

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Windstream Telephone System  
FCC Tariff Nos. 6 and 7

Transmittal No. 122

**PETITION OF VERIZON TO REJECT OR  
SUSPEND AND INVESTIGATE WINDSTREAM'S TARIFFS**

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November 9, 2023

## INTRODUCTION

Under Section 1.773 of the Commission's rules,<sup>1</sup> Verizon<sup>2</sup> petitions the Commission to reject or suspend and investigate the tariff revisions that Windstream Telephone System ("Windstream") filed on November 3, 2023. *See* Tariff F.C.C. Nos. 6 & 7, Transmittal No. 122 (attached as Exhibit A). The revisions reflect Windstream's second attempt in three months to increase the rates it charges for switched access in violation of Commission regulations. Windstream withdrew its first attempt after Verizon challenged revisions that would have granted Windstream the sole discretion to choose between the existing method of billing for mixed use access circuits — high-capacity DS3 facilities that are used for both special access and switched access services — and a new method that would result in higher switched access prices. This time, Windstream proposes to delete the provisions addressing mixed use access circuits altogether, with no replacement, leaving behind an ambiguous, unlawful tariff. The proposed changes are unlawful for the following three reasons.

*First*, the new language is another effort by Windstream to circumvent the rate cap on switched access services. *See* 47 C.F.R. § 51.907(a). Previously, Windstream tried to revise its tariff to give it the discretion to choose among billing methods so that it could "maximize its access charges,"<sup>3</sup> in violation of Commission precedent. Here, Windstream's deletion of the existing rate formula — which requires Windstream to charge the lower tariffed switched access rates for the portion of a mixed use DS3 circuit used for switched access — is designed to permit

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<sup>1</sup> 47 C.F.R. § 1.773(a)(2)(iii).

<sup>2</sup> The Verizon companies that participated in Windstream's prior filing and in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

<sup>3</sup> Memorandum Opinion and Order, *Sprint Commc'ns Co. v. N. Valley Commc'ns, LLC*, 26 FCC Rcd 10780, ¶ 12 (2011).

it to start charging its higher special access DS3 rates for that switched access usage. If Windstream does that after deleting that language — and, as explained below, the tariff amendment is unlawfully ambiguous because it does not say *how* Windstream will bill for mixed use circuits — the tariff amendment will result in a prohibited increase of the rates Windstream charges for switched access.

*Second*, Windstream’s new language renders its tariffs ambiguous. Windstream’s existing tariffs establish a formula for the rates Windstream will charge for the switched access portions of a mixed use DS3 circuit that a customer purchased. Windstream’s new tariff language removes those provisions without specifying what rates will apply to existing mixed use circuits. And Windstream’s tariffs do not explain if or when Windstream will disconnect switched access DS1 circuits that currently ride on mixed use DS3 circuits to prevent their use for switched access service. Windstream’s new tariff language leaves unclear whether customers may in the future purchase both switched and special access DS1 circuits that ride over the same DS3 circuit or how Windstream will calculate the rates for the switched access portion of that mixed use DS3 circuit. Windstream’s filing therefore contravenes the Commission’s requirement that tariff rates be “clear and explicit.”<sup>4</sup>

*Third*, the deletion of the mixed use language from the tariffs is unjust and unreasonable if it requires customers to segregate their switched access and special access DS1 circuits onto separate DS3 circuits “without [any] corresponding benefit to [the] customers.”<sup>5</sup> If the deletion of the mixed use language from the tariffs is meant to allow Windstream to apply its tariffed switched access rates to DS3 circuits only when customers use them exclusively to carry

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<sup>4</sup> 47 C.F.R. § 61.2(a).

<sup>5</sup> Memorandum Opinion and Order, *Northern Valley Communications, LLC, Tariff F.C.C. No. 3*, 35 FCC Rcd 6198, ¶ 24 (2020) (“*Northern Valley Order*”).

switched access DS1 circuits, then customers will have to segregate their switched access and special access DS1 circuits onto separate DS3 circuits in order to pay only the capped switched access DS3 rates. The Commission has previously held that a tariff provision that forces customers to purchase “inefficient call paths at inefficiently high prices” is unjust and unreasonable under Section 201(b) of the Act.<sup>6</sup> It should do so here, too.

### **BACKGROUND**

Customers like Verizon often order DS1 circuits for switched access that ride the same DS3 circuit as other DS1 circuits ordered for special access. Under Windstream’s current tariffs — based on language that has been in place since at least 2009 — ordering those DS1 switched access circuits has the effect of lowering the price for the DS3 circuit:

As each individual channel of a Special Access High Capacity Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, and Multiplexing rates *will be reduced accordingly* (e.g., 1/24th for a DS1 service, 1/672nd for a DS3 service, etc.).<sup>7</sup>

That is because “Switched Access Service rates and charges . . . will apply for each channel that is used to provide a Switched Access Service.”<sup>8</sup>

For example, if Verizon orders a DS3 circuit from Windstream, as well as 14 switched access DS1 circuits and 14 special access DS1 circuits, this tariff language requires Windstream to price the DS3 circuit based on that 50/50 split. That is, Windstream must bill Verizon a price for the DS3 circuit that equals 50 percent of the DS3 special access rate plus 50 percent of the DS3 switched access rate. So, for a 10-mile DS3 special access transport circuit between a

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<sup>6</sup> *Id.* ¶ 22.

<sup>7</sup> Windstream Telephone System, Tariff F.C.C. No. 6, § 7.2.7 (eff. Jan. 3, 2009) (emphasis added) (Ex. B).

<sup>8</sup> *Id.*

serving wire center and the tandem, Windstream’s Service Guide currently sets out rates totaling \$17,089.73.<sup>9</sup> In contrast, the tariffed switched access rate for that same 10-mile DS3 transport circuit is only \$789.46.<sup>10</sup> Therefore, for a 10-mile DS3 transport circuit with a 50/50 split, Windstream would charge Verizon \$8,939.60 per month.<sup>11</sup>

On August 15, 2023, Windstream attempted to change the way it may bill for mixed use access circuits.<sup>12</sup> Under Windstream’s tariff revision, Windstream would have gained “sole discretion” to bill the customer for mixed use DS3 circuits under the long-standing rule in the tariff or at a higher rate using “the ratio of derived Switched Access Service channels based on a study of actual Switched Access channel minutes of use utilization for the prior three months.”<sup>13</sup>

On August 22, 2023, Verizon petitioned the Commission to reject or suspend and investigate Windstream’s revised tariff.<sup>14</sup> Verizon argued that Windstream’s new tariff language was unreasonable under 47 U.S.C. § 201(b), impermissibly ambiguous, and unlawful because it would allow Windstream to circumvent the Commission’s price-cap regulation, 47 C.F.R.

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<sup>9</sup> This is the sum of the Windstream Standard, Inc. special access rates for channel termination (\$4,924.15), DS3-DS1 multiplexing (\$3,475.88), and 10 miles of channel mileage (\$868.97 per mile) for the state of Georgia. *See* Windstream Interstate BDS Guidebook § 17.1.8(B)(2), <https://bit.ly/4600vPz>.

<sup>10</sup> This is the sum of the Windstream Standard, Inc. tariffed switched access rates for channel termination (\$309.86), DS3-DS1 multiplexing (\$302.10), and 10 miles of channel mileage (\$17.75 per mile) for the state of Georgia. *See* Windstream Telephone System, Tariff F.C.C. No. 6, § 17.2.2(A).

<sup>11</sup>  $(\$17,089.73 \times 0.5) + (\$789.46 \times 0.5) = \$8,939.60$ .

<sup>12</sup> Tariff F.C.C. No. 6, Transmittal No. 119 (Aug. 15, 2023).

<sup>13</sup> *Id.* § 7.2.7.

<sup>14</sup> Petition of Verizon To Reject or Suspend and Investigate Windstream’s Tariff, Transmittal No. 119 (Aug. 22, 2023).

§ 51.907(a).<sup>15</sup> Windstream did not defend its filing. Instead, it voluntarily withdrew its tariff revision two days later and retained the currently effective tariff language.<sup>16</sup>

On November 3, 2023, Windstream filed a new tariff revision with the Commission concerning the rates it charges for mixed use access circuits. But this time, instead of modifying the rate formula, Windstream seeks to “remove the Mixed Use Pricing Mechanism” altogether.<sup>17</sup> The new language deletes from Tariff No. 6 Section 7.2.7, which currently establishes the billing formula for mixed use circuits, as well as definitional Sections 5.2.4 and 6.4.7.<sup>18</sup> Windstream’s revised tariffs also add to Sections 5, 6.1, and 7 of Tariff No. 7 the disclaimer that “[r]eferences to Mixed Use Facilities are not applicable as the Mixed Use pricing plan is not offered.”<sup>19</sup>

That same day, Windstream informed Verizon by email that it planned to change the rates it would charge for mixed use DS3 circuits, stating:

Please note that effective November 18, 2023, Windstream’s mixed use pricing mechanism will no longer be available for new services. Additionally, effective December 11, 2023, existing mixed use pricing mechanism will no longer be available.<sup>20</sup>

Neither Windstream’s new tariff language nor its email explains how Windstream will bill customers for existing mixed use circuits, or how Windstream will calculate the rates for future purchases of switched access DS1 circuits that ride on a DS3 circuit that also carries

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<sup>15</sup> *See id.*

<sup>16</sup> *See* Tariff F.C.C. No. 6, Transmittal No. 120 (Aug. 24, 2023).

<sup>17</sup> Ex. A.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Email from WCI CABS to Barbora Osten, Verizon, re Notice of Windstream FCC #6 and FCC #7 Tariff Change (Nov. 3, 2023) (Ex. C).

special access DS1 circuits — or even whether it will permit customers to purchase DS1 circuits as both switched access and special access if they ride over the same DS3 circuit.

## ARGUMENT

The “Commission may reject a tariff filed by a carrier if the filing is ‘so patently a nullity as a matter of substantive law, that administrative efficiency and justice are furthered by obviating any docket at the threshold rather than opening a futile docket.’”<sup>21</sup> As the courts have explained, “the Commission has ‘the power and in some cases the duty’ to reject a tariff that is demonstrably unlawful on its face, or that conflicts with a statute, agency regulation or order.”<sup>22</sup> The Commission should do so here.

Just three months ago, Windstream unsuccessfully tried to modify the tariff provisions so it could increase the rates it would bill for the switched access portion of mixed use access circuits. Now, Windstream seeks to achieve the same purpose by eliminating those tariff provisions altogether. That change is unlawful for three reasons.

**First**, the new tariff language is unlawful because it would enable Windstream to circumvent 47 C.F.R. § 51.907(a), which requires “Price Cap Carrier[s]” like Windstream to “cap the[ir] rates for [these] interstate and intrastate rate elements” as of “December 29, 2011.”<sup>23</sup>

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<sup>21</sup> Order, *GS Texas Ventures, LLC Tariff F.C.C. No. 1*, 29 FCC Rcd 10541, ¶ 4 (Pricing Pol’y Div. 2014) (“*GS Texas Ventures Order*”) (quoting *Mun. Light Bds. v. FPC*, 450 F.2d 1341, 1346 (D.C. Cir. 1971)); see also, e.g., *Cap. Network Sys., Inc. v. FCC*, 28 F.3d 201, 204 (D.C. Cir. 1994); Order, *Teliax Colorado, LLC Tariff F.C.C. No. 1*, 36 FCC Rcd 8285, ¶ 7 & n.26 (Pricing Pol’y Div. 2021) (“In deciding whether to reject proposed tariff revisions, we look at whether the revisions are unlawful on their face.”).

<sup>22</sup> *GS Texas Ventures Order* ¶ 4 (quoting *Associated Press v. FCC*, 448 F.2d 1095, 1103 (D.C. Cir. 1971)).

<sup>23</sup> The cap in Section 51.907(a) applies not only to the “services contained in the definitions of Interstate End Office Access Services, Tandem Switched Transport Access Services, and Dedicated Transport Access Services,” but also to “any interstate and intrastate rate elements in the ‘traffic sensitive basket’ and the ‘trunking basket’ as described in 47

As shown above, under Windstream’s tariff provisions in effect on December 29, 2011, Windstream would charge for a DS3 circuit used for both switched and special access services based in part on the quantity of switched access DS1 circuits a customer ordered. Windstream’s tariff filing eliminates that rate formula without replacing it. If the absence of a tariffed rate formula allows Windstream to switch to a different billing methodology for mixed use access circuits, then Windstream would surely select a methodology that results in a higher price for the switched access portion of these mixed use circuits. The effect of that changed methodology would be to reclassify that switched access portion to Windstream’s higher special access DS3 rates — even though that portion of the DS3 will continue to be used for switched access.

The proposed tariffs therefore are no more lawful than Windstream’s first attempt to amend its tariffs. To be sure, Windstream’s new tariff language does not increase the tariffed DS3 switched access rate listed in the tariff. But the effect of deleting the mixed use formula in the tariff will be to increase the rate that Windstream applies to the switched access portion of mixed use DS3 circuits. Nor has Windstream made any corresponding reduction to the special access rates in Windstream’s tariff or service guide that would protect customers from paying more for the switched access portion of mixed use DS3 circuits. The tariffs therefore violate Section 51.907(a)’s prohibition on raising tariffed switched access rates.

***Second***, Windstream’s revised tariffs are unlawful because they do not “contain clear and explicit explanatory statements regarding the rates and regulations.”<sup>24</sup> The Commission

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[C.F.R. §] 61.42(d)(2) and (3) to the extent that such rate elements are not contained in [those] definitions.” 47 C.F.R. § 51.907(a). The mixed use access circuits at issue here fall within the “trunking basket” to the extent they do not fall within the defined terms.

<sup>24</sup> 47 C.F.R. § 61.2(a).

routinely “reject[s] tariffs for failing to meet this standard.”<sup>25</sup> Windstream’s revised tariffs eliminate Windstream’s current formula for calculating the rates that apply to mixed use access circuits. But the tariffs contain no language specifying what rates Windstream will apply to existing mixed use DS3 circuits. Nor do the tariffs explain how Windstream will calculate the rates if customers in the future order DS3 circuits that carry both DS1 circuits ordered as switched access and DS1 circuits ordered as special access — or even whether customers may purchase such arrangements in the future. Because “a party could not reasonably ascertain the ‘proper application’ of the” the new tariff language “at the time it was filed” — to either existing or future mixed use access circuits — the new language is ambiguous and unlawful.<sup>26</sup>

Windstream’s email cannot supplement its tariff,<sup>27</sup> but it also provides no clarity. It does not state what rates Windstream will begin billing for mixed use DS3 circuits if these tariff amendments are approved. Nor does it state clearly whether Windstream will permit customers to purchase switched access DS1 circuits on DS3 circuits that also carry DS1 circuits ordered for special access service.

**Third**, Windstream’s revised tariffs violate 47 U.S.C. § 201(b) because they would force customers to make “[in]efficient call routing decisions” by requiring them to segregate their switched access DS1 circuits and special access DS1 circuits onto separate DS3 circuits to pay only the tariffed switched access DS3 rates.<sup>28</sup> The Commission held that it was unlawful for

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<sup>25</sup> Memorandum Opinion and Order, *Core Communications, Inc., et al. Tariff* F.C.C. No. 3, 36 FCC Rcd 15128, ¶ 48 & n.178 (2021) (citing cases).

<sup>26</sup> *Global NAPs, Inc. v. FCC*, 247 F.3d 252, 258 (D.C. Cir. 2001).

<sup>27</sup> *See id.* (tariff that “require[d] a customer to consult” other documents “to determine whether the tariff applied” violated 47 C.F.R. § 61.74(a)’s prohibition on cross-references in tariffs).

<sup>28</sup> *Northern Valley Order* ¶ 1.

Northern Valley to amend its tariff in a way that “unilaterally” forced customers “to choose inefficient call paths at inefficiently high prices” “without any countervailing benefits.”<sup>29</sup> Windstream’s tariff filing appears designed to have the similar effect of causing customers to purchase inefficient call paths without yielding any benefits to the public. Accordingly, Windstream’s proposed tariff language is “unjust and unreasonable in violation of section 201(b) of the Act.”<sup>30</sup>

### CONCLUSION

For each of these reasons, the Commission should reject or suspend and investigate Windstream’s revised tariffs.

November 9, 2023

William H. Johnson  
*Of Counsel*

Respectfully submitted,

/s/ Scott H. Angstreich  
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*Counsel for Verizon*

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<sup>29</sup> *Id.* ¶¶ 22-24.

<sup>30</sup> *Id.* ¶ 24.

# **EXHIBIT A**



151 Southhall Lane, Ste. 450  
Maitland, FL 32751  
www.inteserra.com

November 3, 2023

**Via ETFS Filing**

**This material is filed on 15 days' notice  
under Section 204(a)(3) of the Communications Act**

Windstream Telephone System  
4005 N Rodney Parham Road  
Mailstop: B1F03  
Little Rock, AR 72212

**FRN: 0014409924**  
**TRANSMITTAL No. 122**

Secretary, Federal Communications Commission  
Washington, DC 20554  
ATTN: Wireline Competition Bureau

Dear Madam Secretary:

The accompanying tariff material, issued by Windstream Telephone System (“WTS”), bearing Tariff FCC No. 6 and No. 7, effective November 18, 2023, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended.

This filing is made to remove the Mixed Use Pricing Mechanism in the Windstream Telephone System Tariffs.

This material, being filed on a fifteen (15) days’ notice, consists of tariff pages as indicated on the following check sheets:

WTS FCC Tariff No. 6  
WTS FCC Tariff No. 7

99<sup>th</sup> Revised Page 1, 2<sup>nd</sup> Revised Page 3  
51<sup>st</sup> Revised Page 1

This transmittal letter and revised tariff pages are being filed electronically today via the Federal Communications Commission's Electronic Tariff Filing System (ETFS). Payment in the amount of \$1,040.00 has been electronically transmitted under FRN 0014409924 to the U.S. Bank in St. Louis, Missouri in accordance with the fee program procedures.

Petitions pertaining to this filing may be sent to:

Contact: Lynn Hughes  
Address: 4005 N Rodney Parham Road  
Mailstop: B1F03  
Little Rock, AR 72212  
Email: Windstream.Legal.Notices@windstream.com

Any questions you may have regarding this filing should be directed to my attention at 470-672-3926 or via email to Sthomas@inteserra.com. Thank you for your assistance in this matter.

Sincerely,

/s/ Sharon Thomas

Sharon Thomas  
Consultant

ST/sp

November 3, 2023  
Windstream Telephone System  
FRN: 0014409924  
TRANSMITTAL No. 122

**FCC Registration Numbers for Tariff Participants**

0004966594  
0004967774  
0004967790  
0004967030  
0004965992  
0004966552  
0004967741  
0004967055  
0004967683  
0004967725  
0004967634  
0004967014  
0004967337  
0004967691  
0004967808  
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0001729060  
0004967360  
0001856145  
0004967840  
0003271871  
0008343162  
0005386172  
0003708575

ACCESS SERVICE

CHECK SHEET

Title Pages 1 to 4 and Pages 1 to 22-41 inclusive of this tariff are effective as of the date shown. Original and revised pages as named below and Supplement No. 1 contain all changes from the original tariff that are in effect on the date hereof.

| <u>Page</u>  | <u>Number of Revision Except as Indicated</u> | <u>Page</u>   | <u>Number of Revision Except as Indicated</u> | <u>Page</u> | <u>Number of Revision Except as Indicated</u> |
|--------------|---|---------------|---|-------------|---|
| Title Page 1 | 1 <sup>st</sup>                               | 7-2           | 1 <sup>st</sup>                               | 7-78        | Original                                      |
| Title Page 3 | 2 <sup>nd</sup>                               | 7-3           | 1 <sup>st</sup>                               | 7-79        | Original                                      |
| Title Page 4 | 2 <sup>nd</sup>                               | 7-4           | 1 <sup>st</sup>                               | 7-80        | Original                                      |
| <b>1</b>     | <b>99<sup>th</sup> *</b>                      | 7-6           | 1 <sup>st</sup>                               | 7-81        | 1 <sup>st</sup>                               |
| 2            | 20 <sup>th</sup>                              | 7-7           | Original                                      | 7-82        | Original                                      |
| <b>3</b>     | <b>2<sup>nd</sup> *</b>                       | 7-11          | 1 <sup>st</sup>                               | 7-83        | Original                                      |
| <b>12</b>    | <b>1<sup>st</sup> *</b>                       | 7-12          | 1 <sup>st</sup>                               | 7-84        | Original                                      |
| <b>14</b>    | <b>1<sup>st</sup> *</b>                       | 7-14.1        | 3 <sup>rd</sup>                               | 7-85        | Original                                      |
| <b>16</b>    | <b>2<sup>nd</sup> *</b>                       | 7-15          | 1 <sup>st</sup>                               | 7-86        | Original                                      |
| 18           | 1 <sup>st</sup>                               | 7-16          | 1 <sup>st</sup>                               | 7-87        | Original                                      |
| 21           | 1 <sup>st</sup>                               | 7-17          | 1 <sup>st</sup>                               | 7-88        | Original                                      |
| 22           | 1 <sup>st</sup>                               | 7-24          | 1 <sup>st</sup>                               | 7-89        | Original                                      |
| 23           | 2 <sup>nd</sup>                               | 7-26          | 1 <sup>st</sup>                               | 7-90        | Original                                      |
| 27           | 1 <sup>st</sup>                               | <b>7-28</b>   | <b>3<sup>rd</sup> *</b>                       | 8-2         | 1 <sup>st</sup>                               |
| 30           | 1 <sup>st</sup>                               | 7-29          | 2 <sup>nd</sup>                               | 16-1        | 1 <sup>st</sup>                               |
| 1-1          | 1 <sup>st</sup>                               | 7-29.1        | 1 <sup>st</sup>                               | 16-2        | 1 <sup>st</sup>                               |
| 2-9          | 2 <sup>nd</sup>                               | 7-30          | 3 <sup>rd</sup>                               | 16-3        | 1 <sup>st</sup>                               |
| 2-11         | 2 <sup>nd</sup>                               | 7-31          | 2 <sup>nd</sup>                               | 16-4        | 1 <sup>st</sup>                               |
| 2-27         | 1 <sup>st</sup>                               | 7-32          | 1 <sup>st</sup>                               | 16-5        | 1 <sup>st</sup>                               |
| 2-28         | 1 <sup>st</sup>                               | 7-33          | 1 <sup>st</sup>                               | 16-6        | 1 <sup>st</sup>                               |
| 2-28.1       | 3 <sup>rd</sup>                               | 7-34          | 1 <sup>st</sup>                               | 17-1        | 3 <sup>rd</sup>                               |
| 2-47         | 2 <sup>nd</sup>                               | 7-35          | 1 <sup>st</sup>                               | 17-2        | 2 <sup>nd</sup>                               |
| 2-49.1       | 1 <sup>st</sup>                               | 7-36          | 1 <sup>st</sup>                               | 17-3        | 22 <sup>nd</sup>                              |
| 2-50         | 1 <sup>st</sup>                               | 7-37          | 1 <sup>st</sup>                               | 17-4        | 26 <sup>th</sup>                              |
| 2-50.1       | Original                                      | 7-38          | 1 <sup>st</sup>                               | 17-5        | 23 <sup>rd</sup> *                            |
| 2-50.2       | Original                                      | 7-39          | 1 <sup>st</sup>                               | 17-6        | 5 <sup>th</sup>                               |
| 2-50.3       | Original                                      | 7-40.1        | 4 <sup>th</sup>                               | 17-7        | 62 <sup>nd</sup>                              |
| 2-50.4       | Original                                      | 7-40.2        | 2 <sup>nd</sup>                               | 17-8        | 62 <sup>nd</sup>                              |
| 2-50.5       | Original                                      | <b>7-40.3</b> | <b>5<sup>th</sup> *</b>                       | 17-9        | 3 <sup>rd</sup>                               |
| 2-50.6       | Original                                      | 7-40.4        | 2 <sup>nd</sup>                               | 17-10       | 3 <sup>rd</sup>                               |
| 2-50.7       | Original                                      | 7-40.5        | 3 <sup>rd</sup>                               | 17-11       | 1 <sup>s</sup>                                |
| 2-50.8       | Original                                      | 7-40.6        | 1 <sup>st</sup>                               | 17-12       | 13 <sup>th</sup>                              |
| 2-50.9       | Original                                      | 7-40.7        | Original                                      | 17-13       | 11 <sup>th</sup>                              |
| 2-57         | 1 <sup>st</sup>                               | <b>7-40.8</b> | <b>3<sup>rd</sup> *</b>                       | 17-14       | 13 <sup>th</sup>                              |
| 2-75         | 1 <sup>st</sup>                               | 7-40.9        | Original                                      | 17-16       | 3 <sup>rd</sup>                               |
| 2-76         | 1 <sup>st</sup>                               | 7-40.10       | 1 <sup>st</sup>                               | 17-17       | 3 <sup>rd</sup>                               |
| 4-1          | 1 <sup>st</sup>                               | 7-60          | 1 <sup>st</sup>                               | 17-18       | 3 <sup>rd</sup>                               |
| 4-3          | 1 <sup>st</sup>                               | 7-61          | 1 <sup>st</sup>                               | 17-19       | 1 <sup>st</sup>                               |
| 4-4          | 1 <sup>st</sup>                               | 7-63          | 1 <sup>st</sup>                               | 17-20       | 3 <sup>rd</sup>                               |
| 4-6          | 1 <sup>st</sup>                               | 7-64          | 1 <sup>st</sup>                               | 17-21       | 4 <sup>th</sup>                               |
| 4-8          | Original                                      | 7-65          | 1 <sup>st</sup>                               | 17-22       | 3 <sup>rd</sup>                               |
| 4-9          | Original                                      | 7-66          | 1 <sup>st</sup>                               | 17-23       | 3 <sup>rd</sup>                               |
| 4-10         | Original                                      | 7-67          | 1 <sup>st</sup>                               | 17-24       | 4 <sup>th</sup>                               |
| 5-1          | 1 <sup>st</sup>                               | 7-68          | 1 <sup>st</sup>                               | 17-25       | 3 <sup>rd</sup>                               |
| 5-4          | 1 <sup>st</sup>                               | 7-69          | 1 <sup>st</sup>                               | 17-26       | 3 <sup>rd</sup>                               |
| 5-10         | 1 <sup>st</sup>                               | 7-71          | Original                                      | 17-27       | 3 <sup>rd</sup>                               |
| <b>5-11</b>  | <b>1<sup>st</sup> *</b>                       | 7-72          | Original                                      | 17-28       | 3 <sup>rd</sup>                               |
| 5-23         | 2 <sup>nd</sup>                               | 7-73          | Original                                      | 17-29       | 1 <sup>st</sup>                               |
| 6-1          | 1 <sup>st</sup>                               | 7-74          | Original                                      | 17-30       | 9 <sup>th</sup>                               |
| 6-13         | 1 <sup>st</sup>                               | 7-75          | 1 <sup>st</sup>                               | 17-31       | 9 <sup>th</sup>                               |
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5. Access Ordering (Cont'd)

5.2 Ordering Requirements (Cont'd)

5.2.3 WATS or WATS-Type Services

Special Access Service may be ordered for connection with FGA, FGB, FGC or FGD Switched Access Service at Telephone Company designated WATS Serving Offices (WSOs) for the provision of WATS or WATS-type Services and may be ordered separately by a customer other than the customer which orders the FGA, FGB, FGC or FGD Switched Access Service. For the Special Access Service the customer shall specify:

- the customer designated premises at which the Special Access service terminates
- the type of line (i.e., two-wire or four-wire)
- the type of calling (i.e., originating, terminating or two-way)
- type of Supervisory Signaling.

When the optional screening, switching and/or recording functions are not provided at the customer serving wire center, Channel Mileage, as set forth in 7.2.1(B) following, must be ordered between that wire center and the nearest WSO where the screening, switching and/or recording functions can be provided.

5.2.4 [Reserved for Future Use

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6. Switched Access Service (Cont'd)

6.4 Rate Regulations (Cont'd)

6.4.7 [Reserved for Future Use]

6.4.8 Message Unit Credit for Feature Group A

Calls from end users to the seven digit local telephone numbers associated with Feature Group A Switched Access Service are subject to Telephone Company local and/or general exchange service tariff charges (including message unit and toll charges as applicable). The monthly bills rendered to customers for their Feature Group A Switched Access Service will include a credit to reflect any message unit charges collected from their end users under the Telephone Company's local and/or general exchange service tariffs. When the customer is provided FGA service where measurement capability does not exist, the credit will apply to access minutes not to exceed the assumed originating access minutes. No credit will apply for any terminating FGA access minutes. The message unit credit for originating access minutes will be based on the generally applicable message unit charges of the Telephone Company.

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ACCESS SERVICE

7. Special Access Service (Cont'd)

7.2 Rate Regulations (Cont'd)

7.2.10 Incremental Spend Discount Plan (Cont'd)

(D) Qualifying Services

1. General

The ISDP will be administered as a single discount plan for which a single Term and discount, as defined in Section 17.3.13, shall apply. The Participating Customer will purchase Qualifying Services as specified within this tariff.

2. Inclusion of Qualifying Services in ISDP

The Qualifying Services are included in the ISDP for purposes of determining the Base Revenue, Term Revenue as defined in 7.2.10(E).

3. Qualifying Services

(a) Qualifying Services are the current recurring billing month Special Access services as purchased by the Participating Customer specified below:

- Channel Terminations
- Channel Mileage
- Optional Features and Functions

(b) Should any Qualifying Service be de-tariffed during the term of an ISDP, the Base Revenue and any Term Revenue of the de-tariffed services will be removed from the ISDP.

(c) [Reserved for Future Use]

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(E) Application of Discounts

Base Revenue is calculated on gross billed revenue for Qualifying Services.

Base Revenue is determined prior to the beginning of the Term. The Telephone Company will determine Base Revenue by averaging the billed revenue for three full months of Qualifying Services in the Participating Customer's ACNA(s) prior to the start of the Term and annualizing by multiplying by twelve.

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7. Special Access Service (Cont'd)

7.2 Rate Regulations (Cont'd)

7.2.11 Early Termination Penalty Forgiveness Plan (Cont'd)

(D) Qualifying Services

(1) General

The ETPF will be administered as a single discount plan for which a single Term and discount, as defined in Section 17.3.14, shall apply. The Participating Customer will purchase Qualifying Services as specified within this tariff.

(2) Inclusion of Qualifying Services in ETPF

The Qualifying Services are included in the ETPF for purposes of determining the Base Revenue, Term Revenue as defined in 7.2.11(E).

(3) Qualifying Services

(a) Qualifying Services are the current recurring billing month Special Access services as purchased by the Participating Customer specified below:

- Channel Terminations
- Channel Mileage
- Optional Features and Functions

(b) Should any Qualifying Service be de-tariffed during the term of an ETPF, the Base Revenue and any Term Revenue of the de-tariffed services will be removed from the ETPF.

(c) [Reserved for Future Use]

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(E) Application of Discounts

Base Revenue is calculated on gross billed revenue for Qualifying Services.

Base Revenue is determined prior to the beginning of the Term. The Telephone Company will determine Base Revenue by averaging the billed revenue for three full months of Qualifying Services in the Participating Customer's ACNA(s) prior to the start of the Term and annualizing by multiplying by twelve.

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## ACCESS SERVICES

22. Grandfathered Discount Plans (Cont'd)22.1 Rate and Charge Regulations (Cont'd)22.1.1 Switched Access DS1 Term Payment Plan (Cont'd)(D) Start and Stop Date

The Term commitment period is initiated at the beginning of a month (start date) and is completed, in one-year increments, at the end of a pre-determined month (stop date). During this time period, the discount is applied to the base rate.

(E) Anniversary Dates

Anniversary dates occur between the start and stop dates. For a one-year plan, the anniversary date is the end date of the plan.

(F) Rate Changes

Decreases in the TPP monthly recurring Entrance Facility rates will be passed on to subscribers.

(G) Minimum Commitment Levels

To initiate a TPP, a minimum commitment of 30 DS1 Entrance Facilities is required. The commitment levels will be met if the customer has met the minimum number of AMQ and ISQ units in service during the annual review.

The "commitment level" is determined by the number of DS1 facilities. All Entrance facilities subscribed to a term commitment plan between a Customer Designated Location and its serving wire center must be subscribed to the same term plan.

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(H) Changes to Commitment Levels

Written notice must be submitted by the customer to change the commitment level of DS1 Entrance Facilities. Resubscription will be required if as a result of increasing or decreasing the commitment level, service is changed from a TPP to a standard month-to-month or OPP arrangement. Only one TPP arrangement will be allowed per customer for each term period.

(I) TPP Plan Subscription

When the customer elects to subscribe to a TPP they must specify, in writing, the enrollment date (which will be the anniversary date) and the commitment level.

To convert existing DS1 OPP Entrance Facilities to a TPP, no termination liabilities will be assessed if the TPP period selected is equal to or longer in length than the time remaining for the existing DS1 OPP. If the TPP period is shorter in length than the time remaining on the existing DS1 OPP, the change to TPP constitutes a disconnect of the DS1 OPP and termination liabilities will apply.

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Title Pages 1 to 2 and Pages 1 to 17-29 inclusive of this tariff are effective as of the date shown. Original and revised pages as named below and Supplement No. 1\* contain all changes from the original tariff that are in effect on the date hereof.

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| <b>7-1</b>   | <b>2<sup>nd</sup> Revised *</b>                           |             |   |             |   |
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| 17-2         | 44 <sup>th</sup> Revised                                  |             |   |             |   |
| 17-5         | 5 <sup>th</sup> Revised                                   |             |   |             |   |
| 17-7         | 2 <sup>nd</sup> Revised                                   |             |   |             |   |
| 17-8         | 6 <sup>th</sup> Revised                                   |             |   |             |   |
| 17-9         | 3 <sup>rd</sup> Revised                                   |             |   |             |   |
| 17-13        | 3 <sup>rd</sup> Revised                                   |             |   |             |   |
| 17-15        | 3 <sup>rd</sup> Revised                                   |             |   |             |   |
| 17-17        | 6 <sup>th</sup> Revised                                   |             |   |             |   |
| 17-18        | 1 <sup>st</sup> Revised                                   |             |   |             |   |
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| 17-22        | 1 <sup>st</sup> Revised                                   |             |   |             |   |
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ACCESS SERVICE

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5. Access Ordering

Regulations, Terms and Conditions for Access Ordering are the same as those set forth in Section 5 of the National Exchange Carrier Association Tariff F.C.C. No. 5, except as set forth following:

References to Directory Assistance service are not applicable as the service is not offered.

References to Special Access services for Metallic, Telegraph Grade, Program Audio and Video Access are not applicable as the service is not offered.

References to Digital Subscriber Line Access Service are not applicable as the service is not offered.

References to Public Packet Data Network Services (i.e. Frame Relay Service, Asynchronous Transfer Mode Cell Relay Access Service, Ethernet Transport Service and Internet Protocol Gateway (IPG) Access Service) are not applicable as the service is not offered.

References to Mixed Use Facilities are not applicable as the Mixed Use pricing plan is not offered.

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6. Switched Access Service

6.1 Exceptions to National Exchange Carrier Association Tariff F.C.C. No.5

Regulations, Terms and Conditions for Switched Access Service are the same as those set forth in Section 6 of the National Exchange Carrier Association Tariff F.C.C. No. 5, except as set forth following:

References to Directory Assistance are not applicable as the service is not offered.

References to Abbreviated Dialing Arrangement (ADA) are not applicable as the service is not offered.

References to Public Packet Data Network Services (i.e. Frame Relay Service, Asynchronous Transfer Mode Cell Relay Access Service, Ethernet Transport Service and Internet Protocol Gateway (IPG) Access Service) are not applicable as the service is not offered.

Section 6.1.3(A) (3) relating to Tandem Switched Transport is replaced with the terms and conditions set forth in Section 6.2 below.

Section 6.4.6(H) relating to Mileage Measurement for Feature Groups B, C, and D Remote Offices is replaced with terms and conditions set forth in Section 6.3 below.

References to Mixed Use Facilities are not applicable as the Mixed Use pricing plan is not offered.

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7. Special Access Service

Regulations, Terms and Conditions for Special Access Service are the same as those set forth in Section 7 of the National Exchange Carrier Association Tariff F.C.C. No. 5, except as set forth following:

References to Special Access services for Metallic, Telegraph Grade, Program Audio and Video Access are not applicable as the service is not offered.

References to Mixed Use Facilities are not applicable as the Mixed Use pricing plan is not offered.

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7.1 Non-competitive Wire Center Listing

| <u>Wire Center</u> | <u>OCN</u> | <u>STATE</u> | <u>County</u> |
|--------------------|------------|--------------|---------------|
| BLKLGAXA           | 0364       | GA           | EARLY         |
| CDSFGAXA           | 0364       | GA           | EARLY         |
| GRDNGAXA           | 0395       | GA           | WILKINSON     |
| IRTNGAXA           | 0395       | GA           | WILKINSON     |
| TMBOGAXA           | 0395       | GA           | WILKINSON     |

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# **EXHIBIT B**

## ACCESS SERVICE

7. Special Access Service (Cont'd)7.2 Rate Regulations (Cont'd)7.2.7 Mixed Use

Mixed use refers to a rate application applicable only when the customer orders High Capacity or Synchronous Optical Channel Service Special Access facilities between a customer designated premises and a Telephone Company hub or ADM equipped wire center where the Telephone Company performs multiplexing/de-multiplexing functions and the same customer then orders the derived channels as Special and Switched Access Services. If the customer has Switched Access Service between a customer designated premises and an end office that is multiplexed at a Telephone Company hub or ADM equipped wire center and subsequently orders the derived channels as Special and Switched Access Service, rates and charges will apply as if the service were ordered as mixed use.

Except as noted above, the High Capacity or Synchronous Optical Channel Service facility will be ordered, provided and rated as Special Access Service (i.e., Channel Termination, Channel Mileage, as appropriate, and Multiplexing, Customer Node, Customer Premises Port, and Add/Drop Multiplexing). The nonrecurring charge that applies when the mixed use facility is installed will be the nonrecurring charge associated with the appropriate Special Access High Capacity or Synchronous Optical Channel Service Channel Termination. Recurring and nonrecurring charges will apply as described in 7.1.9 preceding

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Rating as Special Access will continue until such time as the customer chooses to use a portion of the available capacity for Switched Access Service. Individual service (i.e., Switched or Special Access) nonrecurring charges will not apply to the individual channels of the mixed use facility.

When Special Access Service is provided utilizing a channel of the mixed use facility to a hub, High Capacity rates and charges will apply for the facility to the hub, as set forth preceding, and individual service rates and charges will apply from the hub to the customer designated premises. The rates and charges that will apply to the portion from the hub to the customer designated premises will be dependent on the specific type of Special Access Service that is provided (e.g., Voice Grade, Telegraph, etc.). The applicable rates and charges will include a Channel Termination and Channel Mileage, if applicable. Rates and charges for Optional Features and Functions associated with the service, if any, will apply for the appropriate channel type.

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## ACCESS SERVICE

7. Special Access Service (Cont'd)7.2 Rate Regulations (Cont'd)7.2.7 Mixed Use (Cont'd)

As each individual channel of a Special Access High Capacity Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, and Multiplexing rates will be reduced accordingly (e.g., 1/24th for a DS1 service, 1/672nd for a DS3 service, etc.).

Similarly, as each individual channel of a Special Access Synchronous Optical Channel Service is activated for Switched Access Service, the Special Access Channel Termination, Channel Mileage, Customer Node, Customer Premises Port, and Add/Drop Multiplexing rates will be reduced accordingly (e.g. 1/2016th for an OC3 service, 1-8064th for an OC12 service).

If the Special Access charges for the mixed use facility are subject to Service Discount Plan discounts (e.g., Term Discount Optional Rate Plan) as set forth in 7.2.8 following, the Special Access charges will be reduced to reflect mixed use before the Service Discount Plan discounts are applied.

Switched Access Service rates and charges, as set forth in 17.2 following, will apply for each channel that is used to provide a Switched Access Service. Additionally, the Switched Access Service Entrance Facility, Direct Trunked Transport, Multiplexing, Customer Node, Customer Premises Port, and Add/Drop Multiplexing charges, if applicable, will be reduced by multiplying their respective rates by the ratio of derived Switched Access Service channels to the total number of Voice Grade channels that can be derived.

The following table shows the total voice grade equivalents for each of the services that may be used for Mixed Use:

| High Capacity or<br>Synchronous Optical<br>Channel Service | DS3<br>Quantities | DS1<br>Quantities | Voice Grade<br>Equivalents |
|--|-------------------|-------------------|----------------------------|
| DS1  | n/a               | 1                 | 24                         |
| DS3  | 1                 | 28                | 672                        |
| OC3  | 3                 | 84                | 2,016                      |
| OC12   | 12                | 336               | 8,064                      |

The customer must place an order for each individual Switched or Special Access Service utilizing the Mixed Use Facilities and specify the channel assignment for each such service.

(TR19)

# **EXHIBIT C**

From: WCI CABS <[WCI.CABS@windstream.com](mailto:WCI.CABS@windstream.com)>  
Date: Fri, Nov 3, 2023 at 4:26 PM  
Subject: [E] Notice of Windstream FCC #6 and FCC #7 Tariff Change  
To: [barbora.osten@verizon.com](mailto:barbora.osten@verizon.com) <[barbora.osten@verizon.com](mailto:barbora.osten@verizon.com)>

**Subject:** Notice of Windstream FCC #6 and FCC #7 Tariff Change

Dear Wholesale Customer,

Please note that effective November 18, 2023, Windstream's mixed use pricing mechanism will no longer be available for new services. Additionally, effective December 11, 2023, existing mixed use pricing mechanism will no longer be available.

If you have questions regarding this notice, please call us at (800) 351-4241 or contact your Windstream CABS Account Manager.

Thank you for choosing Windstream.

Sincerely,  
Windstream

This email message and any attachments are for the sole use of the intended recipient(s). Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message and any attachments.

**CERTIFICATE OF SERVICE**

I, Scott H. Angstreich, do hereby certify that, on this 9th day of November 2023, the foregoing **PETITION OF VERIZON TO REJECT OR SUSPEND AND INVESTIGATE WINDSTREAM'S TARIFFS** was served on the following via email:

Lynn Hughes  
4005 N Rodney Parham Road  
Mailstop: B1F03  
Little Rock, AR 72212  
Windstream.Legal.Notices@windstream.com

*/s/ Scott H. Angstreich*  
Scott H. Angstreich