

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
WINDSTREAM HOLDINGS II, LLC; NEW)	
WINDSTREAM, LLC; WINDSTREAM KENTUCKY)	CASE NO.
EAST, LLC; AND WINDSTREAM KENTUCKY)	2024-00182
WEST, LLC FOR APPROVAL OF AN INTERNAL)	
REORGANIZATION)	

ORDER

On June 14, 2024, Windstream Holdings II, LLC, (Windstream Holdings), with its subsidiaries Windstream Kentucky East, LLC and Windstream Kentucky West, LLC. (collectively, Windstream Licensees), and New Windstream, LLC (New Windstream), a Delaware limited liability company (together with Windstream Holdings and the Windstream Licensees, the Applicants)¹, (collectively, Joint Applicants), submitted a joint application requesting Commission approval of an internal *pro forma* reorganization that will result in New Windstream becoming the ultimate parent of the Windstream Licensees pursuant to KRS 278.020(6).

¹⁴ This filing also serves as notice of a *pro forma* transfer of control for the following non-ILEC Windstream subsidiaries holding authorizations from the Commission: Broadview Networks, Inc.; Business Telecom, LLC; DeltaCom, LLC; McLeodUSA Telecommunications Services, LLC; Network Telephone, LLC; PAETEC Communications, LLC; Talk America, LLC; The Other Phone Company, LLC; US LEC of Tennessee, LLC; Windstream Communications, LLC; Windstream FiberNet, LLC; Windstream KDL, LLC; Windstream New Edge, LLC Windstream Norlight, LLC; and Windstream NuVox, LLC. See Admin. Case No. 370, *Exemptions for Providers of Local Exchange Service Other Than Incumbent Local Exchange Carriers*, (Ky. PSC Jan. 8, 1998).

PARTIES TO THE REORGANIZATION

Windstream Holdings is a Delaware limited liability company organized on July 30, 2020, headquartered at 4005 North Rodney Parham Road, Little Rock, AR 72212. Windstream Holdings is a holding company and not a utility as the term is defined in KRS 278.010(3).² Windstream Holdings, through operating subsidiaries, provides fiber-based broadband to residential and small business customers in 18 states, manages cloud communications, networking and security services for mid-to-large enterprises and government entities across the United States, and customizes wavelength and dark fiber solutions for carriers, content providers, and hyperscalers in the United States.³

Windstream Licensees offer services in all 50 states and the District of Columbia. In Kentucky, the Windstream Licensees hold the following incumbent local exchange carrier (ILEC) authorizations: Kentucky East, LLC, a Delaware limited liability company organized on October 31, 2007, authorized to provide incumbent local exchange services pursuant to Utility ID 5022700; and Windstream Kentucky West, LLC, a Kentucky limited liability company organized on October 31, 2007, authorized to provide incumbent local exchange services pursuant to Utility ID 11000.⁴

New Windstream formed on April 19, 2024, and a wholly owned subsidiary of Windstream Holdings. Because New Windstream will be a holding company, it does not

² Application (filed June 14, 2024) at 3, section II (A) (1).

³ Application at 3, section II (A) (1).

⁴ Application at 4-5, section II (A) (2).

operate as a utility or directly transact business in the Commonwealth and therefore, is not required to hold authorization to transact business in Kentucky.⁵

OVERVIEW OF THE REORGANIZATION

Windstream Holdings is currently the immediate parent of New Windstream. It will form several new subsidiaries under New Windstream, including New Windstream Holdings II, LLC, which will be an indirect subsidiary of New Windstream, LLC. Windstream Holdings will then merge into New Windstream Holdings II, LLC, with New Windstream Holdings II, LLC surviving. As New Windstream will be the ultimate parent of New Windstream Holdings II, LLC, New Windstream will become the ultimate parent of Windstream Holdings' Licensed Subsidiaries.⁶ New Windstream will operate pursuant to the same limited liability company agreement as Windstream Holdings does today, and will have the identical ownership as Windstream Holdings immediately prior to the reorganization, with owners of equity and warrants in Windstream Holdings at closing receiving equivalent equity and warrants in New Windstream.⁷

LEGAL STANDARD

To the extent it is required, the Commission may grant this application for reorganization pursuant to KRS 278.020(6)

No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

⁵ Application at 5, section II (A) (3).

⁶ Application at 7, section IV (A); Application, Exhibits 1 and 2.

⁷ Application at 7, section IV (A).

KRS 278.020(7) requires a party attempting to acquire control, either directly or indirectly, of any utility furnishing utility service in this state, to first obtain the approval of the commission. However, KRS 278.020(8) sets forth exceptions to KRS 278.020(7).⁸

DISCUSSION

Joint Applicants seek approval of the proposed reorganization under KRS 278.020(6). Joint Applicants state that, following the reorganization, the same financial, technical, and managerial ability to provide reliable, high-quality services with their management, governance, capabilities, staffing, and resources will remain unchanged because the Windstream Licensees will be owned by the same equity holders, and will be governed by the same limited liability company agreement and have the same board and same management.⁹ Joint Applicants further maintain that customers will receive at least the same high-quality local exchange and long-distance service as they do today, subject to the same rules, regulations, and applicable tariffs, and the proposed reorganization will neither affect the personnel supporting Windstream's services nor existing price regulation plans, service quality obligations, or tariffs.¹⁰ Additionally, any subsequent end user rate changes will continue to be governed by the same rules and procedures.¹¹

⁸ In this case, the Applicants cite KRS 278.020(8)(b) which states “[u]tility by an acquirer who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the utility, including any entity created at the direction of such utility for purposes of corporate reorganization;”.

⁹ Application at 10, section V.

¹⁰ Application at 10, section V.

¹¹ Application at 10, section V.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the proposed *pro forma* internal reorganization meets the standard set forth in KRS 278.020(6). The Commission further finds that the Joints Applicants request is exempt from KRS 278.020(7) as a result of KRS 278.020(8)(b). There is no change to the operation or management. There will not be any effect on rates or services of the organization. Given the experience and expertise of the current management and employees, New Windstream has the financial, technical, and managerial abilities to continue to provide reasonable service.

IT IS THEREFORE ORDERED that:

1. The proposed *pro forma* internal reorganization that will result in New Windstream becoming the parent of the Windstream Licensees is approved.
2. The Joint Applicants shall notify the Commission, in writing, within seven days of the reorganization being completed. If the internal reorganization has not been completed within six months of the date of this Order, the Joint Applicants shall provide a written status report to the Commission every 30 days thereafter. The information provided pursuant to this paragraph shall be filed in post case correspondence using this case number as a reference.
3. Any material revision to the proposed internal reorganization shall require approval by the Commission in order for the amendment to be effective.
4. Following the completion of the approved internal reorganization, the Joint Applicants shall not transfer ownership of, or control, or the right to control New Windstream, by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval of the Commission.

5. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner



ENTERED
AUG 06 2024
KENTUCKY PUBLIC SERVICE COMMISSION
rCS

ATTEST:



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