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December 20, 2016

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
Harrisburg, PA 17105-3265

In re: Dockets Nos. P-2012-2327799, P-2012-2327798, P-2012-2327787, P-2012-2327792, P-2012-2327797 and P-2012-2327812
Petitions of Windstream Communications, Inc., Windstream D&E Systems, Inc., PAETEC Communications, Inc., US LEC of Pennsylvania, Inc., d/b/a PAETEC Business Services, Talk America, Inc., d/b/a Cavalier Telephone and Cavalier Business Communications and Intellifiber Networks, Inc.

Dear Secretary Chiavetta:

We are counsel to Windstream Communications, Inc., Windstream D&E Systems, Inc., PAETEC Communications, Inc., US LEC of Pennsylvania, Inc., d/b/a PAETEC Business Services, Talk America, Inc., d/b/a Cavalier Telephone and Cavalier Business Communications and Intellifiber Networks, Inc. and are submitting, with this letter, their Petition to Extend a Waiver of 52 Pa. Code Sections 53.58 and 53.59 approved by the Public Utility Commission in its Order entered December 5, 2012. Please contact me if anything further is required in regard to this matter.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

cc: Certificate of Service (w/encl.)
Cesar Caballero, Esq. (via email, w/encl.)
Jeanne S. Shearer (via email, w/encl.)

161220-Chiavetta (Petition to Extend).wpd

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Windstream Communications, Inc. for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 To Permit Detariffing Services to Enterprise and Large Business Customers P-2012-2327799

Petition of Windstream D&E Systems¹, Inc. for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers P-2012-2327798

Petition of PAETEC Communications, Inc. for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers P-2012-2327787

Petition of US LEC of Pennsylvania, Inc. d/b/a PAETEC Business Services for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers P-2012-2327792

Petition of Talk America, Inc. d/b/a Cavalier Telephone for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers P-2012-2327797

Petition of Cavalier Business Communications and Intellifiber Networks, Inc. for a Waiver of the Commission's Regulations at 52 Pa. Code §§ 53.58 and 53.59 to Permit Detariffing of Services to Enterprise and Large Business Customers P-2012-2327812

¹ The Public Utility Commission mistakenly used Windstream D&E, Inc. in the docket reference but correctly identified Windstream D&E Systems, Inc. as the Petitioner in the body of the Order. By way of clarification the party to this Petition is Windstream D&E Systems, Inc.

PETITION FOR EXTENSION OF WAIVER

Pursuant to 66 Pa. C.S. § 501 and 52 Pa. Code § 5.4., Windstream Communications, Inc., Windstream D&E Systems, Inc., PAETEC Communications, Inc., USLEC of Pennsylvania, Inc., Talk America, LLC (f/k/a Talk America, Inc.), Cavalier Business Communications and Intellifiber Networks, Inc. (collectively “Windstream CLECs”) respectfully request that the Pennsylvania Public Utility Commission (“Commission”) extend a waiver granted by Order on December 5, 2012 in the above captioned proceedings. In support of this petition, the Windstream CLECs state as follows:

1. The names and addresses of Petitioners are:

Windstream Communications, Inc.
Windstream D&E Systems, Inc.
PAETEC Communications, Inc.
US LEC of Pennsylvania, Inc.
Talk America, LLC
Cavalier Business Communications
Intellifiber Networks, Inc.

4001 North Rodney Parham Rd.
Little Rock, Arkansas 72212

2. The names and addresses of Petitioners’ attorneys are:

Cesar Caballero
4001 North Rodney Parham Rd.
Little Rock, AR 72212
(501) 748-7142
cesar.caballero@windstream.com

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3. The Windstream CLECs are competitive local exchange carriers providing alternative competitive choices to enterprise customers in the service territories served by various incumbent local exchange carriers (“ILECs”), including Verizon Pennsylvania, LLC, Verizon North, LLC and the United Telephone of Pennsylvania, LLC d/b/a CenturyLink.

4. By Order entered December 5, 2012, the Commission permitted the Windstream CLECs to detariff certain services offered to enterprise and large business customers provided that the Windstream CLECs maintain informational tariffs for their terms, conditions and rates on their websites. In addition, the Commission permitted the Windstream CLECs to provide the rates and terms for basic dial tone services offered to enterprise and large business customers on their publicly available websites for a trial period of four years.

5. In accordance with the December 5, 2012 waiver, the Windstream CLECs have been providing telecommunications services to enterprise and large business customers on a detariffed basis. Enterprise and large business customers are engaged in multistate operations and are sophisticated consumers of telecommunications services and benefit from uniform terms and conditions offered on a detariffed basis, regardless of the location or the services provided.

6. The Windstream CLECs are not aware of any concerns or problems raised by their enterprise or large business customers. The Windstream CLECs have detariffed services to enterprise and large business customers in other states and, as a result, these customers are accustomed to dealing with the Windstream CLECs on a detariffed basis. Accordingly, extending the waiver on a permanent basis is in the public interest, as the Commission found in the December 5, 2012 order.

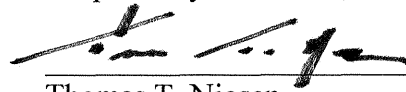
7. Specifically, in the 2012 order, the Commission recognized that, in a competitive environment, service provided to this class of customers warrants a lesser degree of regulatory oversight. The same holds true today. Enterprise and large business customers are benefitting from uniform terms and conditions regardless of geographic location. Requiring the Windstream CLECs to change course now and begin offering their products on a tariffed basis would be administratively burdensome and confusing to customers. In addition, other carriers such as

Verizon Access and AT&T serve enterprise customers on a detariffed basis and not granting this request would place the Windstream CLECs at a competitive disadvantage.

8. The Windstream CLECs therefore request that the Commission extend the waiver granted in the December 5, 2012 Order. As requested by Verizon Access in a similar waiver petition, the Windstream CLECs request that the waiver be extended until such time as the Commission can conduct a rulemaking to determine whether 52 Pa. Code §§ 53.58 and 53.59 should be modified to incorporate the terms of the request of this waiver on a permanent basis.

WHEREFORE, the Windstream CLECs respectfully request that the Pennsylvania Public Utility Commission extend the detariffing of certain services and its waiver of any tariff requirements for basic dial tone service to enterprise and large business customers as set forth in this Petition until the Commission can conduct a rulemaking to determine whether 52 Pa. Code §§ 53.58 and 53.59 should be modified to incorporate the terms of this waiver as permanent regulatory changes and for all other proper relief.

Respectfully submitted,



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Attorneys for the Windstream CLECs

December 20, 2016

VERIFICATION

I, **Jeanne S. Shearer**, Vice President – State Government Affairs, of Windstream Services, LLC, hereby state that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).



Jeanne S. Shearer
Jeanne S. Shearer
Vice President – State Government Affairs

Dated: December 20, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Windstream Communications, Inc. for a Waiver of the Commissions Regulations at 52 Pa. Code §§ 53.58 and 53.59 To Permit Detariffing Services to Enterprise and Large Business Customers	P-2012-2327799
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CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of December, 2016, served a true and correct copy of the foregoing Petition for Extension of Waiver upon the persons and in the manner set forth below:

Via First Class Mail, Postage Prepaid

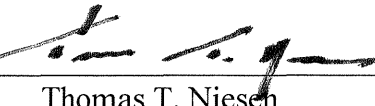
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg PA 17101-1923

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, PA 17105-3265

Office of Small Business Advocate
300 North 2nd Street, Suite 202
Commerce Building
Harrisburg, PA 17101

Brian Mahla
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services
Post Office Box 3265
Harrisburg, PA 17105-3265

By: _____


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