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BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, seeking to update and amend Title 291, Chapter 5, Telecommunications, in its entirety.	)	**Rule and Regulation 214** **ORDER RELEASING SECOND PROPOSED RULES, SEEKING COMMENT, AND SETTING HEARING** **Entered: October 6, 2026**

COMMENTS OF WINDSTREAM

Windstream Nebraska LLC and its affiliates (collectively "Windstream") hereby respectfully file these comments as permitted by the Order Releasing Second Proposed Rules, Seeking Comment, and Setting Hearing (the "Order") issued by the Nebraska Public Service Commission ("Commission") on October 6, 2026, and state as follows:

As a preliminary matter, Windstream appreciates the Commission's continued efforts to update and modernize its telecommunications rules to better reflect the current telecommunications industry and evolving service environment.

1. Definitions (Section 001.01)

Windstream notes a potential conflict that may arise from the proposed change to Section 001.01(HH), defining "Local Exchange Service." "Basic Local Exchange Service," which is referenced in the revised definition, is also defined in Neb. Rev. Stat. § 86-105 using language consistent with the existing definition in Section 001.01(HH). Changing the definition in the Commission's rules without a corresponding statutory change could create confusion for providers and customers, particularly as it relates to tariffed services and rates.

2. Transfer of Ownership (Section 002.23)

Windstream supports Lumen's proposed revisions to Section 002.23(C), as well as its proposed addition of Section 002.23(D) and the requirements contained therein.

3. ETC Back-Up Power Requirement (Section 007.02)

The proposed addition to Section 007.02(A)(vii) would expand back-up power requirements to ETCs that have not historically been subject to this obligation. For services that require a separate customer-premises power source, the proposed requirement to provide at least eight hours of back-up power at no additional charge could increase the cost of providing service by several hundred dollars per customer without a corresponding cost-recovery mechanism. Windstream therefore recommends revising the proposed requirement to allow ETCs to offer customers a back-up power option for purchase rather than requiring back-up power to be provided at no additional charge.

Windstream recommends revising Section 007.02(A)(vii) as follows:

> *007.02(A)(vii). A carrier seeking high cost support shall demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations, and* ***must offer for sale to customers receiving service that requires a separate power source a back-up power solution capable of providing at least eight hours of back-up power****.*

4. Wire Crossing (Section 11)

Windstream supports the Commission's proposed revisions and recommends an additional change to provide greater certainty and timeliness in the wire crossing process, including with respect to the coordination and availability of railroad flagging services. Windstream also appreciates that the proposed changes are generally consistent with the Broadband Deployment Advisory Committee's State Model Code for Accelerating Broadband Infrastructure Deployment

and Investment.[1] Windstream recommends additional refinements to establish clear and enforceable timelines for review of wire-crossing applications and to prevent unnecessary delays in broadband deployment.

Windstream recommends revising 011.02(B) as follows:

> *Upon receipt of such application, the railroad carrier shall notify the telecommunications carrier within 15 calendar days if the application is incomplete and shall identify with specificity the additional information necessary to complete the application. Upon submission of the information identified by the railroad carrier as necessary to complete the application, the application shall be deemed complete. If the railroad carrier does not provide such notice within 15 calendar days, the application shall be deemed complete.*
>
> *(i) Once an application is complete the railroad carrier and telecommunications carrier shall have 35 calendar days to enter into a binding wire crossing agreement, including terms consistent with Section 011.04. If the parties have not entered into an agreement within that period, and the telecommunications carrier has complied with the payment terms of Section 011.04, the telecommunications carrier may proceed with construction, provided that the railroad carrier has not notified the telecommunications carrier in writing that the proposed crossing presents a serious threat to safe railroad operations. Any such notice shall identify with specificity the safety concern and the reasonable measures necessary to address it.*
>
> *(ii) Any other objection by the railroad carrier shall not delay construction after expiration of the 35-day period and may be raised through the Petition for Hearing process provided in this Section.*

Once a telecommunications carrier has received the necessary authorization, entered into a binding agreement, and is prepared to commence construction, delays may continue due to the availability and scheduling of railroad flaggers. Windstream therefore recommends establishing reasonable timeframes for the coordination and availability of required flagging services and permitting a telecommunications carrier to utilize a qualified third-party flagging service which Windstream proposes the Commission's Railroad Safety Division manage if the railroad is unable to provide flagging within those timeframes, similar to self-help remedies available in the pole attachment context.

[1] https://www.fcc.gov/sites/default/files/bdac-12-06-2018-model-code-for-states-approved-rec.pdf

Windstream recommends adding the following section:

011.04(B)(i) Self-Help for Flagging: Following authorization to construct, if flagging is required, the telecommunications carrier may provide notice to the railroad that it is ready to commence construction. Within fifteen (15) calendar days after receipt of such notice, the railroad shall coordinate with the telecommunications carrier to schedule any required flagging services. The railroad shall make such flagging services available no later than thirty (30) calendar days after receipt of the notice. If the railroad fails to coordinate or make flagging services available within these timeframes, the telecommunications carrier may obtain a qualified third-party flagging service from a list of vendors maintained by the Commission's Railroad Safety Division, at its own expense. The railroad shall not impose any charge for flagging services it does not provide. If the railroad fails to provide flagging services on the scheduled date, the telecommunications carrier may obtain a qualified third-party flagging service from a list of vendors maintained by the Commission's Railroad Safety Division, subject to the same conditions.

Windstream also recommends establishing reasonable parameters for insurance requirements associated with railroad crossings. Establishing uniform insurance requirements would provide greater predictability for both railroads and telecommunications carriers and avoid unnecessary delay or disputes regarding insurance coverage.

Windstream recommends adding Section 011.04(C) as follows:

011.04(C) Certificate of Insurance Coverage:
(i) The certificate of insurance or coverage must include commercial general liability insurance with a combined single limit of at least $2,000,000 for each occurrence and an aggregate limit of at least $6,000,000.

(ii) The railroad may require protective liability insurance with a combined single limit of no more than $2,000,000 for each occurrence and $6,000,000 aggregate. The coverage may be provided by a blanket railroad protective liability insurance policy if the coverage, including the coverage limits, applies separately to each individual crossing. The coverage is required only during the period of construction, repair, or replacement of the facility.

(iii) The insurance coverage under paragraphs (i) and (ii) must not contain an exclusion or limitation related to railroads or to activities within 50 feet of railroad property.

(iv) The certificate of insurance must be from an insurer of the telecommunications carrier's choosing.

5. Deregulation Applications (Section 13)

a. 013.02(D) and 013.03: Customer Notice

Windstream reiterates its previous comments and concerns regarding the proposed customer notification requirements. Windstream recognizes that customers should have an opportunity to object to an application if they believe they do not have an alternative service provider available to them. However, Windstream remains concerned that the more extensive notice requirements proposed by the Commission may unnecessarily confuse customers rather than provide them with meaningful information.

In particular, customers may reasonably interpret a separate mailed notice regarding deregulation as indicating that their existing service is being discontinued or that Windstream will no longer serve them. That concern is particularly significant in today's environment, where customers may also be receiving communications or seeing news reports regarding network modernization, technology migrations, or other changes to telecommunications services. A notice regarding the regulatory classification of an exchange could easily be confused with those other communications, creating unnecessary concern for customers as well as additional inquiries to Commission Staff and the carrier.

Windstream therefore recommends that the Commission permit the required notice to be provided through a customer's monthly bill or billing communication. The notice could briefly advise the customer of the pending deregulation application and the customer's right to object and provide a link to a webpage containing an overview of the request, instructions for submitting an objection, and any other information required by the Commission. Upon request, the carrier could provide a customer with a paper copy of the notice or related materials.

This approach would preserve customers' opportunities to receive information and participate in the proceedings while presenting the information in a manner that is less likely to cause confusion regarding the continued availability of their existing service.

b. 013.02(E)(i) and (ii): Federal and State Universal Service Support

Windstream recommends that the funding information required by Sections 013.02(E)(i) and (ii) be limited to a reasonable and relevant period, such as the five years preceding the application.

As currently proposed, these provisions could be interpreted to require an incumbent local exchange carrier to identify federal and state universal service support received over the entire history of its operations in an exchange. For long-standing ILECs, that history may extend for decades. Reconstructing historical funding at that level would impose a significant administrative burden while providing little information relevant to the Commission's determination regarding current competition within the exchange.

A five-year lookback provides the Commission with recent information regarding universal service support, which it would need to determine any public interest concern.

c. Section 013.02(E)(iii): Plant Built or Installed in the Exchange

Windstream also recommends striking Section 013.02(E)(iii). A requirement to provide a listing of all plant built or installed within an exchange is neither practical nor reasonably tailored to the Commission's consideration of a deregulation application.

ILEC networks have been constructed, replaced, maintained, and upgraded over decades, often using a combination of universal service support and private capital. Records are not necessarily maintained in a manner that permits a carrier to identify, on an individual facility or

network-strand basis, the particular source of funding associated with each component of the network.

Windstream appreciates the Commission's interest in understanding the use of universal service support within an exchange. However, requiring what amounts to a facility-by-facility accounting would impose a substantial administrative burden without providing information that is reasonably necessary to determine whether sufficient competitive alternatives exist within the exchange.

Indeed, the presence of sufficient competition to support deregulation demonstrates that the universal service program has helped serve its intended purpose by supporting the availability of telecommunications services in areas that now have multiple service alternatives. Where the statutory competitive standard has been satisfied, the relevant question should be the appropriate treatment of support going forward, rather than a retrospective facility-by-facility accounting of how historical support was invested.

d. Section 013.02(E)(iv): Current Value of Assets

Windstream recommends that Section 013.02(E)(iv), which would require an applicant to provide the current value of assets built or installed within an exchange, be removed.

The present value of an incumbent carrier's network assets does not bear on whether competing providers currently serve or are capable of serving customers within the exchange. Under Neb. Rev. Stat. § 86-1604, the Legislature established specific competitive benchmarks based upon the availability of alternative voice communications providers.

Moreover, determining the “current value” of network assets is not necessarily a straightforward exercise. Network facilities may have been constructed using a combination of private investment and support received at different times, and different valuation methodologies

could produce materially different results. Requiring an applicant to develop asset valuations therefore risks introducing another evidentiary dispute concerning valuation methodology without materially assisting the Commission in determining whether the statutory competition standard has been satisfied.

Windstream agrees that deregulation should appropriately affect the carrier's prospective NUSF support associated with the deregulated exchange. However, the appropriate mechanism is to calculate the prospective adjustment to support under the Commission's existing NUSF allocation methodology, rather than attempting to reconstruct historical investment and determine the present value of network assets.

e. Section 013.02(F): Trouble Reports and Outage Information

Windstream acknowledges the Commission's response to its prior comments regarding the proposed requirement to submit trouble report and outage information. Windstream nevertheless continues to believe this information is not appropriately tied to the statutory determination before the Commission in an exchange deregulation proceeding.

Under Neb. Rev. Stat. § 86-1604, the central inquiry is whether the statutory level of competition exists within the exchange, measured principally by the presence and availability of alternative providers capable of providing voice communications service. Historical trouble reports and outage information do not demonstrate whether competing providers are available or capable of providing service to household locations within the exchange. Windstream therefore respectfully requests that Section 013.02(F) be removed.

To the extent Commission Staff determines that particular service-quality information is relevant to its review of an individual application, Windstream believes such information would be more appropriately addressed through a targeted data request than required as part of every

deregulation petition. At a minimum, if the Commission retains this requirement, Windstream requests that the Commission explain how the information will be considered in applying the statutory criteria for deregulation and establish reasonable parameters regarding the scope and period of information required.

6. CLEC Carrier of Last Resort ("COLR") Transfer Requests

While not specifically addressed in the Commission's proposed revisions, Windstream recommends that in instances where a CLEC is seeking to transfer COLR obligations from an ILEC, the CLEC be required to provide the affected ILEC with a copy of the initial application at the time of filing, together with an electronic spreadsheet and shapefile identifying the locations proposed for transfer. Providing this information at the outset would allow the affected ILEC to timely review the proposed locations and determine whether intervention is necessary, without unnecessarily delaying the CLEC's application or creating additional administrative work for Commission Staff.

7. Conclusion

Windstream thanks the Commission for the opportunity to provide comments in this docket and looks forward to continuing to participate in discussions regarding modernization of the Telecommunications rules and regulations.

Respectfully submitted this 30th day of October, 2026.

WINDSTREAM NEBRASKA LLC,

s/ Mary Vaggalis

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Certificate of Service

The undersigned hereby certifies that on this 30th day of October, 2026, one (1) electronic copy of the foregoing Comments of Windstream was delivered to the Nebraska Public Service Commission at psc.telecom@nebraska.gov and traci.christman@nebraska.gov.

s/ Mary Vaggalis
Mary Vaggalis