

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Windstream Communications, LLC for)
Designation as a Competitive Eligible)
Telecommunications Carrier for the)
Purpose of Rural Digital Opportunities)
Fund Support)
)

Case No. 21-0454-TP-UNC

**REVIEW AND RECOMMENDATION
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

On January 30, 2020, following the model of 2018’s Connect America Fund Phase II (CAF II) auction, the Federal Communications Commission (FCC) adopted a Report and Order in WC Docket Nos. 19-126 and 10-90 (R&O) that established the Rural Digital Opportunity Fund (RDOF).¹ Like the CAF II before it, the RDOF provides funding to connect unserved² rural homes and small businesses to high-speed broadband networks. The RDOF commits \$20.4 billion to be disbursed in two-phases over a ten-year period.³ Of the \$20.4 billion, \$16 billion was budgeted for Phase I with the remaining \$4.4 billion plus any unawarded Phase I funds budgeted for Phase II.⁴ To allocate the Phase I budgeted funds, the R&O established a multi-round, reverse descending clock auction

¹ *In the Matter of Rural Digital Opportunity Fund Connect America Fund*, WC Docket Nos. 10-126 and 10-90, Report and Order, 35 FCC Rcd 686 (2020) (RDOF Order).

² Unserved areas are those areas without broadband at speeds of 25 Mbps download and 3 Mbps upload, where no state or federal subsidy exists to provide broadband at this speed or better. See RDOF Order at para. 4.

³ RDOF Order at paras. 7-8.

⁴ *Id.* at para. 8.

that favors faster services with lower latency and encourages intermodal competition to ensure maximum deployment of the best networks at a competitive cost.⁵

The Phase I winning bidders were announced on December 7, 2020,⁶ and were required to submit a post-auction application for support to the FCC no later than January 29, 2021.⁷ To be eligible for RDOF support, each winning bidder must demonstrate by June 7, 2021, that it has received designation as a high-cost eligible telecommunications carrier in all areas that the winning bidder seeks to receive support.⁸ Winning bidders are permitted to assign some or all of their winning bids to related entities.⁹ In Ohio, there were 11 winning bidders covering 191,093 assigned locations that will receive \$170,038,205.10 in total support over the 10 year period.¹⁰

In accordance with 47 U.S.C. §214(e)(2), upon request and consistent with the public interest, convenience and necessity, the Public Utilities Commission of Ohio (PUCO) may designate a requesting carrier meeting the requirements of 47 U.S.C. 214, 47 C.F.R. 54.201(d) and 47 C.F.R. 54.202 as a competitive eligible telecommunications carrier (CETC). Ohio Adm. Code 4901:1-6-09 sets forth the Commission's rules for the designation of CETCs in Ohio.

Windstream Communications, LLC (WC) is an assignee of the winning bidder, Windstream Services LLC for the state of Ohio and, consistent with Ohio Adm. Code 4901:1-6-09(B)(2), submitted its application to be designated as a CETC on April 16, 2021. Windstream Services LLC was awarded 151 census blocks for a total of 857 locations in Ohio with a total ten-year support amount of \$1,504,808. Many of the locations were also assigned to its ILEC affiliates, Windstream Ohio, LLC and Windstream Western Reserve, LLC, which, by default, are already ETCs.

WC received certification in Ohio as an interexchange telecommunications provider under Case No. 05-1581-TP-ACE. Certificate No. 90-6346 was issued on June 27, 2006.

⁵ *Id.* at para. 5

⁶ FCC Public Notice DA 20-1422, (December 7, 2020). (Public Notice)

⁷ *Id.* at para. 2.

⁸ *Id.* at para. 36.

⁹ *Id.* at para. 9.

¹⁰ Public Notice, Attachment B. There may be more ETC applications than winning bidders as some winning bidders are consortiums made up of multiple entities to whom support may be assigned. These assignees in turn will file for ETC designation.

Of the 151 awarded census blocks, Windstream Services LLC assigned 56 to WC in counties of Ashtabula, Champaign, Cuyahoga, Geauga, Lake, Lucas, Mahoning, Miami, Portage, Summit, Trumbull, and Washington with a ten-year support total of \$13,025. As a CETC requirement by the FCC pursuant to 47 C.F.R. §54.101, WC submits it will provide voice-grade access to the public switched network, minutes of use for local service at no additional charge, access to emergency services including 911 and enhanced 911, and toll limitation for qualifying low-income customers. Specifically, WC will include unlimited minutes of use for local service in the US within its plans and offer quality of service guarantees which include unlimited usage, no data caps, no term commitments, and a 30-day money back guarantee.

As noted under 47 C.F.R. §54.201(d)(1), voice and broadband services will be provisioned using WC's own fiber-to-the-premise network architecture in conjunction with Windstream Services' all fiber network and switching network which supports over 2 million voice lines in 18 states. Voice grade access to the PSTN will be offered as a stand-alone telephony service provisioned through a fiber-based VoIP service interconnected to the PSTN. WC will offer fiber-based broadband Internet access service in which end-user connections are routed to a local or regional exchange whereby WC interconnects through an Internet exchange point carrying traffic to all or mostly all Internet end points. In the RDOF, WC was awarded funding in the 1Gig tier for broadband and will also offer the service in the 50Mbps, 100Mbps, 200Mbps, and 500Mbps speed tier ranges.

In the RDOF census blocks assigned to WC, it has not yet determined the exact plans and pricing but will offer at least one digital voice service plan and a service plan providing high speed broadband to be priced at or below the urban rate floor. All voice plans will feature Call Forwarding, Call Waiting, Caller ID, 3-Way Calling, Spam Call Alert, Selective Call Rejection and Acceptance, Voicemail, Voicemail to Email, Visual Voicemail, and Speed Dialing.

Further, WC states it will offer voice and broadband service plans to qualifying Lifeline subscribers with the standard \$5.25 monthly discount applied to voice only services and the \$9.25 monthly discount applied to broadband services. As required under 47 C.F.R. §54.201(d)(2), WC commits to advertising the Lifeline services and eligibility requirements using media of general distribution such as direct mail, email, and targeted online electronic advertising. WC expresses it will also utilize local and community outreach events to reach potential Lifeline subscribers. WC has not yet drafted its own

advertising materials but will employ similar advertising already in use by its two Ohio ILEC affiliates.

For its public interest statement pursuant to 47 C.F.R. §54.202(b), WC attests that granting of its ETC designation will bring the benefits of added voice and high-speed broadband by allowing it to use federal funding to deploy in unserved areas. In addition, WC suggests that the availability of these services will positively impact the area by enabling consumers access to new opportunities in healthcare, education, civic engagement, personal connection, and business.

Pursuant to 47 C.F.R. §54.202(a)(1)(i) and (a)(2), WC certifies it will comply with the service requirements applicable to the support it will receive from the RDOF and that it will remain functional without an external power source in emergency situations by providing sufficient back-up power. WC confirms it monitors its networks with sophisticated equipment capable of detecting disruptions caused by emergency situations which allow it to respond quickly. Moreover, WC declares it is capable of re-routing traffic around damaged facilities and can manage traffic spikes caused by emergency situations.

Under 47 C.F.R. §54.202(a)(1)(ii) the carrier requesting ETC designation must submit a five-year plan describing its deployment schedule. For the RDOF, the FCC waived this requirement and Ohio is following the same directive by issuing a blanket waiver on May 5, 2021, for all RDOF CETC applicants through Case No. 18-1491-TP-UNC. Thus, WC did not submit a request for waiver of the five-year plan but has noted in its application the FCC waiver.

WC's initial application was deficient in providing all the documentation required by Ohio Adm. Code 4901:1-6-09. After discussion with staff and receipt of data requests, WC submitted all necessary documentation and exhibits on May 19, 2021 satisfying staff's review.

Staff reviewed all documents and exhibits filed on April 16, and May 19, 2021. From its review, staff finds that the application meets all the requirements set forth in the rule stated above. Therefore, staff recommends that Windstream Communications, LLC be designated as a CETC in the service area identified as the census block locations it was assigned through the 2020 FCC RDOF auction.

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Summary: Staff Review and Recommendation electronically filed by Mrs. Tanika Hawkins on behalf of PUCO Staff