



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF)	ORDER
WINDSTREAM HOLDINGS, INC.; WINDSTREAM)	
SERVICES, LLC; A.R.C. NETWORKS, INC., ATX)	
LICENSING, INC.; BRIDGECOM INTERNATIONAL,)	
INC.; BROADVIEW NETWORKS, INC.; BROADVIEW)	
NP ACQUISITION CORP.; BUSINESS TELECOM, LLC;)	
CAVALIER TELEPHONE MID-ATLANTIC, LLC;)	
CONVERSENT COMMUNICATIONS OF NEW)	
JERSEY, LLC; CTC COMMUNICATIONS CORP.;)	
DELTACOM, LLC; EARTHLINK BUSINESS, LLC;)	
INTELLIFIBER NETWORKS, LLC; LDMI)	
TELECOMMUNICATIONS, LLC; LIGHTSHIP)	
TELECOM, LLC; PAETEC COMMUNICATIONS, LLC;)	
TALK AMERICA, LLC; TRUCOM CORPORATION; US)	
LEC OF PENNSYLVANIA, LLC; WINDSTREAM)	
COMMUNICATIONS, LLC; WINDSTREAM NTI, LLC;)	
AND WINDSTREAM NUVOX, LLC FOR APPROVAL OF)	
TRANSFER OF CONTROL OF WINDSTREAM)	
HOLDINGS, INC.)	DOCKET NO. TM20060388

Parties of Record:

Sidney A. Sayovitz, Esq., Schenk, Price, Smith & King, on behalf of Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On June 3, 2020, Windstream Holdings, Inc. ("Windstream Holdings"), a Delaware corporation, and Windstream Services, LLC ("Windstream Services"), a Delaware limited liability company (collectively "Windstream"), on behalf of their subsidiaries active in New Jersey (the "Windstream Licensees") (together with Windstream, "Petitioners"), submitted a Verified Petition with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 and N.J.A.C.14:1-5.14 requesting that the Board grant authority, to the extent it may be required, to complete the intra-

company and reorganization transactions necessary for Windstream to emerge from a bankruptcy proceeding commenced in February 2019 (the "Reorganization"). Subsequently on July 1, 2020, Petitioners submitted a petition for a waiver of certain notice requirements to municipalities and utilities under N.J.A.C. 14:1-5.14 (b) (12).

N.J.A.C. 14: 1-5.14 (b) (12) requires that Petitioners provide proof of service of the proposed transaction to "the public, the municipalities being served by the companies to be merged, consolidated, acquired and/or changed, and the public utilities serving in the area." Upon information and belief, Petitioners' active subsidiaries in New Jersey operate in all twenty-one (21) counties in the State and by extension, provide services in over five hundred (500) municipalities. As noted above, N.J.A.C. 14:5.14 (b) (12) requires service of notice to all municipalities and utilities.

Petitioners claim that compliance with this provision would entail the employment of significant support-staff resources, which are not available in today's pandemic times. The petition states that the COVID 19 virus has affected Petitioners' and their counsel's ability to provide individual notices to the relevant municipalities and utilities. Petitioners state that their offices and their counsel's offices are operating at significantly reduced capacity with virtually no administrative staff present. Strict adherence to N.J.A.C. 14:5.14 (b) (12) would require the compilation of nearly six hundred municipal and utility contacts and addresses along with a mass mailing to each individual municipality and utility. Petitioners claim that the lack of administrative support available to them and to the law firm representing them makes the individual notice requirements nearly impossible to perform until the affected offices are able to reopen at a scale called for under the regulation.

Petitioners request that the Board waive the individual notice requirements to municipalities and utilities and, in lieu thereof, permit Petitioners to provide notice through publication in regional newspapers of mass circulation designed to reach all twenty-one counties in New Jersey. Petitioners state that the granting of this limited waiver in these extraordinary times is a limited accommodation caused by the staffing hardships that impact Petitioners and its legal representative. Petitioners aver that no precedent will be set for other circumstances in which there is no pandemic or other public emergency. Finally, the utilization of notice to the public, via newspaper publication, is already authorized pursuant to N.J.A.C. 14:5.14 (b) (12).

The New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments by letter dated July 8, 2020, stating it would not oppose a Board decision to grant the limited waiver requested by Petitioners and allow public notice of the transaction to be provided through area newspapers of mass circulation conditioned on also requiring that public notice be provided via electronic format through a mass email to affected municipalities and customers, via its website and on social media sites. Additionally, Rate Counsel respectfully recommends that the Board review and approve the public notice Petitioners intend to publish and require proof of publishing and certification that electronic notice has been provided to affected towns and customers to the Board with copy to Rate Counsel.

On June, 10, 2020, Petitioners filed a response to Rate Counsel's comments, and its recommendations for additional notice requirements. While Petitioners did not object to the posting of notice on its website, they recommended that the Board reject the recommendations for individual, electronic notification to municipalities and customers and the use of social media, characterizing them as ineffective, unnecessary and burdensome. Petitioners noted that they have already placed legal notices in seven newspapers of general circulation throughout the

twenty-one counties in the State, providing readers with clear notice of the proceeding, their right to review the pending Petition and submit comments to the Board. Petitioner's argue that Rate Counsel's recommended electronic notice addressed to each of the five hundred sixty-five (565) municipalities is cumbersome, time-consuming and an unnecessary use of limited administrative staff during the COVID-19 pandemic.

FINDINGS AND CONCLUSIONS

The Board finds that, in light of the circumstances presented by the COVID-19 pandemic, it is within the public interest to grant the limited waiver of public notice sought by the Petitioners in this instance. Petitioners have noted in their comments that they have already provided for publication of notice of the Petition in several newspapers of general circulation throughout the twenty-one counties in the State. Petitioners have also indicated that they have no objection to providing notice on the Petitioners' website, as recommended by Rate Counsel. With respect to this matter only, we are unpersuaded of the need for additional electronic notice to the 565 municipalities throughout the State, as recommended by Rate Counsel.

The Board has broad discretionary authority to relax, or permit deviation from any of its regulations in special cases and for good cause shown. N.J.A.C. 14:1 et seq. The Board **HEREBY APPROVES** the Petitioner's request for a limited waiver of the notice requirements pursuant to N.J.A.C. 14:5.14 (b) (12) under the circumstances described herein and the Board **HEREBY ORDERS:**

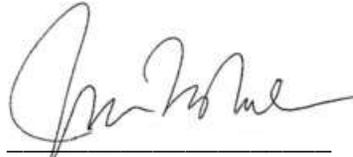
- a) In lieu of providing notice of the subject Petition to individual municipalities as required under N.J.A.C. 14:5.14 (b) (12) , Petitioners shall provide notice through publication in regional newspapers of mass circulation designed to reach all twenty-one counties in New Jersey.
- b) Petitioners shall provide copies of Affidavit of Publication to the Board and Rate Counsel.
- c) Petitioners shall post the published notice of the subject Petition on their website.

This waiver is limited to the subject petition and shall not apply to any future petition.

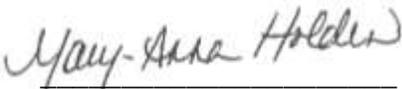
This Order shall be effective on July 25, 2020.

DATED: July 15, 2020

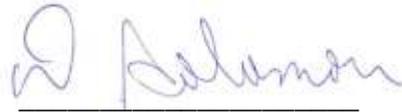
BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

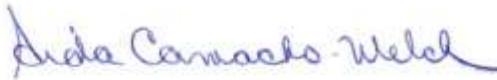


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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CORPORATION; US LEC OF PENNSYLVANIA, LLC; WINDSTREAM COMMUNICATIONS,
LLC; WINDSTREAM NTI, LLC; AND WINDSTREAM NUVOX, LLC FOR APPROVAL OF
TRANSFER OF CONTROL OF WINDSTREAM HOLDINGS, INC.
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SERVICE LIST

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