

**WINDSTREAM SERVICES, LLC**

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June 2, 2020

Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
Capitol Building, 1st Floor  
500 East Capitol Avenue  
Pierre, SD 57501-5070

**Re: Notification of the Reorganization of Windstream Holdings, Inc. and  
Windstream’s Anticipated Emergence from Bankruptcy**

Dear Ms. Van Gerpen:

Windstream Holdings, Inc. (“Windstream Holdings”), on behalf of its ten subsidiaries active in South Dakota (“Windstream Licensees”)<sup>1</sup> (collectively “Windstream”), hereby notifies the South Dakota Public Utilities Commission (“Commission”), of the planned intra-company and reorganization transactions necessary for Windstream to emerge from a bankruptcy proceeding commenced in February 2019 (the “Reorganization”). The Reorganization, which may include *pro forma* parent holding company corporate changes and/or internal asset transfers at the holding company level, will result in the creation of a reorganized Windstream parent structure (“New Windstream”) but no appreciable change in operations or customer service in South Dakota. Windstream files this notice for informational purposes and to the extent required by South Dakota Codified Laws Section 49-31-20.<sup>2</sup>

**I. BACKGROUND**

Windstream Holdings, the ultimate parent company of Windstream Services, LLC (“Windstream Services”) and the Windstream Licensees, is a Delaware corporation headquartered

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<sup>1</sup> Windstream’s ten subsidiaries that provide service in South Dakota are competitive local exchange providers and interexchange carriers Broadview Networks, Inc., McLeodUSA Telecommunications Services, LLC, Windstream KDL, LLC, Windstream New Edge, LLC, and Windstream NTI, LLC, and interexchange carriers Business Telecom, LLC, DeltaCom, LLC, PAETEC Communications, LLC, Windstream Communications, LLC, and Windstream Norlight, LLC.

<sup>2</sup> S.D.C.L. § 49-31-20 (Merger, consolidation, or transfer of stock or other ownership interests – Notification). As set forth herein, no person or entity will hold more than fifty percent of New Windstream’s equity as a result of the Reorganization, and formal notification pursuant to Section 49-31-20 accordingly may not be required. However, Windstream is providing this notification out of a surfeit of caution and so that the Commission can maintain the accuracy of its records.

at 4001 North Rodney Parham Road, Little Rock, Arkansas 72212, with stock traded in the “Over the Counter” market under the symbol “WINMQ.” Windstream, through its operating subsidiaries, is a leading provider of advanced network communications and technology solutions for enterprise organizations and carrier partners across the U.S. The company also provides data, cloud solutions, unified communications and managed services to business and enterprise clients. In South Dakota, Windstream’s regulated subsidiaries are the Windstream Licensees listed in note 1.

On February 25, 2019, Windstream commenced voluntary cases in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) under Chapter 11 of Title 11 of the United States Code. Windstream subsequently secured debtor-in-possession financing and negotiated extensively with various creditor constituencies. These negotiations and related bankruptcy proceedings led to a Plan of Reorganization (the “Plan”) that will both result in new equity interest holders and enable Windstream to achieve a deleveraged capital structure and sufficient liquidity to fund its post-emergence business plan.

No assignment of the licenses<sup>3</sup> or customers of the Windstream Licensees will occur in South Dakota as part of the Reorganization; the Reorganization will occur at the parent company level. Following consummation of the Reorganization, Windstream—one of the largest telecommunications and information service providers in the United States with 11,600 employees—will move forward with a stable capital structure, uninterrupted service to customers, and an increased capability to compete to bring advanced services to customers across the country.

## **II. DESCRIPTION OF THE TRANSACTION**

The transactions contemplated by the Plan, which are also subject to confirmation by the Bankruptcy Court and review and approval by the Federal Communications Commission (“FCC”), are expected to occur in two steps. The two-step process to be used in this bankruptcy emergence arises primarily because several Windstream Holdings affiliates hold certain FCC-issued licenses and federal authorizations that require the FCC to approve the acquisition of equity interests by foreign investors if they exceed certain thresholds.<sup>4</sup>

As is common in bankruptcy situations, the interests held by the stockholders of Windstream’s ultimate parent company, Windstream Holdings, will be canceled and the Company

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<sup>3</sup> On May 8, the Bankruptcy Court approved the negotiated agreement between Windstream and Uniti Group Inc. (“Uniti”). See Order Approving the Settlement Between the Debtors and Uniti, Case No. 19-22312 (Bank. S.D.N.Y. entered May 12, 2020), *appeal pending*. Part of this approved settlement permits Uniti to purchase certain fiber assets from Windstream’s subsidiaries and contemplates the Windstream Licensees retaining the right to use those portions of the fiber necessary for their operations. To the extent required, Windstream and Uniti will provide notice to the Commission of any sale of the fiber assets noted in the text to Uniti, which is only approximately 53 route miles in South Dakota.

<sup>4</sup> Windstream Holdings affiliates hold FCC common carrier wireless spectrum licenses and Section 214 authorizations. See generally 47 U.S.C. § 310; *In re Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Notice of Proposed Rulemaking, 31 FCC Rcd 7456, 7458 ¶ 6 (2016).

will be reorganized. The creditors who today hold the first lien debt of Windstream Services—the immediate subsidiary of Windstream Holdings—will, when the reorganization is complete, hold 100% of the equity<sup>5</sup> in the ultimate parent entity of the Windstream Licensees, New Windstream.<sup>6</sup>

A substantial majority of the post-emergence equity in New Windstream will be held by subsidiaries, affiliates, or affiliated entities of six investment companies that are first lien debtholders of Windstream Services' debt today (collectively with their subsidiaries, affiliates, and affiliated entities, the "First Lien Investors"): (1) Elliott Management Corporation, headquartered at 40 W. 57th Street, New York, New York 10019 ("Elliott"); (2) Pacific Investment Management Company LLC, headquartered at 650 Newport Center Drive, Newport Beach, California 92660 ("PIMCO"); (3) Oaktree Capital Group, headquartered at 333 S. Grand Avenue, 28th Floor, Los Angeles, California 90071 ("Oaktree"); (4) HBK Capital Management, headquartered at 2300 North Field Street, Suite 2200, Dallas, Texas 75201 ("HBK"); (5) Franklin Resources Inc. operating as Franklin Templeton, headquartered at One Franklin Parkway, Building 970, 1st Floor, San Mateo, California 94403 ("Franklin"); and (6) Brigade Capital Management, L.P., headquartered at 399 Park Avenue, Suite 1600, New York, NY 10022 ("Brigade").<sup>7</sup>

When Windstream emerges from bankruptcy, all of the First Lien Investors' individual and/or combined foreign ownership will be below the thresholds that require FCC review of foreign investments. Instead, the First Lien Investors will be issued warrants to obtain equity interests in the future (step one of the two-step process noted above). Then—after the company has emerged from bankruptcy—the entities assigned warrants in the first step will seek FCC approval to exercise those warrants, at which point the FCC will review the foreign ownership (step two of the two-step process noted above). This process permits the company to emerge from bankruptcy sooner by deferring the FCC's sometimes lengthy review of foreign ownership issues

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<sup>5</sup> The details of the terms on which the new equity interests will be issued are set out in the First Amended Plan of Reorganization, filed with the bankruptcy court on May 6, 2020. A plain-language description of what the Plan entails is provided in the associated Disclosure Statement. Copies of these documents are available at <http://www.kccllc.net/windstream/document/list/4837>.

<sup>6</sup> For the Commission's information, current and anticipated post-emergence Windstream corporate organizational charts are attached to this Notice as Exhibits A and B, respectively. The reorganization may involve *pro forma* changes to the holding company structure and/or internal asset transfers through which New Windstream will become the ultimate parent of Windstream Holdings' subsidiaries including the Windstream Licensees. The precise form of these arrangements is still under consideration, but any such changes will be at the holding company level and will not affect the form or organization of the Windstream Licensees.

<sup>7</sup> As part of the process of emergence from bankruptcy, certain Windstream Services creditors (other than the first lien debtholders noted above) will have the right to obtain equity in post-bankruptcy New Windstream. In addition, a small amount of equity may be allocated to other functions, such as a management incentive plan. As a result, the exact ownership percentages of the new owners of post-bankruptcy New Windstream will not be finalized until the company emerges from bankruptcy and the first step of the two-step process described in the text below is completed. It is anticipated that Elliott entities will temporarily hold 49.9% of the voting equity in New Windstream upon initial emergence from bankruptcy, and that Elliott entities will ultimately hold an estimated aggregate of 40.3% of the voting equity in New Windstream. The remaining First Lien investors controlled by the five other investment companies are expected to hold approximately 40.9% of the voting equity in New Windstream post-consummation, and as subject to the Backstop Commitment Agreement described in the Plan. Windstream will provide the Commission with a notice of consummation at the completion of each step of the process, along with ownership details available at that time.

until after emergence, and allowing FCC review of the first step to be limited to a transfer of ownership to domestic (or mostly domestic) owners. There is no reason to believe that the FCC will disapprove foreign investors' acquisition of equity interests in licensees, but approvals of such transactions can take much longer to complete than approvals that do not, and it is generally important—both economically and operationally—for an entity to emerge from bankruptcy as soon as practicable. In this way, the two-step process will allow Windstream to avoid the significant administrative cost of remaining in bankruptcy for an extended period of time.

### **III. PUBLIC INTEREST CONSIDERATIONS**

Although affirmative Commission approval for the Windstream Reorganization is not required, it is demonstrably in the public interest. The transaction will generate substantial benefits and result in no countervailing harms.

Primarily, the Reorganization will allow Windstream and its subsidiaries to emerge from bankruptcy with substantially less debt while providing compensation to their creditors. This will allow Windstream's customers to continue to enjoy uninterrupted access to telecommunications and information services from the same service providers at the same competitive rates and under the same terms and conditions as before. Any future changes will result from the normal course of business operations, as was the case prior to the Reorganization.

In addition, the Reorganization will not adversely affect market competition or customer choice in South Dakota (or elsewhere) because it will not result in a reduction of service providers. The Reorganization will not create any new combinations and is thus incapable of generating anticompetitive horizontal or vertical concentration. South Dakota customers will continue to have access to the same number of provider alternatives they have today. Moreover the transaction will not otherwise enable Windstream to engage in anticompetitive behavior. Indeed, the transaction will increase competition. It will allow for a much more stable and solvent Windstream with a stronger capital structure and better access to capital. Freed from the operational constraints of bankruptcy, Windstream will be better able to drive investment in faster services, enhanced customer service, and competitive offerings for customers in South Dakota and all over the United States. Among other things, bankruptcy emergence will allow New Windstream to grow its enterprise service capabilities and other competitive service offerings incorporating next generation technologies geared towards large business customers, and strengthen its ability to provide a competitive alternative to other providers' services.

Finally, because the Reorganization is structured as a change of ownership at the holding company level, the relevant transactions will not affect any of the operations or managerial or technical qualifications of Windstream or its subsidiaries. The Reorganization will also leave customer-facing operations such as ordering, service installation, customer service, and billing, undisrupted. Overall, the Reorganization will be transparent to Windstream's South Dakota customers.

#### **IV. CONTACTS**

Questions or any correspondence, orders, or other materials pertaining to this filing should be directed to the following:

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**V. CONCLUSION**

Windstream respectfully advises the Commission of its participation in the planned transactions described above. If there are any questions regarding this filing, please do not hesitate to contact the undersigned directly.

Respectfully submitted,

*/s/ Carol Keith*

Carol Keith  
Deputy General Counsel

**List of Exhibits**

**Exhibit A** Current Windstream Corporate Organizational Chart

**Exhibit B** Anticipated New Windstream Organizational Chart

**Verification**

**EXHIBIT A**

**Current Windstream Corporate Organizational Chart**



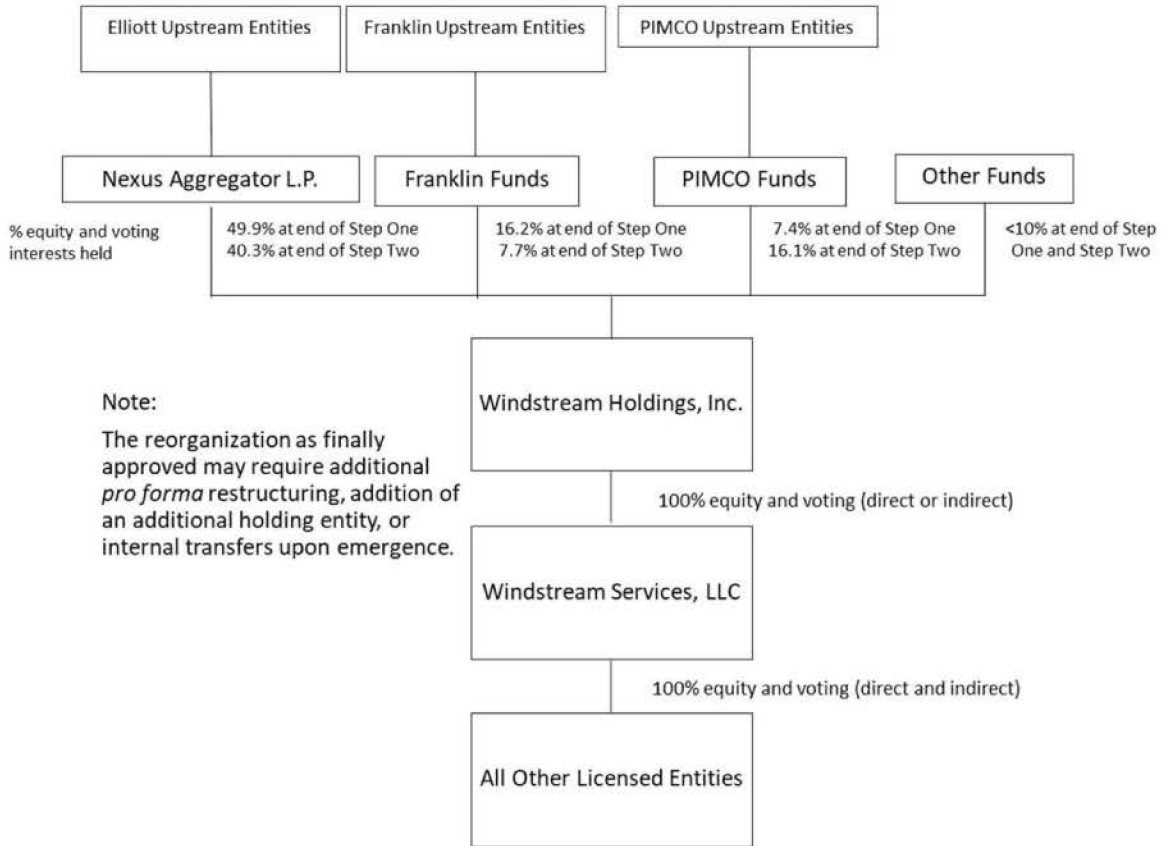


**EXHIBIT B**

**Anticipated New Windstream Organizational Chart**

**Windstream Post-Transaction Structure**

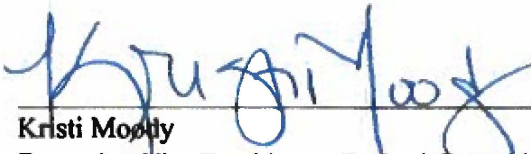
Shows Disclosable interests through Step One and Step Two as Described in the Application



STATE OF ARKANSAS        )  
  )  
COUNTY OF PULASKI

**VERIFICATION**

I, Kristi Moody, state that I am Executive Vice President, General Counsel and Secretary of Windstream Holdings, Inc. and its applicant subsidiaries (the "Windstream Licensees"); that I am authorized to make this Verification on behalf of Windstream Holdings, Inc. and the Windstream Licensees; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.

  
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Kristi Moody  
Executive Vice President - General Counsel and  
Corporate Secretary  
Windstream Holdings, Inc.

Sworn and subscribed before me this 21<sup>st</sup> day of June, 2020.

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

My commission expires: 10.19.28

M COLLEEN BLACK NOTARY PUBLIC PULASKI COUNTY, ARKANSAS COMM. EXP. 10/19/28 COMMISSION NO. 12706419
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