

**NEW YORK STATE
PUBLIC SERVICE COMMISSION**

In the Matter of the Joint Application of)	
)	
)	
Business Telecom, LLC,)	Case No. _____
Choice One Communications of New York Inc.,)	
Conversent Communications of New York, LLC,)	
CTC Communications Corp.,)	
DeltaCom, LLC,)	
EarthLink Business, LLC,)	
EarthLink Carrier, LLC,)	
Lightship Telecom, LLC and)	
EarthLink Holdings Corp.)	
)	
and)	
)	
Windstream Holdings, Inc.)	
)	
for Approval to Transfer Control)	
of Authorized Telecommunications Providers)	

JOINT APPLICATION FOR APPROVAL OF TRANSFERS OF CONTROL

Business Telecom, LLC (“BT”); Choice One Communications of New York Inc. (“Choice One”); Conversent Communications of New York, LLC (“Conversent”); CTC Communications Corp. (“CTC”); DeltaCom, LLC (“DeltaCom”); Earthlink Business, LLC (“EarthLink Business”); EarthLink Carrier, LLC (“EarthLink Carrier”); and Lightship Telecom, LLC (“Lightship”) (collectively, “EarthLink Licensees”); EarthLink Holdings Corp. (“EarthLink Parent”); and Windstream Holdings, Inc. (“Windstream Parent”) (collectively, “Applicants”), by their counsel and pursuant to Sections 99 and 100 of the New York State Public Service Law (“PSL”), hereby respectfully request authority from the New York Public Service Commission (“Commission”) to

complete a transaction between EarthLink Parent and Windstream Parent through which Windstream Parent will acquire indirect control of the EarthLink Licensees. Additionally, Applicants request authority for EarthLink Business to transfer its equity interests in the other EarthLink Licensees to a to-be-formed intermediate holding company (the “Pro Forma Change”), which will constitute a “pro forma” transfer of control of BT, Choice One, Conversent, CTC, DeltaCom, EarthLink Carrier and Lightship, but will otherwise have no effect on those entities or their operations. (The Pro Forma Change and the indirect transfer of control of all EarthLink Licensees to Windstream Parent, collectively, the “Transaction.”)

In support of this Joint Application, Applicants provide the following information:

I. APPLICANTS

A. Windstream Companies

Windstream Parent is a Delaware corporation headquartered at 4001 Rodney Parham Road, Little Rock, Arkansas 72212, 501-748-7000. It is a publicly traded (NASDAQ: WIN) Fortune 500 leading provider of advanced network communications and technology solutions for consumers, businesses, enterprise organizations and wholesale customers. Windstream Parent functions as a holding company and does not provide telecommunications services or hold any telecommunications licenses in its own right. Through its wholly owned subsidiary, Windstream Services, a Delaware limited liability company with addresses at the same location as Windstream Parent, it owns and operates a number of licensed telecommunications providers in all states and the District of Columbia, except Alaska, many of which also hold authority from the Federal Communications Commission (“FCC”) to provide domestic interstate and international telecommunications services. In New York, Windstream’s regulated subsidiaries hold the following authorizations:

1. Intellifiber Networks, Inc. is authorized to provide local exchange and interexchange services pursuant to Commission authority in Case 01-C-0721 (and transfer of control Case 04-C-0360).

2. LDMI Telecommunications, Inc. is authorized to provide interexchange services pursuant to Commission authority in Case 97-C-0018.
3. McLeodUSA Telecommunications, LLC is authorized to provide local exchange and interexchange services pursuant to Commission authority in Case 97-C-0158.
4. Norlight, Inc. is authorized to provide interexchange services pursuant to Commission authority in Case 08-C-0805.
5. Norlight Telecommunications, Inc. is authorized to provide local exchange and interexchange services pursuant to Commission authority in 96-C-0051.
6. Paetec Communications, Inc. is authorized to provide local exchange and interexchange services pursuant to Commission authority in Case 98-C-1136.
7. Talk America, Inc. is authorized to provide local exchange and interexchange services pursuant to Commission authority in Case 92-C-0222.
8. US LEC Communications, LLC is authorized to provide local exchange and interexchange services pursuant to Commission authority in Case 99-C-1442.
9. Windstream Communications, Inc. is authorized to provide interexchange services pursuant to Commission authority in Case 05-C-1631.
10. Windstream New York, Inc. is an incumbent local exchange provider authorized to provide local exchange services within the state of New York (*see* Case No. 05-C-1631 transferring control of Alltel New York, Inc. and changing its name to Windstream New York, Inc.).

Windstream's combined operations currently have approximately 2.1 million access lines and approximately \$5.7 billion in annual revenues nationwide as of the year end FY2015.¹ Additional information regarding Windstream, including its most recent SEC Forms 10-K and 10-Q, as filed with the Securities and Exchange Commission, is available at <http://investor.windstream.com/investors/index.cfm>.

¹ Windstream's most recent 10-Q quarterly financial report (for the quarter ended September 30, 2016) is available at: <http://files.shareholder.com/downloads/ABEA-43PVYW/2663146252x0xS1282266-16-102/1282266/filing.pdf>.

B. EarthLink Companies

EarthLink Holdings Corp. is a publicly traded Delaware corporation (NASDAQ: ELNK) with principal offices located at 1170 Peachtree Street, Suite 900, Atlanta, GA 30309, 404-815-0770. EarthLink Parent functions as a holding company and does not provide telecommunications services or hold any telecommunications licenses in its own right. It owns and operates a number of telecommunications providers in all states and the District of Columbia, many of which also hold authority from the FCC to provide domestic interstate and international telecommunications services. EarthLink Parent together with its subsidiaries (collectively, "EarthLink"), provides a broad range of data, voice and managed network services to business customers in the United States. EarthLink also provides nationwide Internet access and related value-added services to residential customers. EarthLink operates an extensive network including more than 29,000 route fiber miles and 90 metro fiber rings. Through its owned and leased facilities, EarthLink's data and voice IP services can reach more than 90 percent of the United States. In New York, the EarthLink Licensees hold the following New York authorizations:

1. EarthLink Business, LLC, a Delaware limited liability company, is authorized as a facilities-based common carrier and reseller of telephone service, including local exchange services pursuant to certification granted in Case No. 99-C-1268, as amended to reflect a corporate conversion and name change in Matter No. 12-02253.
2. DeltaCom, LLC, an Alabama limited liability company, is authorized as a reseller of long distance services pursuant to certification in Case No. 94-C-0473, as amended to reflect a corporate conversion and name change in Matter No. 12-02593.
3. Business Telecom, LLC, a North Carolina limited liability company, is authorized as a facilities-based common carrier and reseller of telephone service, including local exchange

services pursuant to certification granted in Case Nos. 92-C-0415 and 97-C-0624, as amended to reflect a corporate conversion and name change in Matter No. 15-01254.

4. EarthLink Carrier, LLC, a Delaware limited liability company, is authorized as a reseller of long distance service and as an operator service provider pursuant to certification granted in Case Nos. 07-C-1104 and 07-C-1103, as amended to reflect a corporate conversion and name change in Matter No. 12-02347.

5. CTC Communications Corp., a Massachusetts corporation, is authorized as a facilities-based common carrier and reseller of telephone services, including local exchange services pursuant to certification granted in Case No. 94-C-0970.

6. Lightship Telecom, LLC, a limited liability company, is authorized as a facilities-based common carrier of telephone service, including local exchange service pursuant to certification granted in 00-C-0450.

7. Choice One Communications of New York Inc., a Delaware corporation, is authorized as facilities-based common carrier of telephone service, including local exchange service pursuant to certification granted in Case No. 98-C-1444.

8. Conversent Communications of New York, LLC, a New York limited liability company, is authorized as a facilities-based common carrier and reseller of telephone services, including local exchange services pursuant to certification granted in Case No. 98-C-1199.

Additional information regarding EarthLink, including its most recent SEC Forms 10-K and 10-Q, as filed with the Securities and Exchange Commission, is available at <http://www.earthlink.net/about/investor/>.

II. DESCRIPTION OF THE TRANSACTION

On November 5, 2016, Windstream Parent, EarthLink Parent, Europa Merger Sub, Inc. (“Merger Sub 1”), a Delaware corporation and an indirect, wholly-owned subsidiary of Windstream Services, LLC², and Europa Merger Sub, LLC (“Merger Sub 2”), a Delaware limited liability company and an indirect, wholly-owned subsidiary of Windstream Services, LLC, entered into an Agreement and Plan of Merger (the “Merger Agreement”) pursuant to which, among other things, (i) Merger Sub 1 will be merged with and into EarthLink Parent (the “Initial Merger”) with EarthLink Parent continuing as the surviving corporation (the “Surviving Corporation”) and (ii) immediately following the Initial Merger, the Surviving Corporation will be merged with and into Merger Sub 2 (the “Subsequent Merger” and, together with the Initial Merger, the “EarthLink Transaction”), with Merger Sub 2 continuing as the surviving company known as EarthLink Holdings, LLC (the “Surviving Company”) and an indirect, wholly-owned subsidiary of Windstream Parent, in each case subject to the terms and conditions of the Merger Agreement. As part of the EarthLink Transaction, EarthLink Parent stock will be exchanged for Windstream Parent stock. As a result of the EarthLink Transaction, Windstream Parent will be the new ultimate parent company of the EarthLink Licensees. This change in ultimate control does not involve a transfer of operating authority, assets or customers, and the EarthLink Transaction is expected to be virtually seamless to end user customers. The current customers of the EarthLink Licensees will remain

² Windstream Services does not provide telecommunications services in its own right, but rather is a holding company within the Windstream group of companies.

customers of those entities following the EarthLink Transaction. Accordingly, customers will continue to enjoy the same rates, terms and conditions of service as they do prior to closing.³ Immediately following consummation of the EarthLink Transaction, the EarthLink Licensees will continue to offer the same services, rates, terms and conditions pursuant to their existing authorizations, and the only material change resulting from the EarthLink Transaction will be that these certificated entities ultimately will be indirectly owned by Windstream Parent, and subsequently may change their names to reflect the “Windstream” brand in their names.

Additionally, and only as part of the EarthLink Transaction, Applicants request authority for EarthLink Business to transfer its equity interests in the other EarthLink Licensees (currently subsidiaries of EarthLink Business) to a to-be-formed subsidiary company.⁴ This change would constitute a *pro forma* transfer of control of BT, Choice One, Conversent, CTC, DeltaCom, EarthLink Carrier and Lightship. The Applicants believe that adding an intermediate holding company could provide the companies more flexibility with respect to future credit arrangements with their lenders.

Diagrams demonstrating the Transaction are appended hereto as **Exhibit A**.

III. DESIGNATED CONTACTS

The designated contacts for questions concerning this filing are:

J.K. Hage III
Hage & Hage
283 Genesee Street
Utica, NY 13501
(315) 797-9850

³ Any subsequent changes made through the ordinary course of business will be made pursuant to applicable regulatory approval, tariffing, or similar processes.

⁴ Applicants will notify the Commission of the final structure, including the identity and corporate form of the subsidiary company, with their consummation notice following closing of the EarthLink Transaction.

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IV. REQUEST FOR APPROVAL

Applicants respectfully request the Commission's approval pursuant to PSL §99(2), which requires approval for a telephone corporation to assign, transfer or lease its operating authority, works or system or any part thereto to another person or corporation, and pursuant to PSL §100, which requires approval for a stock corporation to purchase or acquire, take or hold more than ten percent of the voting capital stock issued by any telephone corporation in New York. The

Commission has stated that since PSL §99(2) provides no specific approval criteria, approval requires only establishment of a rational basis for the merger⁵. Under PSL §100, the criterion for approval is whether the “acquisition is in the public interest” and an important factor in that determination is the impact the acquisition will have on competition.

As a result of the EarthLink Transaction, Windstream Parent will be the new ultimate parent company of the EarthLink Licensees. As stated above, this change in ultimate control does not involve a transfer of operating authority, works, systems, assets or customers, and the EarthLink Transaction is expected to be virtually seamless to end user customers. Like EarthLink Parent, Windstream Parent is a public company whose common stock is widely held. Other than the indirect transfer of control of 100% of the EarthLink Licensees to Windstream Parent and the Pro Forma Change, the EarthLink Licensees themselves will not be directly affected by the Transactions and will continue to provide high quality telecommunications service. As demonstrated in this Joint Application, the Transaction satisfies all applicable criteria. The Transaction will enhance competition and will be in the public interest for the reasons set forth herein.

V. PUBLIC INTEREST STATEMENT

A. The Transaction is in Public Interest

Commission approval of the Transaction clearly will serve the public interest. The telecommunications industry has been and continues to be subject to rapid technological advances, evolving consumer preferences and dynamic changes. The creation of Windstream in 2006 established an independent, stand-alone, wireline-centric corporation that serves the public interest by

⁵ See Proceeding on Motion of the Commission as to the Joint Petition of New York Telephone Company, NYNEX Corporation and Bell Atlantic Corporation, NYPSC Opinion 97-8, issued and effective May 30, 1997.

focusing squarely on enhancing local broadband services primarily in rural areas.⁶ Since its creation, Windstream has expanded its product offering to include IP-based voice and data services, MPLS networking and wave services to enterprise and government agencies. Combining the EarthLink Licensees with Windstream will enable the existing certificated entities to continue to offer and expand a broad range of high quality services to enterprise and residential customers. Windstream will help ensure and improve the continuation of the EarthLink Licensees' ability to deploy and maintain innovative and advanced telecommunications offerings, benefiting New York consumers and serving the public interest, convenience and necessity.

The efficiencies and economies of scale resulting from the Transaction will improve the combined enterprise's economic position and, thus, its ability to continue to attract financing to invest in and offer new and innovative services. Enabling small and medium-sized carriers to achieve such efficiencies is beneficial since economically stable competitors enhance competition which serves the public interest. The Transaction also will provide each of the Applicants access to the others' advanced network capabilities, technical and financial strengths, and complementary services, which together are expected to strengthen Applicants' ability to provide quality competitive services in the State of New York. The combined enterprise will have greater economies of scale and scope than the EarthLink Parent subsidiaries would have had operating independently.

B. The Transaction Will be Seamless to Customers

The Transaction generally will be transparent to customers and, at the time of the transfer of EarthLink Parent, customers will not experience any immediate changes in services, or rates, terms and conditions of such service. The EarthLink Licensees' existing tariffs will not be affected

⁶ Windstream was formed on 17 July 2006 through the spin-off of ALLTEL Corporation's landline business and its merger with Valor Communications Group, with approval of this Commission granted on 22 June 2006 in Case 05-C-1631.

by the Transaction, and will remain in effect (subject to change in the ordinary course of business). Any future changes in rates, terms and conditions of service will be made in accordance with applicable Commission requirements and any future consolidation of the operations into or with other Windstream processes, such that customers would see a change in their service, would be undertaken pursuant to applicable rules and notice requirements.⁷

C. The Transaction Poses No Competitive Risks

Given the increasingly competitive nature of the communications market, Applicants are seeking to complete the Transaction as soon as possible in order to ensure that customers and Applicants promptly realize the benefits of operating as a combined entity. This Transaction will enhance competition because it will strengthen the EarthLink and Windstream certificated entities. Applicants emphasize that the Transaction will not have a negative impact on current Windstream customers or customers of the EarthLink Licensees.

VI. QUALITY OF SERVICE

Windstream Parent is technically, managerially and financially well-qualified to become the new ultimate owner of the EarthLink Licensees. As noted above, subsidiaries of Windstream Parent currently provide local and/or interexchange telecommunications services throughout the United States, including New York. For additional detail on the financial, technical and managerial qualifications of Windstream, please see www.windstream.com.

⁷ The contemplated transfer of control does not raise any slamming concerns or necessitate compliance with FCC or state procedures to notify customers prior to a carrier-to-carrier sale or transfer of subscribers as it does not involve a change in any customer's existing service provider. Customers will remain with their current telecommunications service provider and will continue to be served under its existing authorization. Accordingly, there are no changes in customers' preferred carrier, and no further filings or authorizations are required under the FCC's carrier selection rules (47 CFR §64.1120) or under similar state rules.

The EarthLink Licensees will continue to have the managerial, technical and financial qualifications to provide high quality telecommunications services to consumers in New York, with continued support of EarthLink senior management and enhanced support of experienced management and financial and technical resources of Windstream Parent.

VII. FINANCIAL INFORMATION

Upon completion of the Transaction, each of the EarthLink Licensees will continue to be financially capable of fulfilling all of the requirements as a competitive, non-dominant telecommunications carrier in New York. Windstream Parent is financially well-qualified to become their new ultimate owner and to provide the financial stability for them to succeed in the ever-increasing competitive telecommunications marketplace.

VIII. REQUEST FOR EXPEDITED REVIEW

In order to consummate the Transaction as soon as possible, Applicants request that the Commission grant all relief sought herein as expeditiously as possible thus allowing Applicants to close the Transaction as soon as practicable and meet critical business objectives. Accordingly, the Applicants respectfully ask the Commission to approve this Joint Application within 90 days of filing.

IX. CONCLUSION

Based on the foregoing, Applicants respectfully submit that they have demonstrated that the indirect transfer of control of the EarthLink Licensees to Windstream Parent and the Pro Forma Change satisfy PSL §§99 and 100, pose no competitive risks, and the public interest, convenience and necessity will be furthered by Commission approval of the Transaction.

As the EarthLink Licensees will continue to have the requisite technical, managerial and financial capability to provide quality communications services, Applicants respectfully request that the Commission expeditiously approve the Transaction described herein and grant any other

relief deemed necessary and appropriate to affect the indirect transfer of the EarthLink Licensees to Windstream Parent and the Pro Forma Change.

Respectfully submitted,

By:



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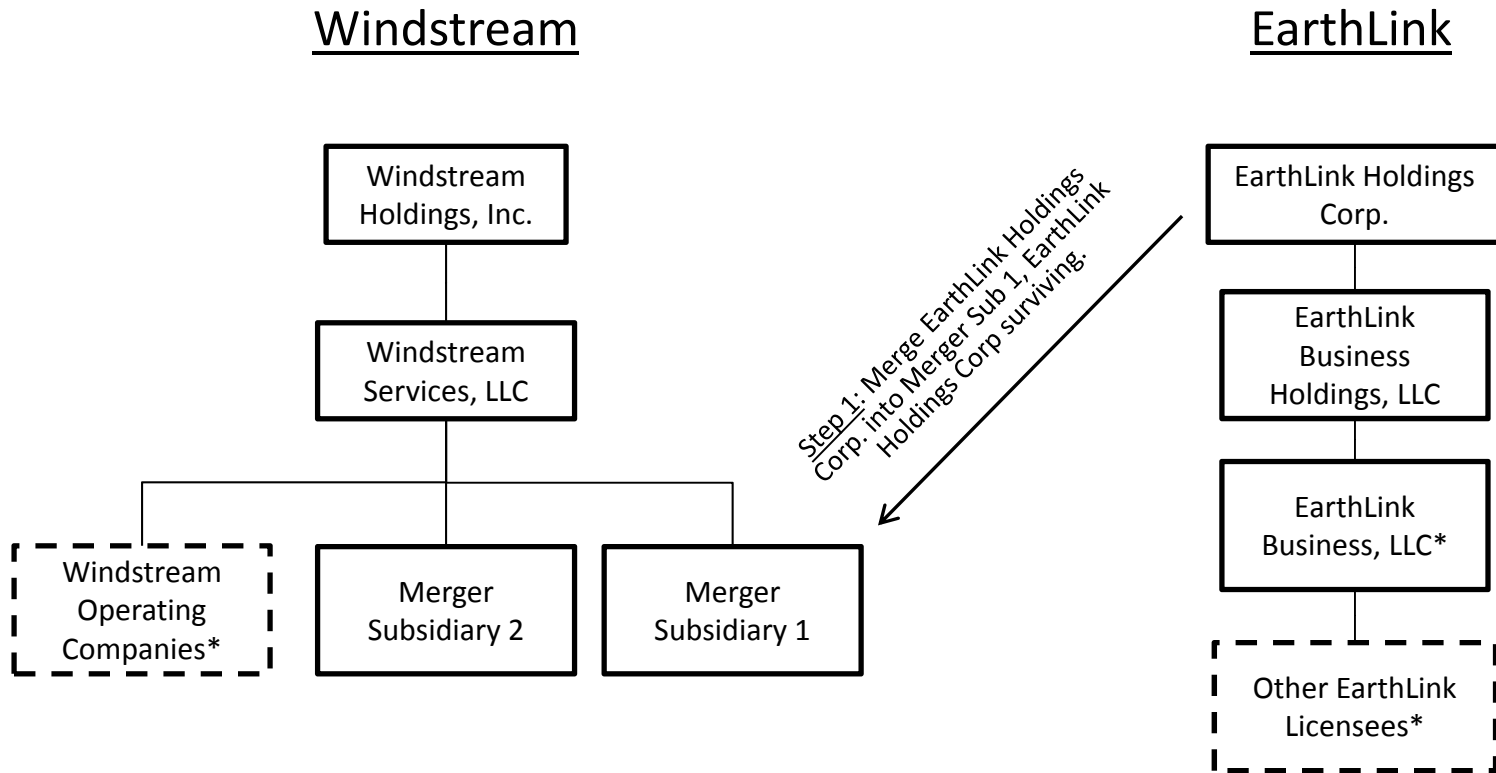
Dated: November 15, 2016

EXHIBIT A

Transaction Charts

Transaction Structure Charts

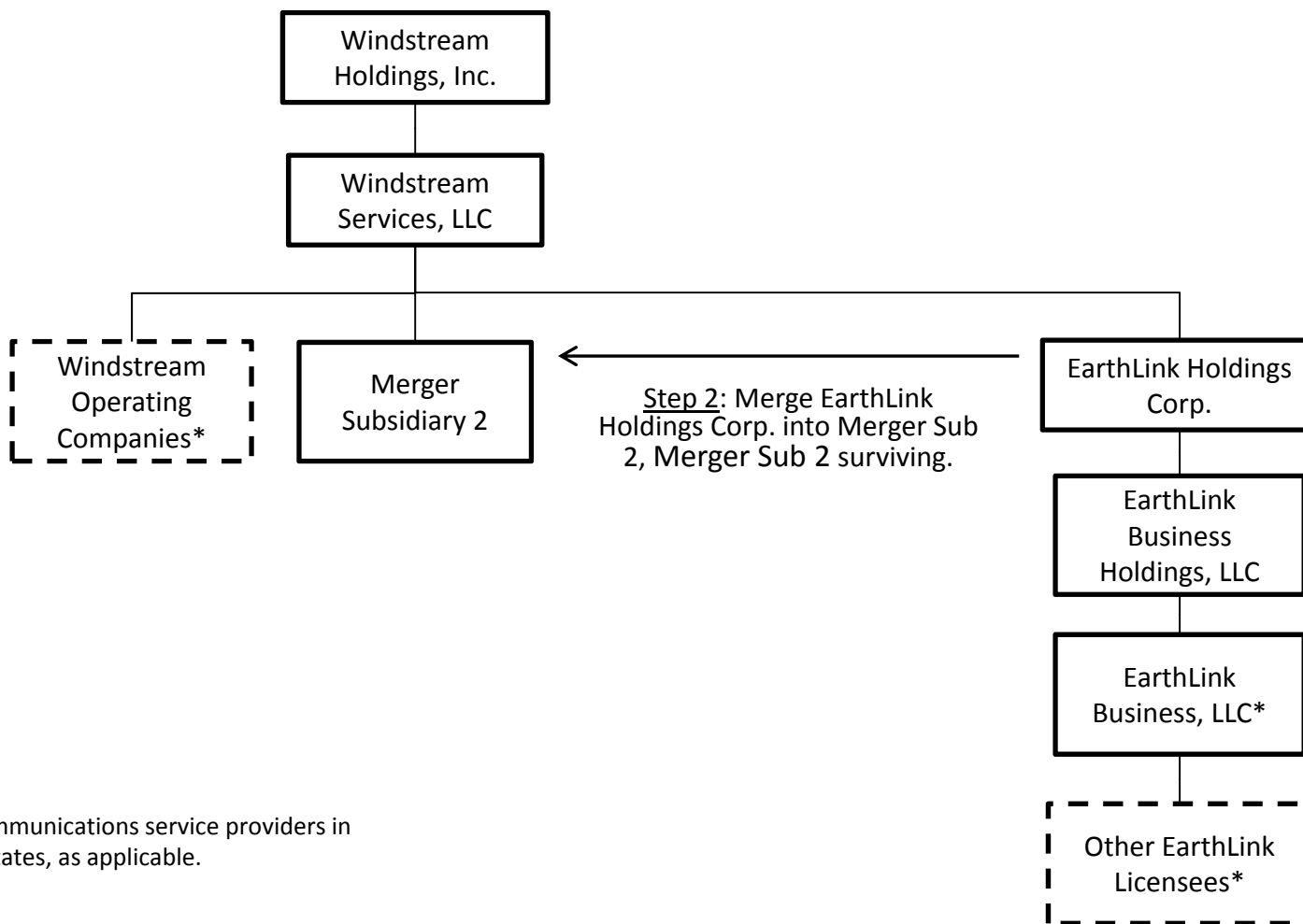
Pre-Transaction and Step 1



* Telecommunications service providers in various states, as applicable.

Transaction Structure Charts

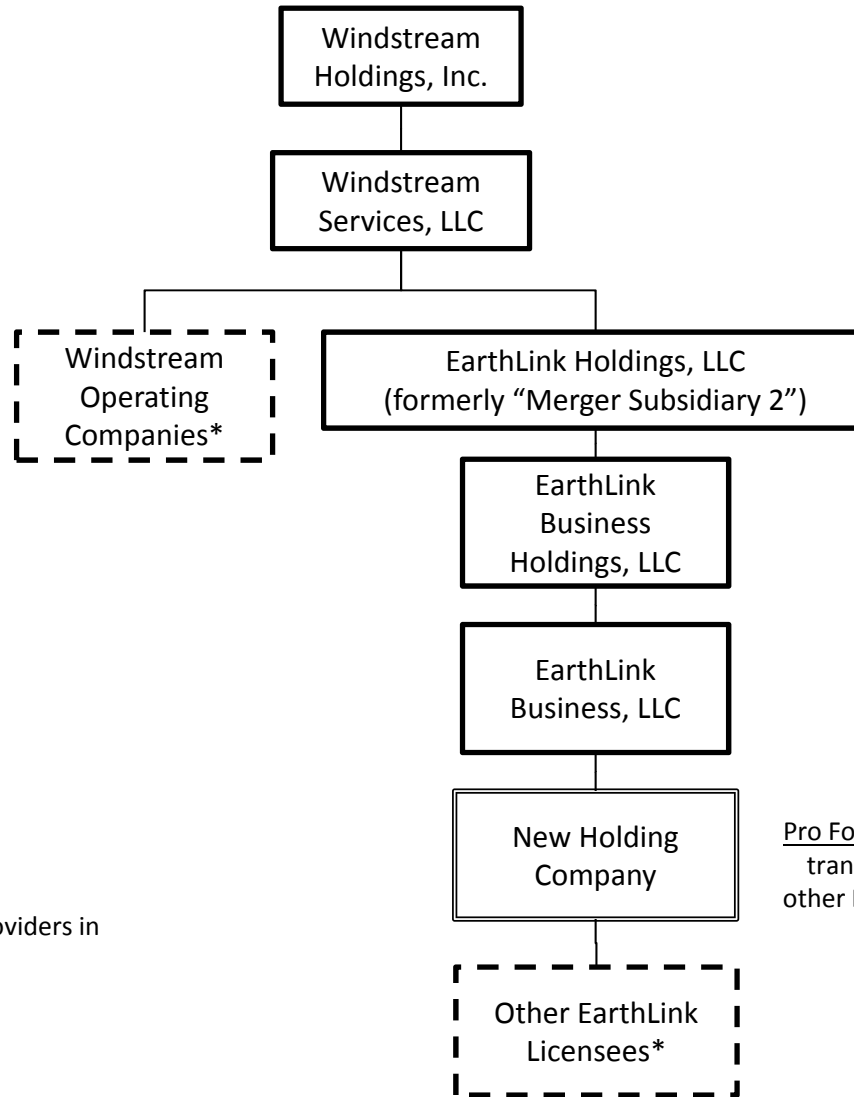
Step 2



* Telecommunications service providers in various states, as applicable.

Transaction Structure Charts

Pro Forma Change and Resulting Structure



* Telecommunications service providers in various states, as applicable.

Pro Forma Change: EarthLink Business, LLC transfers its ownership interests in the other EarthLink Licensees to a new holding company.

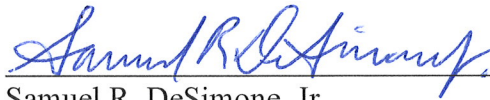
VERIFICATIONS

STATE OF GEORGIA

COUNTY OF FULTON

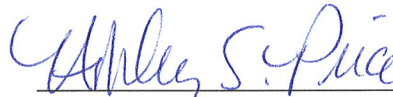
VERIFICATION

I, Samuel R. DeSimone, Jr., state that I am the Executive Vice President, General Counsel and Secretary of EarthLink Holdings Corp., that I am authorized to make this Verification on behalf of EarthLink Holdings Corp. and its subsidiaries, that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to EarthLink Holdings Corp. and its subsidiaries are true and correct to the best of my knowledge, information, and belief.



Samuel R. DeSimone, Jr.
Executive Vice President, General Counsel and
Secretary
EarthLink Holdings Corp.

Sworn and subscribed before me this 7 day of November, 2016.



Notary Public

My commission expires 12/01/2018



STATE OF ARKANSAS

§

COUNTY OF PULASKI

§

§

VERIFICATION

I, John Fletcher, state that I am the Executive Vice President, Chief Human Resources Officer and General Counsel of Windstream Holdings, Inc., that I am authorized to make this Verification on behalf of Windstream Holdings, Inc. and its subsidiaries, that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to Windstream Holdings, Inc. and its subsidiaries are true and correct to the best of my knowledge, information, and belief.

John Fletcher
Executive Vice President, Chief Human Resources
Officer and General Counsel
Windstream Holdings, Inc.

Sworn and subscribed before me this 17th day of November, 2016.

Notary Public

My commission expires 11/8/21

