

William J. Evans (5276)
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
Tel: (801) 532-1234
Fax: (801) 536-6111
bevans@parsonsbehle.com

Counsel for Applicants

**BEFORE THE
PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the Joint Application of

**EarthLink Business, LLC,
EarthLink Holdings Corp.**

and

Windstream Holdings, Inc.

for Approval to Transfer Control of Author-
ized Telecommunications Providers

JOINT APPLICATION FOR APPROVAL
OF
TRANSFERS OF CONTROL

Docket No. _____

JOINT APPLICATION FOR APPROVAL OF TRANSFERS OF CONTROL

EarthLink Business, LLC (“EarthLink Business”), EarthLink Holdings Corp. (“EarthLink Parent”), and Windstream Holdings, Inc. (“Windstream Parent”), (collectively, the “Applicants”), through their undersigned counsel, submit this Application pursuant to Utah Code Ann. §§ 54-4-28 and 54-4-29 and the rules of the Public Service Commission of Utah, including R746-349-7. Applicants request Commission approval to complete a transaction between EarthLink Parent and Windstream Parent through which Windstream Parent will acquire indirect control of EarthLink Business.

In support of this Application, Applicants provide the following information:

I. DESCRIPTION OF THE APPLICANTS

A. Windstream Companies

Windstream Parent is a Delaware corporation headquartered at 4001 Rodney Parham Road, Little Rock, Arkansas 72212, 501-748-7000. It is a publicly traded (NASDAQ: WIN) Fortune 500 leading provider of advanced network communications and technology solutions for consumers, businesses, enterprise organizations and wholesale customers. Windstream Parent functions as a holding company and does not provide telecommunications services or hold any telecommunications licenses in its own right. Through its wholly owned subsidiary, Windstream Services, a Delaware limited liability company with addresses at the same location as Windstream Parent, it owns and operates a number of licensed telecommunications providers in all states and the District of Columbia, except Alaska, many of which also hold authority from the Federal Communications Commission (“FCC”) to provide domestic interstate and international telecommunications services. In Utah, Windstream’s regulated subsidiaries hold the following authorizations:

1. McLeodUSA Telecommunications Services, LLC is authorized to provide local exchange and interexchange telecommunications services pursuant to authority issued in Docket No. 98-2249-01 on May 19, 1998.
2. PAETEC Communications, LLC is authorized to provide local exchange and interexchange telecommunications services pursuant to authority issued in Docket No. 04-2441-01 on March 30, 2005.
3. Windstream Communications, LLC is authorized to provide interexchange telecommunications services pursuant to notice dated December 23, 2005.
4. Windstream NTI, LLC is authorized to provide interexchange telecommunications services pursuant to notice dated November 3, 1995.
5. Windstream NuVox, LLC is authorized to provide local exchange telecommunications services pursuant to authority issued in Docket No. 11-2538-01 on March 29, 2011.

Windstream's combined operations currently have approximately 2.1 million access lines and approximately \$5.7 billion in annual revenues nationwide as of the year end FY2015.¹ Additional information regarding Windstream, including its most recent SEC Forms 10-K and 10-Q, as filed with the Securities and Exchange Commission, is available at <http://investor.windstream.com/investors/index.cfm>.

B. EarthLink Companies

EarthLink Holdings Corp. is a publicly traded Delaware corporation (NASDAQ: ELNK) with principal offices located at 1170 Peachtree Street, Suite 900, Atlanta, GA 30309, 404-815-0770. EarthLink Parent functions as a holding company and does not provide telecommunications services or hold any telecommunications licenses in its own right. It owns and operates a number of telecommunications providers in all states and the District of Columbia, many of which also hold authority from the FCC to provide domestic interstate and international telecommunications services. EarthLink Parent together with its subsidiaries (collectively, "EarthLink"), provides a broad range of data, voice and managed network services to business customers in the United States. EarthLink also provides nationwide Internet access and related value-added services to residential customers. EarthLink operates an extensive network including more than 29,000 route fiber miles and 90 metro fiber rings. Through its owned and leased facilities, EarthLink's data and voice IP services can reach more than 90 percent of the United States. In Utah, EarthLink Business, LLC, a Delaware limited liability company, is authorized to provide local exchange and interexchange services pursuant to authority granted by the Commission in Docket No. 99-2287-01, as amended to reflect its conversion and name change in Docket No. 12-2287-01. In addition,

¹ Windstream's most recent 10-Q quarterly financial report (for the quarter ended September 30, 2016) is available at: <http://files.shareholder.com/downloads/ABEA-43PVYW/2663146252x0xS1282266-16-102/1282266/filing.pdf>.

the following subsidiaries of EarthLink Business (collectively with EarthLink Business, the “EarthLink Licensees”) are authorized to provide long distance services pursuant to a Registration:

1. DeltaCom, LLC (“DeltaCom”), an Alabama limited liability company;
2. Business Telecom, LLC (“BT”), a North Carolina limited liability company; and
3. CTC Communications Corp. (“CTC”), a Massachusetts corporation.

Additional information regarding EarthLink, including its most recent SEC Forms 10-K and 10-Q, as filed with the Securities and Exchange Commission, is available at <http://www.earthlink.net/about/investor/>.

II. DESIGNATED CONTACTS

Questions, correspondence or other communications concerning this Application should be directed to:

William J. Evans
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
Tel: (801) 532-1234
Fax: (801) 536-6111
bevans@parsonsbehle.com

With a copy to:

Russell M. Blau
Ronald W. Del Sesto, Jr.
Jeffrey R. Strenkowski
Brett P. Ferenchak
Morgan, Lewis & Bockius LLP
2020 K Street, N.W.
Washington, DC 20006-1806
Tel: (202) 373-6000
Fax: (202) 373-6001
russell.blau@morganlewis.com
ronald.delsesto@morganlewis.com
jeffrey.strenkowski@morganlewis.com
brett.ferenchak@morganlewis.com

and:

Cesar Caballero
Windstream Communications
4001 Rodney Parham Rd.
Mailstop: 1170-B1F03-53A
Little Rock, AR 72212
501-748-7142 (Tel)
501-748-7996 (Fax)
cesar.caballero@windstream.com

and:

Samuel R. DeSimone, Jr.
EVP, General Counsel
EarthLink
1170 Peachtree St.
Atlanta, GA 30309
sam.desimone@elink.com

III. DESCRIPTION OF THE TRANSACTION

On November 5, 2016, Windstream Parent, EarthLink Parent, Europa Merger Sub, Inc. (“Merger Sub 1”), a Delaware corporation and an indirect, wholly-owned subsidiary of Windstream Services, LLC,² and Europa Merger Sub, LLC (“Merger Sub 2”), a Delaware limited liability company and an indirect, wholly-owned subsidiary of Windstream Services, LLC, entered into an Agreement and Plan of Merger (the “Merger Agreement”) pursuant to which, among other things, (i) Merger Sub 1 will be merged with and into EarthLink Parent (the “Initial Merger”) with EarthLink Parent continuing as the surviving corporation (the “Surviving Corporation”) and (ii) immediately following the Initial Merger, the Surviving Corporation will be merged with and into Merger Sub 2 (the “Subsequent Merger” and, together with the Initial Merger, the “EarthLink Transaction”), with Merger Sub 2 continuing as the surviving company known as EarthLink Holdings, LLC (the “Surviving Company”) and an indirect, wholly-owned subsidiary of Windstream Parent, in each case subject to the terms and conditions of the Merger Agreement. As part of the EarthLink Transaction, EarthLink Parent stock will be exchanged for Windstream Parent stock.

² Windstream Services does not provide telecommunications services in its own right, but rather is a holding company within the Windstream group of companies.

As a result of the EarthLink Transaction, Windstream Parent will be the new ultimate parent company of the EarthLink Licensees.³

This change in ultimate control does not involve a transfer of operating authority, assets or customers, and the EarthLink Transaction is expected to be virtually transparent and seamless to end user customers. The current customers of the EarthLink Licensees will remain customers of those entities following the EarthLink Transaction. Accordingly, customers will continue to enjoy the same rates, terms and conditions of service as they do prior to closing.⁴ Immediately following consummation of the EarthLink Transaction, the EarthLink Licensees will continue to offer the same services, rates, terms and conditions pursuant to their existing authorizations, and the only material change resulting from the EarthLink Transaction will be that these certificated entities ultimately will be indirectly owned by Windstream Parent, and subsequently may change their names to reflect the “Windstream” brand in their names.

Diagrams demonstrating the Transaction are appended hereto as **Exhibit A**.

IV. INFORMATION REQUIRED BY R746-349-7

Pursuant to R746-349-7, Applicants provide the following information:

a. identification that it is not an ILEC,

Applicants confirm that none of the Applicants or their affiliates operate as an ILEC in Utah.

b. identification that it seeks approval of the Application pursuant to this rule,

³ Additionally, and only as part of the EarthLink Transaction, EarthLink Business may transfer its equity interests in the other EarthLink Licensees (currently subsidiaries of EarthLink Business) to a to-be-formed subsidiary company. This change would constitute a pro forma transfer of control of BT, CTC and DeltaCom. The Applicants believe that adding an intermediate holding company could provide the companies more flexibility with respect to future credit arrangements with their lenders. Applicants will notify the Commission of the final structure, including the identity and corporate form of the subsidiary company, with their consummation notice following closing of the EarthLink Transaction.

⁴ Any subsequent changes made through the ordinary course of business will be made pursuant to applicable regulatory approval, tariffing, or similar processes.

Applicants confirm that they seek approval of the Application pursuant to the informal adjudication process set forth in this rule.

c. a reasonably detailed description of the transaction for which approval is sought,

A reasonably detailed description of the transaction is provided in Section III, above.

d. a copy of any filings required by the Federal Communications Commission or any other state utility regulatory agency in connection with the transaction, and

Applicants will file a Domestic and International Section 214 Application with the FCC. A copy of the Domestic Section 214 Application will be provided to the Utah Commission upon filing with the FCC. In connection with this transaction, Applicants also expect to request approval from the utility regulatory agencies (“PUCs”) in the following jurisdictions: Alaska, California, Colorado, Delaware, the District of Columbia, Georgia, Indiana, Hawaii, Louisiana, Maryland, Minnesota, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Texas, Virginia and West Virginia. Due to the voluminous nature of the state filings, most of which contain the same information, Applicants have only attached as Exhibit B a copy of the New York filing requesting approval. Applicants will also provide notice to the PUCs in the following jurisdictions: Connecticut, Idaho, Kentucky, Massachusetts, Montana, Nevada, New Mexico, North Carolina, Rhode Island, South Dakota, and Washington. Due to the voluminous and repetitive nature of the notices to be sent to the PUCs, Applicants have not included copies of the notice filings. Applicants will provide any additional filings or notices at the request of the Commission or the parties to this docket.

e. copies of any notices, correspondence or orders from any federal agency or any other state utility regulatory agency reviewing the transaction which is the subject of the Application.

Applicants have not yet received any notices, correspondence or orders from any federal agency or PUC reviewing the transaction. To the extent requested by the Commission, Applicants will forward any orders or similar actions granting or denying the request for transfer of control.

V. PUBLIC INTEREST CONSIDERATIONS

Commission approval of the Transaction clearly will serve the public interest. The telecommunications industry has been and continues to be subject to rapid technological advances, evolving consumer preferences and dynamic changes. The creation of Windstream in 2006 established an independent, stand-alone, wireline-centric corporation that serves the public interest by focusing squarely on enhancing local broadband services primarily in rural areas. Since its creation, Windstream has expanded its product offering to include IP-based voice and data services, MPLS networking and wave services to enterprise and government agencies. Combining the EarthLink Licensees with Windstream will enable the existing certificated entities to continue to offer and expand a broad range of high quality services to enterprise customers. Windstream will help ensure and improve the continuation of the EarthLink Licensees' ability to deploy and maintain innovative and advanced telecommunications offerings, benefiting Utah consumers and serving the public interest, convenience and necessity.

The efficiencies and economies of scale resulting from the Transaction will improve the combined enterprise's economic position and, thus, its ability to continue to attract financing to invest in and offer new and innovative services. Enabling small and medium-sized carriers to achieve such efficiencies is beneficial since economically stable competitors enhance competition which serves the public interest. The Transaction also will provide each of the Applicants access to the others' advanced network capabilities, technical and financial strengths, and complementary services, which together are expected to strengthen Applicants' ability to provide high quality competitive services in the State of Utah. The combined enterprise will have greater economies of scale and scope than the EarthLink Parent subsidiaries would have had operating independently.

The Transaction generally will be transparent to customers and, at the time of the transfer of EarthLink Parent, customers will not experience any immediate changes in services, or rates,

terms and conditions of such service. The EarthLink Licensees' existing price lists will not be affected by the Transaction and will remain in effect (subject to change in the ordinary course of business). Any future changes in rates, terms and conditions of service will be made in accordance with applicable Commission requirements, and any future consolidation of the operations into or with other Windstream processes, such that customers would see a change in their service, would be undertaken pursuant to applicable rules and notice requirements.⁵

Given the increasingly competitive nature of the communications market, Applicants are seeking to complete the Transaction as soon as possible in order to ensure that customers and Applicants promptly realize the benefits of operating as a combined entity. This Transaction will enhance competition because it will strengthen the EarthLink and Windstream certificated entities. Applicants emphasize that the Transaction will not have any negative impact on current Windstream customers or customers of the EarthLink Licensees.

VI. CONCLUSION

For the foregoing reasons, Applicants submit that the public interest, convenience, and necessity would be furthered by the Transaction described above, and respectfully request that the Commission grant the relief requested in this Application. In order to consummate the Transaction

⁵ The contemplated transfer of control does not raise any slamming concerns or necessitate compliance with FCC or state procedures to notify customers prior to a carrier-to-carrier sale or transfer of subscribers as it does not involve a change in any customer's existing service provider. Customers will remain with their current telecommunications service provider and will continue to be served under its existing authorization. Accordingly, there are no changes in customers' preferred carrier, and no further filings or authorizations are required under the FCC's carrier selection rules (47 C.F.R. §64.1120) or under similar state rules.

in time to meet critical business objectives, Applicants request that the Commission set this matter for hearing at the earliest possible date.

Respectfully submitted,

/s/ William J. Evans
William J. Evans (5276)
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
Tel: (801) 532-1234
Fax: (801) 536-6111
bevans@parsonsbehle.com

Counsel for Applicants

Dated: November 16, 2016

LIST OF EXHIBITS

EXHIBIT A Diagrams of the Pre- and Post-Transactions Corporate Organization Structures

EXHIBIT B New York Application

VERIFICATIONS