

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** October 27, 2023

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of Industry Development and Market Analysis (Wooten, Nave)<sup>CH</sup>  
Office of the General Counsel (Sparks)<sup>AEH</sup>

**RE:** Docket No. 20230076-TP – 2024 State certification under 47 C.F.R. §54.313 and §54.314, annual reporting requirements for high-cost recipients and certification of support for eligible telecommunications carriers.

**AGENDA:** 11/09/23 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** La Rosa

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

In October 1997, the Commission designated Incumbent Local Exchange Carrier (ILEC) Windstream Florida, LLC as an eligible telecommunications carrier (ETC).<sup>1</sup> In April 2021, Windstream Communications, LLC, an affiliate of Windstream Florida, LLC, requested an ETC designation by the Commission in order to receive federal Rural Digital Opportunity Fund (RDOF) high-cost support in Florida for areas outside Windstream Florida, LLC's ILEC territory.<sup>2</sup> The Commission instructed Windstream Communications, LLC to seek its ETC designation directly from the FCC because Windstream Communications, LLC was seeking an ETC designation for broadband and VoIP services outside of the Commission's jurisdiction.

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<sup>1</sup> Docket No. 19970644-TP.

<sup>2</sup> Docket No. 20210070-TX.

Windstream Communications, LLC was granted an ETC designation by the FCC on January 12, 2022.<sup>3</sup>

Windstream Florida, LLC and Windstream Communications, LLC (collectively Windstream) were among several carriers requesting certification from the Commission for 2024 federal high-cost support during this year's certification proceeding in the instant docket during June and July. Specifically, Windstream Communications, LLC requested certification for federal high-cost support for its Study Area Code (SAC) 219027 while Windstream Florida, LLC claimed no federal support was expected to be received in its SAC 210336 in 2024.<sup>4</sup> Staff advised Windstream to follow the FCC-designated certification process because all expected support was to be received by the FCC-designated ETC Windstream Communications, LLC. The Commission certified eight other carriers as eligible to receive federal high-cost support on September 12, 2023.<sup>5</sup> Staff subsequently filed the necessary certifications with the FCC and the Universal Service Administrative Company (USAC) on September 15, 2023.

On September 25, 2023, USAC notified staff that Windstream Communications, LLC SAC 219027 had yet to be certified. After discussions with both FCC and USAC staff, it was revealed that a new process had recently been developed requiring state and federal level certification for carriers, like Windstream, that receive RDOF support in both ILEC and competitive areas with separate SACs within a state. With this new process, USAC disperses support to a single SAC per carrier in a state, regardless of whether the support is used in that SAC or commingled with another SAC assigned to that company, its affiliate, or its holding company. USAC decided to disperse all Windstream RDOF funding for Florida to SAC 219027. It is apparently a new and rare occurrence and so has not yet been generally disseminated to the states. Windstream refiled its request for certification with this Commission on September 29, 2023.

The Commission has jurisdiction pursuant to 47 C.F.R. §54.313 and §54.314, as well as Chapter 364, F.S.

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<sup>3</sup> FCC, "Windstream Designated as an ETC in RDOF-Eligible Areas in FL and NY," released January 12, 2022, <https://www.fcc.gov/document/windstream-designated-etc-rdof-eligible-areas-fl-and-ny>, accessed September 26, 2023.

<sup>4</sup> Study Area Codes (SACs) are FCC-designated geographic areas within a state where federal universal service funds should be invested. Each ETC is assigned at least one SAC in each state it receives support, and each SAC is exclusive to one carrier. The ILEC Windstream Florida, LLC's Florida-assigned SAC is 210336 and the competitive carrier Windstream Communications, LLC's Florida-assigned SAC is 219027.

<sup>5</sup> The carriers certified were: Bright House Networks Information Services (Florida), LLC; CenturyLink of Florida, Inc.; Consolidated Communications of Florida Company; Frontier Florida LLC; ITS Telecommunications Systems, LLC d/b/a Blue Stream Fiber; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom; and Smart City Telecommunications LLC d/b/a Smart City Telecom.

## Discussion of Issues

**Issue 1:** Should the Commission certify to USAC and the FCC that Windstream Florida, LLC and Windstream Communications, LLC are eligible to receive federal high-cost support?

**Recommendation:** Yes. The Commission should certify to USAC and the FCC that Windstream Florida, LLC and Windstream Communications, LLC are eligible to receive federal high-cost support. (Wooten, Nave)

**Staff Analysis:** On September 29, 2023, Windstream requested certification from the Commission under 47 C.F.R §54.314 and 47 U.S.C. §254(e) to receive federal high-cost universal service support. The carriers have submitted an affidavit attesting that they have used the federal high-cost support received in the preceding calendar year and will use the federal high-cost support received in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The affidavit included both of Windstream’s SACs, meaning certification is sought for both Windstream Florida, LLC and Windstream Communications, LLC.

Under 47 C.F.R. §54.314(c)(1), the Commission “may file a supplemental certification for carriers not subject to the (s)tate's annual certification.” Therefore, staff recommends that the Commission certify to USAC and the FCC that both Windstream Florida, LLC and Windstream Communications, LLC are eligible to receive federal high-cost support.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. This docket should be closed upon issuance of a Final Order.  
(Sparks)

**Staff Analysis:** This docket should be closed upon issuance of a Final Order.