or certificate been revoked.

(17) 20:10:32:03(17) & 20:10:24:02(10). Complaint Contact, Regulatory Contact, and Handling of Customer Service Matters.

Following the grant of this Application, the Commission should direct all correspondence directly to Applicant's regulatory and operations contact:

Jeffery W. Small
Senior Vice President - Corporate Development and Operations
Talk America Services, LLC
4001 N. Rodney Parham Rd.
Little Rock, AR 72212
Telephone (501) 748-5870
Facsimile: (330) 425-0881
jeffery.w.small@windstream.com

The person responsible for customer service matters and complaints is:

James "Jim" Severance
2134 W Laburnum Avenue
Richmond, VA 23227
(804) 422-4729
james.severance@windstream.com

In the event of a billing dispute, TAS will perform a review of the disputed billing amount and attempt to reach a settlement to the mutual satisfaction of both parties. Following a full investigation to determine whether or not the charges are improper, TAS may adjust the disputed bill.

(18) 20:10:32:03(18) & 20:10:24:02(11). Policies Regarding Customer Billing and Collection.

Customers will be billed directly by Applicant. Applicant will enter into a

Transitional Services Agreement with Windstream, whereby Windstream will provide certain back office services, including billing, to TAS. TAS will have resale agreements with Windstream before it commences providing local exchange, interexchange and broadband services to residential customers.

(19) 20:10:32:03(19) & 20:10:24:02(12). Policies Regarding Solicitation of New Customers

Applicant will comply with all applicable laws and regulations to prevent the unauthorized switching of local service customers by the Applicant, its employees or agents.

(20) 20:10:32:03(20) & 20:10:24:02(18). Slamming and Cramming Complaints.

As a newly formed Company, TAS has never had complaints filed against it with any state or federal commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered.

(21) 20:10:32:03(21) & 20:10:24:02(13). Availability of information on Current, Rates, Terms and Conditions of Services.

Applicant does not yet have a functional website on which to provide information on its current rates, terms and conditions for its local exchange and interexchange services, but will make this information available as soon as the website has been established and prior to offering services.

(22) 20:10:32:03(22) & 20:10:24:02(14). Notification of materially adverse changes.

Applicant will notify customers in writing, via mail, thirty days in advance of materially adverse changes to any rate, term, or condition of any telecommunications service being

provided to customer.

(23) 20:10:32:03(23) & 20:10:24:02(19). Written Request For Waiver.

Applicant requests a waiver of the local exchange map requirement, as Applicant seeks authority to provide service statewide, and its local calling areas will mirror those of the incumbent carriers.

(24) 20:10:32:03(24) & 20:10:24:02(17). Federal Tax Identification Number and South Dakota Sales Tax Number.

Applicant's federal tax identification number is 47-1233778. Applicant's South Dakota sales tax number is 1028-7462-ST.

(25) 20:10:32:03(25) & 20:10:24:02(20). Other information.

The granting of this Application will promote the public interest by allowing the previously described Transaction to be completed, thereby permitting the residential customers of the Windstream Companies to continue to receive their telecommunications services without interruption. Further, TAS's operations will be overseen by a well-qualified management team with substantial telecommunications experience and technical expertise. The entry of Applicant into the South Dakota telecommunications market will enhance competition in the provision of telecommunications services within the State of South Dakota. By enhancing competition, Applicant will bring significant benefits to telecommunications users within the State of South Dakota by providing: (a) lower-priced and better-quality service; (b) innovative telecommunications services; (c) efficient use of existing communications resources; and (d) increased diversification and reliability in the supply of communications services. Applicant's proposed intrastate services are designed to meet the telephone needs of subscribers and permit subscribers to realize cost savings in communications services. Accordingly, Applicant

anticipates that its proposed service will provide its subscribers with better quality services and will increase consumer choice through innovative, diversified, and reliable service and equipment offerings.

Applicant respectfully submits that grant of this Application will thereby serve the public interest by providing end users with a broader choice of competitively priced telecommunications services than currently exists.

III. CONCLUSION

The information contained in this Application and the exhibits hereto fully describe Applicant and its ability to provide residential subscribers in South Dakota with viable and economical telecommunications services.

Applicant's request to provide resold local exchange, resold interexchange and broadband telecommunications services within the State of South Dakota should be granted upon a showing by Applicant that it possesses the managerial qualifications, financial revenues, and technical competence to provide such services. Applicant has demonstrated above that it possesses these qualifications.

WHEREFORE, Talk America Services, LLC respectfully requests that the Commission enter an Order granting it a Certificate of Public Convenience and Necessity to provide all types of resold local exchange, resold interexchange and broadband telecommunications service as described in this Application, and granting such additional or further relief as may be necessary or appropriate.

Respectfully submitted,



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Dated: September 25, 2014