

Decision No. C14-1392

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-1000T

IN THE MATTER OF THE JOINT APPLICATION OF MCLEODUSA
TELECOMMUNICATIONS SERVICES LLC, TALK AMERICA INC.
AND TALK AMERICA SERVICES LLC TO EXECUTE A TRANSFER.

DECISION GRANTING APPLICATION

Mailed Date: November 21, 2014
Adopted Date: November 20, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a joint application filed by PAETEC Communications, Inc. (PAETEC); McLeodUSA Telecommunications Services, LLC (McLeod); Talk America, Inc. (TAI); Windstream Communications, Inc. (WCI), Windstream Norlight, Inc. (WNI), Windstream NTI, Inc. (WNTI), and Windstream NuVox, Inc., collectively identified as the Windstream Companies; Windstream Holdings, Inc. (WHI) the indirect parent of the Windstream Companies; and Talk America Services, LLC (TAS) on October 2, 2014. The applicants request Commission authorization for a transaction where residential customers of the Windstream Companies will transfer to newly certificated TAS. The filing represents that following a contemplated intra-corporate restructure involving the reorganization of the WHI corporate structure, the result will be a structural division of the Windstream operating companies and a newly created Real Estate Investment Trust. We will construe this filing as an application for approval of the transfer of the residential Windstream Companies' customers pursuant to 4 *Code of Colorado Regulations* (CCR)

723-2109 of the Commission's Rules Regulating Telecommunications Providers, Services, and Products.

2. The application also contains a request for a waiver of Commission Rule 4 CCR 723-2311(g) as it relates to the slamming rules for transferred customers.

3. A Certificate of Public Convenience and Necessity (CPCN) to provide competitive local exchange telecommunications services and authority to provide emerging competitive services was granted to TAS in Decision No. C14-1362, Proceeding No. 14A-0948T, issued November 14, 2014. TAS is a company that is affiliated with WHI.

4. PAETEC owns a CPCN that authorizes it to provide local exchange and emerging services, granted by Decision No. C99-995, Proceeding No. 99A-373T, issued September 14, 1999. PAETEC is also a registered toll reseller.

5. McLeod owns a CPCN that authorized it to provide local exchange and emerging competitive services on a resale-only basis that was granted in Decision No. R97-329, Proceeding No. 96A-495T, issued on March 27, 1997. It was granted facilities based authority to provide its services in Decision No. C98-581, Proceeding No. 98A-187T, issued on June 16, 1998.

6. TAI owns a CPCN that authorizes it to provide local exchange and emerging competitive services, granted in Decision No. C00-1388, Proceeding No. 00A-584T, issued on December 11, 2000. TAI is also a registered toll reseller.

7. WCI, WNI, and WNTI are registered toll resellers.

8. WHI is a holding company and possesses no Commission issued telecommunications authorities.

9. The applicants state that following the completion of the transfer that TAS will provide local exchange and long distance services to the acquired residential customers of the Windstream Companies.

10. Subsequent to the transfer, the application represents that TAS will assume any existing customer contracts and adopt any tariffs currently used to provide services to the residential customers. There will be no changes to the services, rates, or terms and conditions provided to affected customers.

11. The application contains a draft of the notice that informs affected customers of the transfer.

12. With the represented transfer of residential customers from the Windstream Companies to TAS we find that the Commission has jurisdiction in this matter.

13. On October 3, 2014, notice of the application was provided to all persons, firms, or corporations interested in or affected by the grant or denial of the requested relief. Interventions were due on or before November 3, 2014. No interventions were filed.

B. Discussion

14. The application contains all information required by the applicable Commission Rules and is therefore deemed complete.

15. The application represents that customers of the Windstream Companies will continue to receive services following the transfer at the same rates, terms, and conditions that currently exist prior to the transaction.

16. The request of a waiver of Commission Rule 4 CCR 723-2311(g) is made so as not to obtain individual customer authorization for the change in provider. Applicants have provided a proposed customer notice that is required to obtain such a waiver.

17. The application is unopposed and therefore may be considered without a formal hearing, pursuant to § 40-6-109(5), C.R.S.

18. We find that the proposed transfer of residential customers is not contrary to the public interest and therefore grant the joint application for transfer and waiver of the Commission's slamming rules. This is based on the representation that affected customers will be properly notified on a timely basis and that rates, terms, and conditions for the transferred customers will not change.

II. ORDER

A. The Commission Orders That:

1. The joint application to transfer filed by PAETEC Communications, Inc.; McLeodUSA Telecommunications Services, LLC; Talk America, Inc.; Windstream Communications, Inc., Windstream Norlight, Inc., Windstream NTI, Inc., and Windstream NuVox, Inc., collectively identified as the Windstream Companies; Windstream Holdings, Inc. the indirect parent of the Windstream Companies; and Talk America Services, LLC (TAS) is deemed complete and is granted.

2. For the sole purpose of this application to transfer jurisdictional residential customers, the Windstream Companies and TAS are granted a waiver of Rule 2311(g) of the Rules Regulating Telecommunications Providers, Services, and Products, 4 *Code of Colorado Regulations* (CCR) 723-2. The draft of the customer notice contained in the application is acceptable and may be used to timely notify customers of the transfer and of their respective right to select an alternative provider if they desire to do so.

3. TAS shall adopt the relevant portions of any Windstream Companies tariffs used to provide service to Colorado residential customers within 45 days following the actual date of transfer. The tariff filing shall be consistent with TAS's Certificate of Public Convenience and

Necessity and Letter of Registration that were granted in Decision No. C14-1362. If there is a Windstream Company tariff on file with the Commission that serves no customers, the company may file to discontinue the offering of these services with a Notification of Discontinuance of Regulated Telecommunications Services Where No Customers are Affected pursuant to Rule 4 CCR 723-2-2108(f). Also, if there are any Windstream Company entities that possess an inactive toll reseller registration, the registration may also be discontinued by updating its respective toll reseller registration form and submitting it to the Commission.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 20, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners