



PUBLIC NOTICE

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APPLICATIONS AND PETITION FOR DECLARATORY RULING FILED IN CONNECTION WITH THE TRANSFER OF CONTROL OF WINDSTREAM HOLDINGS II, LLC AND UNITI GROUP INC. TO WINDSTREAM PARENT, INC.

PLEADING CYCLE ESTABLISHED

WC Docket No. 24-165

Comments/Petitions Due: November 1, 2024

Reply Comments/Oppositions to Petitions Due: November 18, 2024

By this Public Notice, the Wireline Competition Bureau and Office of International Affairs seek comment from interested parties on the applications filed pursuant to section 214 of the Communications Act of 1934, as amended (Act),¹ and sections 63.03-04, 63.18, and 63.24 of the Commission's rules² to transfer control of domestic section 214 authority and international section 214 authorizations from Windstream Holdings II, LLC (Windstream) and Uniti Group Inc. (Uniti, together with Windstream, Transferors) to a newly created company, Windstream Parent, Inc. (Transferee) (Transferors and Transferee collectively, Applicants).³ Upon closing, the Transferee will be a publicly traded company⁴ with anticipated disclosable interests held by investment funds affiliated with Elliott Investment Management, L.P. (together with its advisory affiliates, Elliott), and other investment funds managed, advised, or otherwise affiliated with Pacific Investment Management Company LLC (PIMCO).⁵

¹ 47 U.S.C. § 214.

² 47 CFR §§ 63.03-04, 63.18, 63.24.

³ Windstream Holdings II, LLC and Uniti Group Inc. and Windstream Parent, Inc. Application for Consent to Transfer Control of Domestic and International Section 214 Authorizations, WC Docket No. 24-165, ITC-T/C-20240529-00097, ITC-T/C-20240529-00098, ITC-T/C-20240529-00099, ITC-T/C-20240529-00100 (filed Aug. 13, 2024) (Lead Application). The application file numbers and the Commission authorizations subject to the applications are listed in Attachment A to this Public Notice. The Lead Application was filed as a restated consolidated application, which made certain minor corrections and modifications to the Original Application filed on May 27, 2024. Windstream Holdings II, LLC and Uniti Group Inc. and Windstream Parent, Inc. Application for Consent to Transfer Control of Domestic and International Section 214 Authorizations, WC Docket No. 24-165 (filed May 27, 2024) (Original Application). The Applicants also filed applications for the transfer of control of wireless licenses under section 310(d) of the Act, and section 1.948 of the Commission's rules. 47 U.S.C. § 310(d); 47 CFR § 1.948. Those applications were placed on a Wireless Telecommunication Bureau accepted for filing public notice on May 29, 2024. See Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, and De Facto Transfer Lease Applications, and Designated Entity Reportable Eligibility Event Applications Accepted for Filing, Report No. 18671, Public Notice (WTB May 29, 2024).

⁴ Lead Application at 1, n.3. The Applicants state that at closing of or shortly after the transactions described in this application, the Transferee's legal name is expected to be changed, and it will be traded under the ticker symbol UNIT. *Id.*

Windstream Parent, Inc., Windstream, and Uniti (together, Petitioners) also filed a petition for a declaratory ruling pursuant to section 310(b)(4) of the Act⁶ and section 1.5000(a)(1) of the Commission's rules (Restated Petition),⁷ requesting that the Commission find that it would serve the public interest to approve the foreign equity and voting interests in New Windstream Midco, the proposed controlling U.S. parent of several subsidiaries of Windstream and Uniti that hold common carrier wireless licenses,⁸ above the 25% statutory benchmarks in section 310(b)(4) of the Act.⁹

Uniti, a publicly traded Maryland corporation, operates two primary businesses: Uniti Leasing and Uniti Fiber.¹⁰ Uniti Leasing owns, acquires, and leases communications assets nationwide to wholesale customers on both exclusive and shared-tenant bases.¹¹ Its largest customer is Windstream.¹² Uniti Fiber is a provider of lit and dark fiber solutions for wireless operators, carriers, enterprises, schools, and governments.¹³ Its business includes cell-site backhaul, small cells, internet services, and wavelengths.¹⁴ Uniti Fiber's primary service area is in the Southeastern United States.¹⁵ Between the two businesses, Uniti owns approximately 141,000 fiber route miles and 8.5 million fiber strand miles throughout the United States.¹⁶ Eighteen Uniti subsidiaries—organized under the laws of Alabama, Delaware, Georgia and Louisiana—hold domestic section 214 authority.¹⁷

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⁵ Lead Application at 15-20, Exh. A (Organizational Charts).

⁶ 47 U.S.C. § 310(b)(4).

⁷ 47 CFR § 1.5001(a)(1).

⁸ The subsidiaries of Windstream that hold common carrier wireless licenses are: BOB, LLC, D&E Communications, Inc., and Oklahoma Windstream, LLC (Common Carrier Fixed Point-to-Point Microwave service); Valor Telecommunications of Texas, LLC d/b/a Windstream Communications Southwest (Basic Exchange Telephone Radio Service, Common Carrier Fixed Point-to-Point Microwave, and Rural Radiotelephone); Windstream Services, LLC, Debtor-in-Possession (Upper Microwave Flexible Use Service); and Windstream Services, LLC (3.5 GHz Band Priority Access License). The subsidiaries of Uniti that hold common carrier wireless licenses are: Contact Network, LLC; Nexus Systems, LLC; Southern Light, LLC; and Uniti Fiber, LLC (Common Carrier Fixed Point-to-Point Microwave). Restated Petition, Annex 1.

⁹ 47 U.S.C. § 310(b)(4); 47 CFR § 1.5000(a)(1); Windstream Parent, Inc.; Windstream Holdings II, LLC; and Uniti Group Inc., Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, As Amended and Section 1.5001(a)(1) of the Commission's Rules, ICFS File No. ISP-PDR-20240524-00003, Petition for Declaratory Ruling (filed May 24, 2024). On August 13, 2024, the Petitioners filed a Restated Petition that provides additional foreign ownership information requested by Commission staff. Windstream Holdings II, LLC; and Uniti Group Inc., Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, As Amended and Section 1.5001(a)(1) of the Commission's Rules, ICFS File No. ISP-PDR-20240524-00003, Restated Petition for Declaratory Ruling (filed Aug. 13, 2024) (Restated Petition). The Petitioner filed a supplement to the Restated Petition on September 18, 2024 (Restated Petition Supplement).

¹⁰ Lead Application, Attach. 1 at 1. As part of the transaction and subject to shareholder approval, Uniti plans to convert to a Delaware corporation shortly before closing. *Id.* at 3; Restated Petition at 3.

¹¹ Lead Application, Attach. 1 at 1; Restated Petition at 3.

¹² Lead Application, Attach. 1 at 1-2; Restated Petition at 3.

¹³ Lead Application, Attach. 1 at 2; Restated Petition at 3.

¹⁴ Lead Application, Attach. 1 at 2; Restated Petition at 2-3.

¹⁵ Lead Application, Attach. 1 at 2; Restated Petition at 4.

¹⁶ Lead Application, Attach. 1 at 2; Restated Petition at 4.

¹⁷ Lead Application, Annex 1 at 4, Annex 2 at 4-7.

Windstream, a privately held Delaware limited liability company, through operating subsidiaries, provides fiber-based broadband to residential and small business customers in 18 states, managed cloud communications, networking and security services for mid-to-large enterprises and government entities across the U.S., and customized wavelength and dark fiber solutions for carriers, content providers, and others in the United States.¹⁸ Windstream's incumbent local exchange carrier (LEC) operating subsidiaries offer services to residential, business, and government customers in 18 states.¹⁹ Windstream's competitive LEC operating subsidiaries offer services primarily to enterprise business and government customers in all 50 states and the District of Columbia, such as software-defined wide area networking and unified communications as a service solutions to enable businesses to compete more effectively in the digital economy, and a variety of other data services, such as cloud computing, as well.²⁰ The Wireline Competition Bureau has authorized Windstream to receive \$522,790,015.70 in Rural Digital Opportunity Fund (RDOF) Phase I (Auction 904) support to provide service to 192,501 locations in 18 states.²¹

Transferee is a newly formed Delaware corporation that will serve as the ultimate parent company of Windstream and Uniti after the transaction is completed.²² Through its indirect ownership of those subsidiaries, the Transferee will indirectly hold the domestic section 214 authority and international section 214 authorizations and licenses of the respective subsidiaries of Uniti (Uniti Licensees) and Windstream (Windstream Licensees).²³

In this proceeding, the Applicants and Petitioners seek approval for a multiple-step transaction in which, prior to closing the transaction and after approval by Uniti's shareholders, Windstream will conduct a *pro forma* internal reorganization, in connection with a repurchase of certain membership interests in the company, in which Windstream will merge into one of its subsidiaries.²⁴ A newly formed

¹⁸ *Id.*, Attach. 1 at 2, Annex 2 at 4-7; Restated Petition at 2-3.

¹⁹ Lead Application, Attach. 1 at 2. Windstream operates as an incumbent LEC in Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, and Texas. *Id.*; Restated Petition at 3.

²⁰ Lead Application, Attach. 1 at 2; Restated Petition at 3.

²¹ See Lead Application, Attach. 1, 21-22 and Table 1; see also *Rural Digital Opportunity Fund Support Authorized for 2,521 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126 & 10-90, Public Notice, 37 FCC Rcd 171, Attach. A (WCB/OEA 2022); *Rural Digital Opportunity Fund Support Authorized for 2,576 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126 & 10-90, Public Notice, 37 FCC Rcd 171, Attach. A (WCB/OEA 2022); *Rural Digital Opportunity Fund Support Authorized for 2,521 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126 & 10-90, Public Notice, 37 FCC Rcd 1617 (WCB/OEA 2022); *Rural Digital Opportunity Fund Support Authorized for 1,345 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126 & 10-90, Public Notice, 37 FCC Rcd 4897; Historical Authorized Auction 904 Long-Form Applicants Data, <https://www.fcc.gov/files/historical-authorized-auction-904-long-form-applicants-data>. The states are Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, and Texas. Lead Application at 1, Attach. 1 at 22. (Table 1). None of the Uniti Licensees receives Universal Service Fund high-cost support. See *id.*, Attach. 1 at 21 n.50.

²² Lead Application, Attach. 1 at 3; Restated Petition at 1, n.4, 4.

²³ Lead Application, Attach. 1 at 3, 8 & Annex 1. Upon completion of the transaction, the Transferee, Uniti, and Windstream Licensees will be affiliated with three foreign carriers in Canada: Windstream New Edge, LLC; Intellifiber Networks, LLC; and McLeodUSA Telecommunications Services, LLC. Lead Application at 20-21; Restated Petition at 5.

²⁴ Lead Application, Attach. 1 at 8-9 & n.18; Restated Petition at 10. Uniti will also undergo certain *pro forma* changes, in anticipation of the merger, involving only intermediate entities and that are expected to occur shortly before closing. Lead Application, Attach. 1 at 8 n.15; see also Lead Application, Exh. A (Post-Transaction Organizational Charts); Restated Petition at 1 n.2, 10.

subsidiary, New Windstream, LLC, a Delaware limited liability company (New Windstream) will then become the ultimate parent of the Windstream Licensees.²⁵ To effectuate closing of the transaction, New Windstream will merge into the Transferee, with the Transferee surviving.²⁶ Then, Uniti will merge into a newly formed subsidiary of the Transferee, with Uniti surviving.²⁷ As a result, both the Windstream Licensees and the Uniti Licensees will become indirect subsidiaries of Transferee.²⁸

Both Uniti's pre-closing shareholders and Windstream's pre-closing members will receive common equity in the Transferee, with Windstream's pre-closing members also receiving consideration for their equity in Windstream in the form of cash, preferred equity, and warrants.²⁹ After the proposed transaction and exercise of all warrants of the Transferee issued at closing, Uniti's pre-closing shareholders will hold, in aggregate, approximately 57.68%, and Windstream's pre-closing equity holders approximately 42.32%, of the common stock in Transferee, assuming exercise of all warrants.³⁰

Following consummation of the transaction, disclosable interests will be held by investment funds affiliated with Elliott, and other investment funds affiliated with PIMCO.³¹ Two Elliott Funds currently hold disclosable interests in Windstream and will hold disclosable interests in Transferee: Elliott Associates, L.P., a Delaware limited partnership, and Elliott International, L.P. (EILP), a Cayman Islands exempted limited partnership.³² Elliott's interests in the Transferee will indirectly and ultimately be held by Elliott Asset Management LLC, Braxton Associates, Inc., and Elliott Advisors GP LLC.³³ Paul Singer, a U.S. citizen, is the Managing Member, Controlling Shareholder, and Sole Member, respectively, of these entities.³⁴ Collectively, the Applicants and Petitioners estimate that funds managed by Elliott will hold up to a combined 27.42% of the publicly traded stock in the Transferee following the transaction.³⁵

²⁵ Lead Application, Attach. 1 at 8.

²⁶ *Id.*, Attach. 1 at 10; Restated Petition at 1 n.2.

²⁷ Lead Application, Attach. 1 at 10.

²⁸ *Id.*; *see id.*, Exh. A (Organizational Charts); Restated Petition at 4.

²⁹ Lead Application, Attach. 1 at 10. Elliott has agreed to ensure that funds managed by Elliott will collectively hold less than 50% of the outstanding units after the rights offering concludes by committing to exchange any common units in the company for warrants as needed to keep both the Elliott Funds' collective ownership and the PIMCO Funds' collective ownership below 50% after reduction in the number of outstanding units. *Id.*, Attach. 1 at 9. According to the Applicants, the rights offering and equity repurchase are structured to ensure compliance with this ruling by ensuring that no foreign investor will acquire a majority of equity, voting, or economic interest as a result. *Id.*, Attach. 1 at 9 n.18; Restated Petition at 5.

³⁰ Lead Application, Attach. 1 at 10.

³¹ *Id.* at 15-20, Exh. A (Organizational Charts); Restated Petition at 12-15, Annex 2.

³² Lead Application, Attach. 1 at 4. The Elliott Funds hold a non-controlling interest greater than 10% in GoTo Technologies USA Inc., which (along with affiliates) offers software as a service (SaaS) and cloud-based remote work tools. *Id.*, Annex 2 at 1-2; Restated Petition at 6-7, Annex 2 (Post-Transaction Organizational Charts) at 3-4. According to the Restated Petition, "[i]nvestment funds managed by Elliott Investment Management, L.P. are collectively referred to as the 'Elliott Funds' for purposes of this [restated] petition." Restated Petition at 7, n.18.

³³ Lead Application, Attach. 1, Exh. A (Organizational Charts — Post-Transaction Elliott Upper Structure); Restated Petition at 10, Annex 2 Post-Transaction Organizational Charts at 4 (Post-Transaction Elliott Upper Structure).

³⁴ Lead Application, Attach. 1, Exh. A (Organizational Charts — Post-Transaction Elliott Upper Structure); Restated Petition at 9 n.3, 10, Annex 2 Post-Transaction Organizational Charts at 4 (Post-Transaction Elliott Upper Structure).

³⁵ Lead Application, Attach. 1 at 6; Restated Petition Annex 2 Post-Transaction Organizational Charts at 1,3, Annex 3.

PIMCO is a Delaware limited liability company and investment entity.³⁶ Certain funds and accounts managed, advised, or sub-advised by PIMCO (PIMCO Funds) hold approximately 21% of the equity in Windstream.³⁷ As a result of the rights offering and repurchase of membership units by Windstream prior to the merger of Windstream and the Transferee, the collective ownership of Windstream by the PIMCO Funds will increase to approximately 49.83% equity and 49.83% voting based upon present ownership, and up to 29.35% equity on an as-exercised basis considering warrants.³⁸ PIMCO's interests in the Transferee will indirectly and ultimately be held by Allianz SE, a European Company (SE) of German citizenship.³⁹ According to the Applicants, due to Windstream's governance structure and limitations on the power of members in its limited liability company agreement, this increase in PIMCO Funds' relative ownership of Windstream common units will not confer any actual control upon the PIMCO Funds or PIMCO over the governance or management of the company.⁴⁰ Following the transaction, no individual PIMCO Fund will control more than 5% of the Transferee, and funds and accounts managed, advised, or sub-advised by PIMCO will hold up to a combined 11.81% of the publicly traded stock in the Transferee following the transaction.⁴¹

The Applicants and Petitioners assert that a grant of the applications and Restated Petition will serve the public interest, convenience, and necessity.⁴² The Applicants assert that the transaction will enable them to move forward with an increased capability to compete to bring advanced services to consumers and businesses across the country.⁴³ According to the Applicants, the combination of Uniti's fiber-optic network and wholesale operations and Windstream's primarily last-mile, retail business focus

³⁶ Lead Application, Attach. 1 at 6; Restated Petition at 8.

³⁷ Lead Application, Attach. 1 at 6. The PIMCO Funds hold a non-controlling interest greater than 10% in Intelsat, which (along with its affiliates) operates communications satellites and provides satellite-delivered services. *Id.*, Annex 2 at 2; Restated Petition at 8.

³⁸ Lead Application, Attach. 1 at 7; Restated Petition at 9.

³⁹ Lead Application, Attach. 1, Exh. A (Organizational Charts — PIMCO Ownership Structure - Post Transaction); Restated Petition at 8.

⁴⁰ Lead Application, Attach. 1 at 7; Restated Petition at 8-9. The Restated Petition states that "Allianz SE has no control over the day-to-day operations or financial decisions made by PIMCO. Each fund is typically led by two or more portfolio managers, who are ultimately responsible for deciding when stocks or other investment interests are purchased, held, or sold and in what amounts, with some additional layers of guidance and support. However, neither PIMCO nor its portfolio managers engage in the day-to-day management or operations of Windstream." Restated Petition at 8-9.

⁴¹ Lead Application at 19, Attach. 1 at 7, Exh. A (Organizational Charts). According to the Restated Petition, "[a]s a result of the rights offering that Windstream plans to conduct prior to closing of the transaction, funds and accounts managed, advised, or sub-advised by PIMCO are expected to hold up to approximately 49.83 percent equity and voting interest in Windstream, although this interest will be diluted to 29.45 percent counting warrants on an as-exercised basis." Restated Petition at 9. The Petitioners further state that "[a]s a result of the reduction in the number of outstanding Windstream common units, the equity held by one PIMCO fund—the PIMCO Funds: Global Investors Series plc, Income Fund, which is organized in Ireland—will increase to a 5.39 percent equity interest in New Windstream. Additionally, during this period, PIMCO Funds: PIMCO Income Fund's equity will increase to 13.66 percent. This fund is organized in the United States, by waiver of its voting rights its actual voting percentage will not exceed 4.99 percent. Once the transactions contemplated by this application are complete, the equity and voting rights of both of these funds in Transferee will be below 5 percent." Restated Petition at 9, n.26.

⁴² Lead Application, Attach. 1 at ii, 12-13, 26. According to the Petitioners, "the foreign ownership interests do not pose any threat to the public interest. The stakeholders with significant non-U.S. ownership are not foreign-organized telecommunications service providers, but financial investors, including broadly held mutual funds, private investment funds, pension funds, and similar entities that are investing in Transferee for the primary purpose of seeking a financial return." Restated Petition at 22.

⁴³ Lead Application, Attach. 1 at ii, 13-17.

will enhance the Applicants' competitive position in both markets.⁴⁴ They believe that bringing together Windstream's retail business with Uniti's fiber-based distribution network—which Windstream utilizes as an arms-length tenant today—will reduce friction and free up both Applicants to focus on competing in the highly competitive fiber marketplace, including by enabling the combined company to drive fiber deeper into its network, reaching the customer premises.⁴⁵ The Applicants contend that combining the companies' respective network assets will also allow them to realize network and operational synergies, as well as economies of scale necessary to compete in the increasingly competitive fiber marketplace, while also reducing risk and expanding access to capital by diversifying the combined company's revenue stream.⁴⁶ At the same time, the Applicants argue that the transaction will not result in competitive or other harms that would be contrary to the public interest.⁴⁷

Petition for Declaratory Ruling Under Section 310(b)(4)

The Petitioners request that the Commission find that it would serve the public interest to approve the foreign equity and voting interests in New Windstream Midco, LLC, the proposed controlling U.S. parent of both of the Uniti and Windstream common carrier wireless licensees (collectively, the Common Carrier Wireless Licensees),⁴⁸ in excess of the 25% statutory benchmarks in section 310(b)(4) of the Act.

On June 2, 2023, the Commission granted a petition for a declaratory ruling filed by Windstream Holdings, its members, and its common carrier licensee subsidiaries (2023 Petitioners) requesting approval to exceed the foreign ownership benchmarks in section 310(b)(4) of the Act.⁴⁹ The *2023 Declaratory Ruling* authorized 100% aggregate foreign ownership of Windstream Holdings, as the proposed controlling U.S. parent of the Windstream common carrier wireless licensees,⁵⁰ and granted specific and advance approval of certain foreign individuals and entities, subject to the terms and conditions set forth in section 1.5004 of the Commission's rules.⁵¹ The *2023 Declaratory Ruling* was also

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*, Attach. 1 at ii, 17-20.

⁴⁸ See *supra* note 8. In the Restated Petition Supplement, Petitioners provide additional information to treat New Windstream Midco, LLC, rather than its parent company Windstream Parent, Inc., as the controlling U.S. parent of the licensees that are the subject of the Restated Petition. Petitioners further state that “the ownership interests reflected in the revised annexes do not differ from those previously reflected, except that New Windstream Topco, LLC and Windstream Parent, Inc. have been added to the disclosures and the entities previously disclosed as direct and indirect interest holders of Windstream Parent, Inc. are now disclosed as indirect interest holders of New Windstream Midco, LLC.” See Restated Petition.

⁴⁹ Grant of Windstream Holdings II, LLC Petition for Declaratory Ruling, Public Notice, ISP-PDR-20201021-00010 and ISP-AMD-20230330-00005, 38 FCC Rcd 5084 (2023) (*2023 Declaratory Ruling*).

⁵⁰ The common carrier wireless licensees in the *2023 Declaratory Ruling* did not include the Uniti licensees.

⁵¹ 47 CFR § 1.5004. Grant of the *2023 Declaratory Ruling* was also conditioned on the 2023 Petitioners filing annual certifications with the Commission stating that the 2023 Petitioners are in compliance with the Commission's foreign ownership rules. Letter from Jeffrey J. Carlisle and David S. Keir, Counsel to Windstream Holdings II, LLC, to Marlene H. Dortch, Secretary, FCC, ICFS File Nos. ISP-PDR-20201021-00010 and ISP-AMD-20230330-00005 (filed Apr. 27, 2023) (Annual Certification Agreement Letter) (“Windstream acknowledges that it is subject to Section 310(b) of the Act, Section 1.5000-1.5004 of the Commission's rules, and the terms and conditions of its foreign ownership declaratory ruling, including the requirement to obtain prior approval under Section 1.5004 of the Commission's rules. For as long as Windstream is structured as a limited liability company, Windstream commits to monitor its ownership and file with the Commission an annual certification each year, as of the date of grant of the declaratory ruling, stating that it remains in compliance with Section 310(b) of the Act, Sections 1.5000-1.5004 of the Commission's rules, and the terms and conditions of its foreign ownership declaratory ruling. This certification

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conditioned on compliance with the January 18, 2023 Letter of Agreement (2023 LOA) from Windstream Holdings to U.S. Department of Justice, U.S. Department of Defense, and U.S. Department of Homeland Security.⁵²

Now, the Petitioners are seeking a new declaratory ruling because after the proposed transaction there will be new foreign interest holders.⁵³ Further, New Windstream Midco, LLC will become the new controlling U.S. parent of the Common Carrier Wireless Licensees with the addition of the Uniti common carrier wireless licensees.

Post-Closing Ownership

Pursuant to the proposed transaction, through a series of transactions described above, Windstream and Uniti will both become subsidiaries of the Transferee, a corporation organized under the laws of Delaware that will be publicly traded.⁵⁴ According to the Restated Petition, stock in the Transferee will be held by a combination of the pre-closing shareholders of Uniti and pre-closing equity interest holders of Windstream, with pre-closing Windstream equity interest holders also receiving cash and preferred equity and warrants in the Transferee.⁵⁵ The Petitioners state that before giving effect to the exercise of the Transferee's warrants to purchase common stock, Uniti's equity holders will hold, in the aggregate, approximately 62% of the common equity of Transferee, and Windstream's pre-closing equity holders will hold, in the aggregate, approximately a 38% in the Transferee.⁵⁶ The Petitioners further state that the Windstream pre-closing equity holders will also receive warrants to purchase the Transferee's common stock in an aggregate amount equal to approximately 6.9% of the Transferee's common stock.⁵⁷ According to the Restated Petition, the warrants may not be exercised before the third anniversary of the

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will be filed in accordance with Section 1.16 of the Commission's rules and subscribed to as true under penalty of perjury. Windstream shall file the annual certifications in ICFS File Nos. ISP-PDR20201021-00010 and ISP-AMD-20230330-00005. If Windstream is not in compliance with Section 310(b) of the Act, Sections 1.5000- 1.5004 of the Commission's rules, and the terms and conditions of its foreign ownership declaratory ruling, it agrees to notify the Commission within fifteen (15) calendar days after discovery of such non-compliance." On June 3, 2024, the Petitioners filed an annual certification. Letter from Nicole Winters, Senior Director-Regulatory Counsel to Windstream, to Marlene H. Dortch, Secretary, FCC, ICFS file Nos. ISP-PDR-20201021-00010 and ISP-AMD-20230330-00005 (filed Jun. 3, 2024).

⁵² 2023 Declaratory Ruling at 2,12, 17; National Telecommunications and Information Administration (NTIA), Petition to Adopt Conditions to Authorizations and Licenses, ICFS File No. ISP-PDR-20201021-00010 (filed Feb. 3, 2023) (citing Letter of Agreement from Tony Thomas, President & Chief Executive Officer Windstream Holdings II, LLC, to Chief, Foreign Investment Review Section (FIRS) and Deputy Chief, Compliance and Enforcement (FIRS), on behalf of the Assistant Attorney General for National Security, United States Department of Justice National Security Division; and Assistant Secretary for Trade and Economic Security, Office of Strategy, Policy, and Plans, United States Department of Homeland Security; and Global Investment and Economic Security Directorate, Director Undersecretary of Acquisition and Sustainment, United States Department of Defense (dated Jan. 18, 2023) (Windstream LOA)). The NTIA filing attaches a copy of the Windstream LOA.

⁵³ Restated Petition at 4-6. The new foreign interest holders that hold more than 5% equity and/or voting interests include: Devonian II ICAV Sub-Fund I; Nexus Aggregator (Offshore) L.P.; Nexus Aggregator SLP I-A, Ltd.; Hambleton, Inc.; Elliott Special International GP, LLC.

⁵⁴ *Id.* at 4-5 (citing to Uniti Group Inc., Deutsche Bank, 32nd Annual Media, Internet & Telecom Conference (Mar. 12, 2024), <https://investor.uniti.com/static-files/4f0a0700-c2ed-4f89-9a5c-d4fe2a585b12>).

⁵⁵ *Id.* at 5.

⁵⁶ *Id.*

⁵⁷ *Id.*

closing of the transaction, and holders of the warrants are entitled to participate in certain distributions but are not entitled to voting rights.⁵⁸

The Petitioners further state that on an as-exercised basis including warrants in the Transferee issued at closing and after preferred equity dilution, pre-closing Windstream equity interest holders will account for approximately 42.32% of the Transferee's ownership and pre-closing Uniti shareholders will hold the remaining 57.68%.⁵⁹ Further, according to the Restated Petition, Elliott will introduce two additional foreign intermediate holding companies through which Elliott International Limited, a Cayman Islands exempted company, and EILP will hold their indirect interests in the Transferee: Devonian II ICAV Sub-Fund I (Devonian), a collective asset-management vehicle organized in Ireland and wholly owned by EILP, and Nexus Aggregator (Offshore) LP (Nexus Offshore), a limited partnership organized in the Cayman Islands and wholly owned by Devonian.⁶⁰ Upon closing, EILP will hold its entire interest in the Transferee indirectly through Devonian, which will, in turn, hold almost its entire interest in Transferee indirectly through Nexus Offshore, with a small portion also held through the Cayman Islands-organized vehicle, Nexus Aggregator SLP I-A, Ltd.⁶¹

Nexus Offshore, in turn, will hold its interest in the Transferee directly, and indirectly through Nexus Aggregator L.P. and Nexus Aggregator II L.P.⁶² Specifically, Nexus Offshore will directly hold the Transferee's stock resulting from the conversion of EILP's existing Uniti stock to the Transferee stock; will hold through Nexus Aggregator L.P. the Transferee stock, preferred equity, and warrants resulting from the conversion of EILP's existing indirect holding of Windstream equity interest units; and will hold through Nexus Aggregator II LP the Transferee stock, preferred equity, and warrants resulting from the conversion of EILP's warrants in Windstream acquired through the rights offering.⁶³ According to the Restated Petition, post-transaction, EILP, Elliott International Limited, Devonian, Nexus Offshore, Hambledon, Inc. (Cayman islands) and Elliott Special International GP, LLC (Cayman Islands) will also hold indirect, insulated, equity interests in warrants exercisable for up to an approximate aggregate of 3.31% common stock in the Transferee.⁶⁴

According to the Restated Petition, upon completion of the proposed transaction, New Windstream Midco, LLC, the proposed controlling U.S. parent, would have aggregate indirect foreign equity and voting interests of 30.48% as an indirect wholly owned subsidiary of the Transferee.⁶⁵ The Petitioners request that the Commission grant a declaratory ruling permitting foreign investors to own aggregate 100% equity and voting interests directly in the Transferee and indirectly in New Windstream Midco, LLC, the proposed controlling U.S. parent.⁶⁶

⁵⁸ *Id.* at 5,11.

⁵⁹ *Id.* at 11.

⁶⁰ Restated Petition at 11.

⁶¹ *Id.*

⁶² *Id.* at 11-12.

⁶³ *Id.* at 12.

⁶⁴ *Id.* at 13, n.35.

⁶⁵ *Id.* Annex 3.

⁶⁶ Restated Petition at 2, 24.

Pursuant to section 1.5001(i) of the Commission's rules,⁶⁷ the Petitioners request that the Commission specifically approve the indirect foreign equity and/or voting interests that would be held in the proposed controlling U.S. parent, New Windstream Midco, LLC, upon completion of the proposed transaction by foreign-organized entities and foreign individuals as follows:⁶⁸

Elliott Investment Management, L.P.

Elliott International, L.P. (18.67% equity; deemed 18.67% voting) (Cayman Islands);
Elliott International Limited (18.67% equity; deemed 18.67% voting) (Cayman Islands);
Devonian II ICAV Sub-Fund I (18.67% equity; deemed 18.67% voting) (Ireland);
Nexus Aggregator (Offshore) L.P. (18.67% equity; deemed 18.67% voting) (Cayman Islands);
Nexus Aggregator SLP I-A, Ltd. (0.20% equity; deemed 18.67%) (Cayman Islands);
Hambledon, Inc. (0% equity; deemed 18.67% voting) (Cayman Islands); and
Elliott Special International GP, LLC (0% equity; deemed 18.67%) (Cayman Island).

Pacific Investment Management Company LLC

Allianz Asset Management GmbH (0% equity; 11.81% voting) (Germany);
Allianz Europe B.V. (0% equity; 11.81% voting) (Netherlands); and
Allianz SE (0% equity; 11.81% voting) (Germany).

The Petitioners also request advance approval, pursuant to section 1.5001(k) of the Commission's rules,⁶⁹ for each of the above foreign-organized entities to increase their indirect equity and/or voting interests in New Windstream Midco, LLC up to a non-controlling 49.99%.⁷⁰

The Petitioners assert that the public interest would be served by granting the Restated Petition.⁷¹

Executive Branch Review

Through this Public Notice, pursuant to Commission practice, the applications and Restated Petition are being referred to the Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Applicants and Petitioners.⁷²

GENERAL INFORMATION

The applications identified herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

⁶⁷ 47 CFR § 1.5001(i).

⁶⁸ Restated Petition at 20-21.

⁶⁹ 47 CFR § 1.5001(k).

⁷⁰ Restated Petition at 21.

⁷¹ *Id.* at 21-24.

⁷² See *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Report and Order, 35 FCC Rcd 10927 (2020); see also *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997), recon. denied, 15 FCC Rcd 18158 (2000).

Interested parties may file comments/petitions and reply comments/oppositions on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
 - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

In addition, e-mail one copy of each pleading to each of the following:

- 1) Christi Shewman, Wireline Competition Bureau, christi.shewman@fcc.gov;
- 2) Fara Mohsenikolour, Office of International Affairs, fara.mohsenikolour@fcc.gov; and
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their

initial filings. New issues may not be raised in responses or replies.⁷³ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Christi Shewman, Wireline Competition Bureau, (202) 418-0646; or Fara Mohsenikolour, Office of International Affairs, (202) 418-1429.

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⁷³ See 47 CFR § 1.45(c).

ATTACHMENT A**SECTION 214 AUTHORIZATIONS****A. International**

The applications for consent to the transfer of control of certain international section 214 authorizations have been assigned the file numbers listed below.

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20240529-00097	Windstream Services, LLC	ITC-214-19980925-00658 ⁷⁴
ITC-T/C-20240529-00098	Uniti Fiber GulfCo LLC	ITC-214-20240419-00065
ITC-T/C-20240529-00099	Hunt Telecommunications LLC	ITC-214-20140114-00010
ITC-T/C-20240529-00100	Uniti Fiber LLC	ITC-214-20160509-00152

B. Domestic

Applicants filed an application to transfer control of domestic section 214 authority in connection with the proposed transaction. In light of the multiple applications pending before the Commission with respect to this transaction and the public interest review associated with them, the domestic transfer of control application is not subject to streamlined treatment.⁷⁵

PETITION FOR DECLARATORY RULING UNDER SECTION 310(b)(4)

The Petition has been assigned File No. ISP-PDR-20240524-00003.

SECTION 310(d) APPLICATIONS⁷⁶

<u>File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0011084397	Uniti Fiber LLC	WQNQ285
0011084405	Contact Network, LLC	WQQB654
0011084413	Nexus Systems, LLC	WQJI214
0011084916	Southern Light, LLC	WQNJ504

⁷⁴ In Annex 2 of the Restated Application, the Applicants list 57 wholly owned subsidiaries of Windstream Services, LLC that provide international service under the authority held by Windstream Services, LLC, ITC-214-19980925-00658, pursuant to section 63.21(h) of the Commission's rules. 47 CFR § 63.21(h). Restated Statement at 4, Annex 2.

⁷⁵ 47 CFR § 63.03.

⁷⁶ The Applicants also filed applications for the transfer of control of wireless licenses under section 310(d) of the Act, and section 1.948 of the Commission's rules. 47 U.S.C. § 310(d); 47 CFR § 1.948. -Those applications were placed on a Wireless Telecommunication Bureau's accepted for filing public notice on May 29, 2024. *See* Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, and De Facto Transfer Lease Applications, and Designated Entity Reportable Eligibility Event Applications Accepted for Filing, Report No. 18671, Public Notice (WTB May 29, 2024).

0011087831	D&E Communications, Inc.	WQJH937
0011087837	Oklahoma Windstream, LLC	KPP33
0011087852	Windstream Services, LLC	WRLA665
0011087861	Windstream Services LLC, Debtor-In-Possession	WREU275
0011084618	BOB, LLC	WQCC512
0011087844	Valor Telecommunications of Texas, LLC	KKK59