

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)
)
) DOCKET NO. 14-2236-02
)
Windstream Holdings, Inc.,) ORDER APPROVING TRANSFER OF
McLeodUSA Telecommunications Services,) CUSTOMERS
LLC,)
PAETEC Communications, Inc.,)
Windstream Communications, Inc.,)
Windstream NTI, Inc.,)
Windstream NuVox, Inc.,)
and Talk America Services, LLC)
)
for the Approval of the Transfer of Customers)
to Talk America Services, LLC)
)

ISSUED: November 26, 2014

This matter is before the Commission on the application of Windstream Holdings, Inc. et al. (Windstream) for approval of the transfer of Windstream’s customers to Talk America Services, LLC (Talk America). Applicants filed for Commission approval on September 24, 2014. The application contains all the information required by Utah Admin. Code R746-349-7(A)(1).

The Commission issued a notice of application and notice of hearing on September 30, 2014, allowing for the submission of comments by any interested party regarding the application. No comments or objections were received.

On October 24, 2014, in response to a Commission action request, the Division of Public Utilities (Division) submitted a recommendation to approve the application. The Division’s memo states: “The Division . . . has reviewed the application between Windstream . . . and Talk America . . . and believes that the [transfer of customers is in] the public interest[.]”¹

¹ Division Memo at 1, filed October 24, 2014.

On November 18, 2014, the Administrative Law Judge (ALJ) for the Commission held a hearing. William J. Evans appeared on behalf of the Applicants and was joined, telephonically, by Cesar Caballero, senior regulatory counsel for Windstream. Justin Jetter, assistant Utah attorney general, appeared for the Division, and was accompanied by Ron Slusher, utility technical consultant.

The ALJ accepted into evidence the application and the recommendation filed by the Division recommending approval. Mr. Caballero testified on behalf of Windstream and offered the following summary of why the transaction is in the public interest:

. . . [T]he transfer of Windstream's residential customers will not have any impact on the current Windstream CLEC service obligations or tariffs as it relates to business customers. Windstream will continue to be the carrier of record for those customers, and we will continue to comply with all our regulatory requirements.

As it relates to the residential customers, the terms of service and rates will remain unchanged as a result of the transaction and as a result of the transfer. Any future rate changes will continue to be subject to the same rules and procedures as they are now. The transaction is meant to increase efficiencies, encourage innovation, and reduce cost of providing service to Utah's residential customers.

The transfer of customers from the Windstream entities to Talk America will allow those customers to take advantage of those efficiencies while they continue to receive the same high-quality telecommunication services without interruption. In the end, the transfer is in the public interest because Talk America will be in that position to provide residential customers with better-quality services at the competitive prices.

Mr. Slusher testified on behalf of the Division in support of the application. Mr. Slusher further testified that approval of the application is in the public interest. Id. at 11:2. No one appeared at the hearing objecting to the application.

Under Utah Admin. Code R746-349-7, “[i]f no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and use the information contained in the application and accompanying documents as evidence to support a Commission order.” Utah Admin. Code R746-349-7(A)(3). Because there is no objection to the granting of the application, the Commission presumes the application for approval of the transfer of customers and certain assets is in the public interest. Moreover, the Division’s memoranda and testimony provide additional support for approval of the application.

ORDER

For the foregoing reasons, the Commission approves the transfer of Windstream’s customers to Talk America Services, LLC.

DATED at Salt Lake City, Utah, this 26th day of November, 2014.

/s/ Melanie A. Reif
Administrative Law Judge

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Approved and confirmed this 26th day of November, 2014, as the Order Approving Transfer of Customers and Certain Assets issued by the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#262212

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 26th day of November, 2014, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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