



PUBLIC NOTICE

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**Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554**

**DA 02-924
APRIL 19, 2002**

**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON WINSTAR
COMMUNICATIONS, LLC'S EMERGENCY PETITION FOR DECLARATORY
RULING REQUESTING THE COMMISSION TO REQUIRE THE ILECS TO
PROVIDE A SEAMLESS TRANSITION OF SERVICE TO CUSTOMERS**

WC Docket No. 02-80

**COMMENTS DUE: April 29, 2002
REPLY COMMENTS DUE: May 3, 2002**

On April 17, 2002, Winstar Communications, LLC (IDT Winstar) filed an Emergency Petition for Declaratory Ruling, asking the Commission to declare that any actions by Verizon, Qwest, or any other similarly situated incumbent local exchange carrier (ILEC) to deny or delay provisioning of facilities and related services to IDT Winstar, thus preventing a seamless transition of customers from Winstar Wireless, Inc. (Old Winstar) to IDT Winstar, are violations of the Communications Act. According to Winstar, this issue has arisen because, pursuant to Old Winstar's bankruptcy and the Bankruptcy Sale Order issued by the bankruptcy court,¹ IDT Winstar was required to decide whether to accept or reject leases, including interconnection agreements with the ILECs, by April 18, 2002 (the Rejection Date). IDT Winstar claims that the ILECs have threatened that if IDT Winstar refuses to assume the debts of Old Winstar under those agreements, the ILECs will not permit the seamless transition of customers from Old Winstar to IDT Winstar. Instead IDT alleges that the ILECs, after the Rejection Date, have threatened to disconnect the circuits and other facilities of the customers wishing to use IDT Winstar as their carrier going forward and only reconnect them in the fullness of time. IDT Winstar cites

¹ See *In re: Winstar Communications, Inc., et.al.*, Order Authorizing (i) Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claims Encumbrances, and Interests, (ii) Approving Cure Amounts with Respect to Certain Executory Contracts and Unexpired Leases, (iii) Authorizing the Debtors to Enter into and Approving Management Agreement, (iv) Approving Regulatory Transition Process and (v) Granting Related Relief, Case No. 01-1430(JJF) (issued December 19, 2001) ("Bankruptcy Sale Order").

pleadings several of the ILECs have filed before state public utilities commission to support its contentions.

IDT Winstar claims that the disconnect and reconnect scenario the ILECs have proposed in these filings violates the Communications Act, including Section 201, 202, 203, and 251 of the Act, and petitions the Commission for a ruling consistent with its claim. The Bureau seeks comment on IDT Winstar's Emergency Petition. A copy of the petition will be available during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Suite CY-A257, Washington, D.C. 20554, (202) 418-0270. A copy of the petition may also be found by searching on the Commission's Electronic Comment Filing System (ECFS) at <<http://www.fcc.gov/e-file/ecfs.html>> (insert 02-80 into the Proceeding block). Interested parties may file, electronically or by paper, comments concerning this matter on or before **April 29, 2002**, and reply comments on or before **May 3, 2002**. All filings must reference **WC Docket No. 02-80**. If filing paper copies, send an original and four copies to the Commission Secretary, Marlene H. Dortch, Portals II, 445 12th Street, SW, Suite TW-A325, Washington, D.C. 20554 and two copies to Carmell Weathers, Competition Policy Division, Portals II, 445 12th Street, S.W., Room 6-B153, Washington, D.C. 20554.

Comments may be filed using the ECFS. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. If using this method, please reference the Docket number, **WC Docket No. 02-80** in the Proceeding block. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, postal service mailing address, and the applicable docket or rulemaking number(s). Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, including "get form <your e-mail address>" in the body of the message. A sample form and directions will be sent in reply. After filing your comments electronically, please send an e-mail to Carmell Weathers, cweather@fcc.gov, indicating that comments have been filed.

This is a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules.² As a "permit but disclose" proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.³

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.⁴ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.

² See generally 47 C.F.R. §§ 1.1200-1.1216.

³ 47 C.F.R. § 1.1206.

⁴ 47 C.F.R. § 1.1206(b)(2).

For further information contact Pamela Arluk of the Wireline Competition Bureau, Competition Policy Division, at (202) 418-1471 or parluk@fcc.gov. The TTY number is (202) 418-0484.

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