

Presentment Date: September 9, 2022, at 4:00 p.m. (prevailing Eastern Time)
Objection Deadline: September 7, 2022, at 4:00 p.m. (prevailing Eastern Time)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)
) Chapter 11
)
WINDSTREAM FINANCE CORP., *et al.*,¹) Case No. 19-22397 (LGB)
)
Reorganized Debtors.) (Formerly Jointly Administered under
) Lead Case: Windstream Holdings, Inc.,
) Case No. 19-22312)

**NOTICE OF FILING OF REORGANIZED DEBTORS’
MOTION FOR ENTRY OF AN ORDER (I) CLOSING THE CHAPTER 11
CASE, (II) ENTERING A FINAL DECREE, (III) TERMINATING SERVICES
OF CLAIMS AND NOTICING AGENT, AND (IV) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that, on August 17, 2022, the above-captioned reorganized debtors filed the *Reorganized Debtors’ Motion for Entry of an Order (I) Closing the Chapter 11 Case, (II) Entering a Final Decree, (III) Terminating Services of Claims and Noticing Agent, and (IV) Granting Related Relief* (the “Motion”). The Reorganized Debtors, by and through their undersigned counsel, will present for approval the proposed final decree attached as Exhibit A to

¹ The last four digits of the Reorganized Debtor Windstream Finance Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the reorganized debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Reorganized Debtors’ claims and noticing agent at <http://www.kcellc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.



the Motion (the “Proposed Order”) to the Honorable Lisa Beckerman, United States Bankruptcy Judge, in chambers, on **September 9, 2022 at 4:00 p.m. (prevailing Eastern Time)** (the “Presentment Date”).²

PLEASE TAKE FURTHER NOTICE that any responses or objections to the relief requested in the Motion (each, an “Objection”) shall (a) be in writing, (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York, and the *Final Order Establishing Certain Notice, Case Management, and Administrative Procedures* [Docket No. 392] (the “Case Management Order”), (c) be filed electronically with the Court on the docket of *In re Windstream Finance Corp.*, Case No. 19-22397 (LGB) by registered users of the Court’s electronic filing system and in accordance with the General Order M-399 (which is available on the Court’s website at <http://www.nysb.uscourts.gov>), (d) be sent to the Court’s chambers, and (e) be served so that the following parties actually receive such responsive pleading on or before **September 7, 2022, at 4:00 p.m., prevailing Eastern Time** (the “Objection Deadline”): (i) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn.: Chris Ceresa; and (ii) Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, Illinois 60654, Attn.: Ross M. Kwasteniet, P.C. and John R. Luze.

PLEASE TAKE FURTHER NOTICE that, if necessary, a hearing to consider the Motion will be held before the Honorable Lisa Beckerman, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, 1 Bowling Green, New York, New York 10004 (the “Bankruptcy Court”), at a date and time to be determined.

² All terms referenced herein and not otherwise defined have the meaning ascribed to them in the Motion.

PLEASE TAKE FURTHER NOTICE that the Reorganized Debtors are authorized to submit the Proposed Order to the Court if (a) an Objection is not filed and served timely on or before the Objection Deadline or (b) all Objections are resolved before the Presentment Date. The Court may enter the Proposed Order with no further notice or opportunity to be heard under such circumstances.

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter the Proposed Order without a hearing.

PLEASE TAKE FURTHER NOTICE that copies of the Motion, Case Management Order, and all other documents filed in the chapter 11 cases may be obtained free of charge by visiting the website of Kurtzman Carson Consultants LLC, at <http://www.kccllc.net/windstream>. You may also obtain copies of any pleadings by visiting the Bankruptcy Court's website at <http://www.nysb.uscourts.gov/> in accordance with the procedures and fees set forth therein.

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Dated: August 17, 2022
New York, New York

/s/ Ross M. Kwasteniet

James H.M. Sprayregen, P.C.

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Counsel to the Reorganized Debtors

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Counsel to the Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)				
In re:)	Chapter 11)		
))		
WINDSTREAM FINANCE CORP., <i>et al.</i> , ¹)	Case No. 19-22397 (LGB))		
))		
Reorganized Debtors.)	(Formerly Jointly Administered under)		
)	Lead Case: Windstream Holdings, Inc.,)		
)	Case No. 19-22312))		

**REORGANIZED DEBTORS’ MOTION FOR
ENTRY OF AN ORDER (I) CLOSING THE CHAPTER 11 CASE,
(II) ENTERING A FINAL DECREE, (III) TERMINATING SERVICES
OF CLAIMS AND NOTICING AGENT, AND (IV) GRANTING RELATED RELIEF**

Windstream Finance Corp., and its reorganized debtor affiliates (collectively, the “Debtors” and, after the Effective Date, the “Reorganized Debtors”), by and through their undersigned counsel, hereby state as follows in support of this motion (the “Motion”):²

¹ The last four digits of the Reorganized Debtor Windstream Finance Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the reorganized debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

² Capitalized terms used but not defined herein shall have the meaning set forth in the *Findings of Fact, Conclusions of Law, and Order Confirming the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc. et al., Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 2243] (the “Confirmation Order”) or Exhibit A thereto (as may be modified, supplemented, and updated from time to time, the “Plan”), as applicable.

Relief Requested

1. The Reorganized Debtors seek entry of an order substantially in the form attached hereto as **Exhibit A** (the “Order”) to (a) close the sole open docket in the Chapter 11 Cases, *In re Windstream Finance Corp., et al.*, Case No. 19-22397 (LGB) (the “Remaining Case”); (b) enter a final decree; (c) terminate the engagement of Kurtzman Carson Consultants LLC (“KCC”) as Claims and Noticing Agent; and (d) grant related relief.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012. The Reorganized Debtors confirm their consent, pursuant to Bankruptcy Rule 7008 of the Federal Rules of Bankruptcy Procedure, to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

4. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The statutory bases for the relief requested herein are sections 105(a) and 350(a) of the Bankruptcy Code, Bankruptcy Rule 3022, and rule 3022-1 of the Local Rules of Bankruptcy Procedure for the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”).

Background

6. On February 25, 2019, each of the two hundred five (205) Debtors filed a voluntary petition for relief under the Bankruptcy Code and, thereafter, operated their businesses and

managed their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

7. On February 28, 2019, the Court entered an order appointing Kurtzman Carson Consultants LLC as the Claims and Noticing Agent in the Chapter 11 Cases [Docket No. 59] (the “KCC Order”).

8. On March 1, 2019, the Court entered the *Order Directing Joint Administration of Chapter 11 Cases* [Docket No. 56] to procedurally consolidate and jointly administer the Chapter 11 Cases under the caption *In re Windstream Holdings, Inc., et al.*, Case No. 19-22312 (RDD) (the “Lead Case”) pursuant to Bankruptcy Rule 1015(b). Joint administration allowed the Debtors to effectively and efficiently manage their estates without harming the substantive rights of any party in interest. Notwithstanding such consolidation and joint administration, separate claims registers have been maintained for each of the Debtors’ jointly-administered cases.

9. On March 12, 2019, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed the Committee of unsecured creditors. *See Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 136]. The Committee was dissolved on the Effective Date in accordance with Article XII.J of the Plan.

10. On June 26, 2020, the Court entered the Confirmation Order confirming the Plan, subject to the occurrence of the Effective Date. Paragraph 123 of Confirmation Order provided that, “[o]n the Effective Date, the Plan shall be deemed to be substantially consummated for purposes of section 1101(2) of the Bankruptcy Code.”

11. On September 21, 2020, the Effective Date occurred, and the Plan was consummated. *See Notice of (I) Entry of Confirmation Order, (II) Occurrence of Effective Date, and (III) Related Bar Dates* [Docket No. 2527].

12. On September 28, 2020, the Reorganized Debtors filed the *Reorganized Debtors' Motion for Entry of a Final Decree Closing the Chapter 11 Cases* [Docket No. 2544], which the Court granted by entering, on October 23, 2020, the *Final Decree Closing the Chapter 11 Cases* [Docket No. 2627] (the "Final Decree"). The Final Decree closed each of the dockets in the Chapter 11 Cases other than the docket of the Remaining Case, which has been the sole docket remaining for the Chapter 11 Cases where all motions, notices and other pleadings relating to any of the Debtors or the Reorganized Debtors were filed, administered, and adjudicated without the need to reopen the closed case dockets.

13. Turning to the status of claims and distributions, as of the date hereof, the Debtors have scheduled more than 23,850 claims, totaling more than \$309.4 billion,³ and parties have filed approximately 8,800 proofs of claim against the Debtors, totaling approximately \$16.6 billion.⁴ In sum, there were more than 32,650 claims in these Chapter 11 Cases, whether filed proofs of claim or scheduled claims (collectively, the "Claims"), totaling approximately \$326 billion.

14. The Debtors and their advisors commenced a comprehensive process to reconcile each Claim with the Debtors' books and records. The claims reconciliation process involved, among other things, (a) line-by-line reviews of invoices, agreements, and other documents related to each proof of claim and (b) innumerable telephone conferences and correspondence with claimants and their applicable counsel. As a result of this process, twenty (20) omnibus claims

³ On May 10, 2019, the Debtors filed their respective schedules of assets and liabilities and statements of financial affairs [Docket Nos. 505-06] pursuant to Bankruptcy Rule 1007 and the *Order Granting a Second Extension of Time to File Schedules and Statements of Financial Affairs* [Docket No. 387]. On January 21, 2020, the Debtors filed amendments to certain schedules. See Docket Nos. 1435-36.

⁴ On May 13, 2019, the Court entered the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, (II) Approving Procedures for Submitting Proofs of Claim, and (III) Approving Notice Thereof* [Docket No. 518] establishing certain dates and deadlines for filing proofs of claim in the Chapter 11 Cases.

objections and sixteen (16) satisfaction notices have been filed to date.⁵ The Court has entered orders granting such omnibus claims objections and satisfaction notices (at least in part).⁶

15. Article VII.E. of the Plan permitted the Reorganized Debtors to file omnibus claims objections and satisfaction notices by no later than the Claims Objection Deadline, “(a) 180 days after the Effective Date” (*i.e.*, March 22, 2021)⁷ and “(b) such later date as may be fixed” by the Court. The current Claims Objection Deadline is through and including June 13, 2022, in accordance with the Court’s entry of four (4) extension orders.⁸

16. As of the date hereof, only three (3) Claims have yet to be allowed, satisfied, withdrawn, or expunged (collectively, the “Outstanding Claims”⁹). Each Outstanding Claim is subject to a pending claims objection (such objections to each of the Outstanding Claims collectively, the “Outstanding Matter”).¹⁰ While the Outstanding Matter is still technically

⁵ On October 10, 2019, the Court granted authority to file omnibus objections to Claims (including requests for payment of administrative expenses) and notices of satisfaction in accordance with the terms of the *Order (I) Approving (A) Omnibus Claims Objection Procedures, (B) Omnibus Substantive Claims Objections and Form of Notice, and (C) Satisfaction Procedures and Form of Notice and (II) Waiving Bankruptcy Rule 3007(e)(6) (the “Procedures Order”)* [Docket No. 1141].

⁶ The Reorganized Debtors and applicable claimants consensually resolved each claim subject to the *Reorganized Debtors’ Nineteenth Omnibus Objection to the No Liability Claims and Claims to be Modified* [Docket No. 162] and the *Sixteenth Notice of Satisfaction of Claims* [Docket No. 185] after each paper was filed, so there was no need for an order of the Court to resolve such claims.

⁷ The Effective Date occurred on September 21, 2020. 180 days thereafter is March 20, 2021, which fell on a weekend. The deadline automatically extended to the first non-holiday weekday thereafter pursuant to Bankruptcy Rule 9006, which was March 22, 2021.

⁸ See *Order Extending the Claims Objection Deadline* [Docket No. 95] (extending the Claims Objection Deadline by 180 days through and including September 16, 2021); *Second Order Extending the Claims Objection Deadline* [Docket No. 199] (extending the Claims Objection Deadline by ninety (90) days through and including December 15, 2021); *Third Order Extending the Claims Objection Deadline* [Docket No. 217] (extending the Claims Objection Deadline by ninety (90) days through and including March 15, 2022); *Fourth Order Extending the Claims Objection Deadline* [Docket No. 227] (extending the Claims Objection Deadline by ninety (90) days through and including June 13, 2022)

⁹ The three (3) Outstanding Claims are Claim Nos. 5161, 8710, and 8713, each filed by CMN-RUS, Inc. (“CMN”).

¹⁰ Claim No. 5161 is subject to the sixth omnibus claims objection [Docket No. 2317]. Claim Nos. 8710 and 8713 are subject to the twentieth claims objection [Docket No. 184]. For the avoidance of doubt, Claim No. 8713 corresponds to a certain request for payment of an administrative expense [Docket No. 2584], and the Procedures

pending, the Reorganized Debtors are hopeful that the parties will reach a consensual resolution and have agreed to arbitrate the disputes related to the Outstanding Matter.¹¹ Relative to all Claims in the Chapter 11 Cases, the Outstanding Claims represent less than one-tenth of one percent (0.1%) both by number and amount. Nonetheless, the amount of the Outstanding Claims, as filed, is more than \$533 thousand in the aggregate.

17. As of the date hereof, all Claims against the Debtors have been administered in accordance with the Plan (other than the Outstanding Claims), and all distributions under the Plan have been administered (other than as to the Outstanding Claims), with the Debtors or Reorganized Debtors causing, on account of Claims, monetary distributions to be made in the aggregate amount of approximately \$4.97 billion.¹²

18. In accordance with the terms of the Plan, the Debtors caused an aggregate amount of \$196 million to be reserved for purposes of distributions on account of claims. As of the date

Order provided that an omnibus claims objection may include an objection as to a request for payment of an administrative expense.

¹¹ In addition to the claims objection, the Reorganized Debtors filed an adversary proceeding, Case No. 21-07095, seeking affirmative recovery from CMN. The Reorganized Debtors agreed to voluntarily dismiss such adversary proceeding and commenced an arbitration the same day.

¹² See *Quarterly Operating Rep. for Windstream Holdings, Inc., et al. for the Period of July 1, 2020 to September 30, 2020* [Docket No. 21] (reporting approximately \$4.82 billion in cash distributions as of the date thereof); *Quarterly Operating Rep. for Windstream Finance Corp., et al. for the Period of October 1, 2020 to December 31, 2020* [Docket No. 45] (reporting approximately \$71 million in cash distributions for the corresponding quarter); *Quarterly Operating Rep. for the Period of January 1, 2021 Through March 31, 2021* [Docket No. 107] (reporting approximately \$36 million in cash distributions for the corresponding quarter); *Post-Confirmation Quarterly Operating Rep. for the Period of March 31, 2021 Through June 30, 2021* [Docket No. 154] (reporting approximately \$15 million in cash distributions for the corresponding quarter); *Post-Confirmation Quarterly Operating Rep. for Windstream Holdings, Inc., et al. for the Period July 1, 2021 to September 30, 2021* [Docket No. 207] (reporting approximately \$20.1 million in cash distributions for the corresponding quarter); *Post-Confirmation Quarterly Operating Rep. for Windstream Holdings, Inc., et al. for the Period October 1, 2021 to December 31, 2021* [Docket No. 221] (reporting approximately \$14 million in cash distributions for the corresponding quarter); *Post-Confirmation Quarterly Operating Rep. for Windstream Holdings, Inc., et al. for the Period January 1, 2022 to March 31, 2022* [Docket No. 231] (reporting approximately \$5.5 million in cash distributions for the corresponding quarter); *Post-Confirmation Quarterly Operating Rep. for Windstream Holdings, Inc., et al. for the Period April 1, 2022 to June 30, 2022* [Docket No. 239] (reporting approximately \$300 thousand in cash distributions for the corresponding quarter)

hereof, the balance of such reserved funding is approximately \$10.5 million, which is well-above the face value of the Outstanding Claims.

19. The U.S. Trustee has confirmed that, as of the date hereof, the Debtors or Reorganized Debtors do not (i) owe any outstanding fees as of the end of the 2022 first quarter and (ii) have any unsatisfied reporting requirements as of the end of the 2022 second quarter.¹³ The Reorganized Debtors have conferred with the U.S. Trustee in advance of this Motion and have confirmed that the U.S. Trustee is not opposed to the relief requested herein.

20. Over the course of the Chapter 11 Cases, certain of the Debtors or Reorganized Debtors have engaged in five (5) matters in the form of adversary proceedings.¹⁴ Four (4) of such proceedings has been resolved, and the corresponding dockets have been closed.¹⁵ While the other adversary proceeding docket remains open due to a pending appeal (the “Open Proceeding”), this Court has ruled, and there is nothing more for this Court to do at this time.¹⁶ Further, over the course of the Chapter 11 Cases, five (5) proceedings were brought before the district court, all of which have been dismissed other than the Open Proceeding.¹⁷ Other than the Open Proceeding,

¹³ In conference with the U.S. Trustee, the Reorganized Debtors have included consensual language in the proposed Order providing for fees and reporting, as applicable, that may be outstanding (but not overdue) from and after the second quarter of 2022.

¹⁴ See *Windstream Holdings, Inc., et al. v. Charter Commc'ns, Inc., et al.*, Adv. Pro. No. 19-08246-lgb (currently subject to appeal); *Windstream Holdings, Inc., et al. v. Yadegarian, et al.*, Adv. Pro. No. 19-08247-rdd (dismissed on October 23, 2020); *Windstream Holdings, Inc., et al. v. Uniti Grp. Inc., et al.*, Adv. Pro. No. 19-08279-rdd (closed on January 25, 2021); *Windstream KLD, LLC v. CMN-RUS, Inc.*, Adv. Pr. No. 21-07095-rdd (dismissed on February 9, 2022); *Saetec, Inc. v. Paetec Commc'ns, Inc., et al.*, Adv. Pro. 21-07008-rdd (closed on March 15, 2022).

¹⁵ See *Plaintiff's Notice of Voluntary Dismissal Without Prejudice*, Adv. Pro. No. 21-07095 (RDD), ECF No. 16; *Stipulation and Order Closing the Adversary Proceeding*, Adv. Pro. No. 19-08279 (RDD), ECF No. 134; *Dismissal Agreement and Order Dismissing Bankruptcy Appeal Pursuant to Fed. R. Bank. P. 8023*, Adv. Pro. No. 19-08247 (RDD), ECF No. 31.

¹⁶ See *Mem. of Decision, Windstream Holdings, Inc., et al. v. Charter Commc'ns, Inc., et al.*, Adv. Pro. No. 19-08246-lgb, ECF No. 332 (Bankr. S.D.N.Y. Apr. 8, 2021).

¹⁷ See *GLM DFW, Inc. v. Windstream Holdings, Inc., et al.*, District Case No. 19-cv-04854-CS (order of the bankruptcy court affirmed by the district court on April 3, 2020, subsequent appeal thereof dismissed by circuit

there are no outstanding requests for relief by a party in interest (other than the Outstanding Claim that corresponds to a request for payment of an administrative expense).

RELIEF REQUESTED

21. By this Motion, the Reorganized Debtors seek, pursuant to section 350(a) of the Bankruptcy Code, Bankruptcy Rule 3022, and Local Rule 3022-1, entry of an order (a) closing the Remaining Case; (b) entering a final decree; (c) terminating the engagement of the Claims and Noticing Agent; and (d) granting related relief. The Reorganized Debtors also seek authority to apply any remaining reserved funds to case closing expenses.

BASIS FOR RELIEF REQUESTED

I. The Docket of the Remaining Case Should Be Closed Because the Estate Has Been Fully Administered and the Plan Has Been Substantial Consummated.

22. Courts are instructed to close a bankruptcy case “[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case.”¹⁸ Further, “[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party interest, shall enter a final decree closing the case.”¹⁹ In light of the Bankruptcy Code not defining “fully administered,”²⁰ in connection with chapter 11 cases, bankruptcy courts read Bankruptcy Rule 3022 to grant flexibility in determining whether an estate

court on February 18, 2021, and petition for writ of certiorari denied on October 4, 2021); *UMB Bank Nat'l Ass'n, and CQS (US), LLC v. Windstream Holdings, Inc., et al.*, District Case No. 20-cv-04276-VB (dismissed on June 23, 2021); *US Bank Nat'l Ass'n v. Windstream Holdings, Inc., et al.*, District Case No. 20-cv-05440-VB (same); *CQS (US), LLC v. Windstream Holdings, Inc., et al.*, District Case No. 20-cv-05529-UA (same); *Windstream Holdings, Inc., et al. v. Charter Commc'ns and Charter Commc'ns Operating, LLC*, District Case No. 21-cv-04552-CS.

¹⁸ See 11 U.S.C. § 305(a).

¹⁹ Bankruptcy Rule 3022.

²⁰ *In re Motors Liquidation Co.*, 625 B.R. 605, 614 (Bankr. S.D.N.Y. 2021).

is fully administered.”²¹ Courts have considered the following six (6) factors (collectively, the “Factors”) outlined in the Advisory Committee Note to Bankruptcy Rule 3022 when determining whether an estate has been fully administered:

- (1) whether the order confirming the plan has become final;
- (2) whether deposits required by the plan have been distributed;
- (3) whether the property proposed by the plan to be transferred has been transferred;
- (4) whether the debtor or the successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;
- (5) whether payments under the plan have commenced; and
- (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.²²

Courts understand that no one (1) Factor is dispositive.²³ Further, Courts have come to view the Factors as non-exhaustive guidelines rather than strict requirements.²⁴

²¹ See, e.g., *In re Motors Liquidation Co.*, 625 B.R. 605, 614-15 (Bankr. S.D.N.Y. 2021); *In re Federated Dep’t Stores, Inc.*, 43 Fed. App’x 820, 823 (6th Cir. 2002) (affirming issuance of final decree despite outstanding litigation of claims that could take many years to resolve); see *In re Shotkoski*, 420 B.R. 479, 483 (B.A.P. 8th Cir. 2009) (“[W]e believe that the decision as to whether an estate is ‘fully administered’ is one that falls within the discretion of the bankruptcy judge.”); see also *In re Johnson*, 402 B.R. 851, 856 (Bankr. N.D. Ind. 2009) (holding that the decision to close a case calls for a “flexible, case-by-case evaluation” weighing the costs and benefits).

²² See Bankruptcy Rule 3022 advisory committee note to 1991 amendment.

²³ See *In re Kliegl Bros.*, 238 B.R. 531, 542 (Bankr. E.D.N.Y. 1999); *In re JMP-Newcor Int’l*, 225 B.R. 462, 465 (Bankr. N.D. Ill. 1998).

²⁴ See *In re Kliegl Bros.*, 238 B.R. at 542; *In re SLI, Inc.*, No. 02-12608 (WS), 2005 WL 1668396, at *2 (Bankr. D. Del. 2005).

23. In addition to using the Factors as a touchstone, Courts have also considered the standard of substantial consummation as defined in Section 1101(2) of the Bankruptcy Code.²⁵

Section 1101(2) of the Bankruptcy Code defines “substantial consummation” as:

(A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with the plan; and (C) commencement of distribution under the plan.

24. Here, under the rubric of the Factors and substantial consummation, the Chapter 11 Cases have been fully administered within the meaning of section 350(a) of the Bankruptcy Code. Accordingly, the docket of the Remaining Case should be closed. In addition, closing the docket of the Remaining Case is an appropriate use of the Court’s equitable powers pursuant to section 105(a) of the Bankruptcy Code.

25. The Factors weigh strongly in favor of closing the docket of the Remaining Case. *First*, the Confirmation Order is final and, further, the Effective Date occurred almost twenty-three (23) months ago. *Second*, the restructuring transactions provided for in the Plan have been effectuated. *Third*, the property proposed by the Plan to be transferred has been transferred. *Fourth*, the Reorganized Debtors have assumed the business and the management of the companies. *Fifth*, not only have payments under the Plan have merely commenced, but the Reorganized Debtors have made all distributions required to be made in accordance with the Plan (other than the three (3) Outstanding Claims), including all distributions on account of the claims for which a reserve was funded. *Sixth*, substantially all motions, claims objections, contested matters, and adversary proceedings have been finally resolved (other than the Outstanding Matter).

²⁵ See, e.g., *In re Gates Cmty. Chapel of Rochester, Inc.*, 212 B.R. 220, 224 (Bankr. W.D.N.Y. 1997) (footnote omitted) (citing *Walnut Assocs. v. Saidel*, 164 B.R. 487 (E.D. Pa. 1994); *In re BankEast Corp.*, 132 B.R. 665 (Bankr. D.N.H. 1991)).

Accordingly, the Chapter 11 Cases as consolidated under the docket of the Remaining Case should be deemed “fully administered” for purposes of section 350(a) of the Bankruptcy Code.

26. Turning to substantial consummation, the Court has already deemed the Plan substantially consummated in accordance with Section 1101(2) of the Bankruptcy Code upon the occurrence of the Effective Date, which indeed occurred.²⁶

27. Further, closing the docket of the Remaining Case is also an appropriate use of the Court’s equitable powers under section 105(a) of the Bankruptcy Code.²⁷ Closing the docket of the Remaining Case will relieve the Court, the U.S. Trustee, and the Reorganized Debtors of the burden of continuing to monitor and administer the Chapter 11 Cases and alleviate the burden on the Reorganized Debtors of continued payment of U.S. Trustee fees.

28. In accordance with Local Rule 3022-1, the Reorganized Debtors filed their closing report as Exhibit B to the *Reorganized Debtors’ Motion for Entry of a Final Decree Closing the Chapter 11 Cases* [Docket No. 2544]. The Reorganized Debtors have also remitted to the U.S. Trustee all quarterly fees required under 28 U.S.C. § 1930 for the Chapter 11 Cases through the first quarter of 2022, and will pay any remaining amounts owed for the second quarter of 2022 through the date of closure of the docket of the Remaining Case within fifteen (15) days of entry of a final decree.

29. The Reorganized Debtors request that the Court retain jurisdiction over the Outstanding Matter. While the Reorganized Debtors are in the process of arbitrating the Outstanding Claims, if case closure were delayed solely due to the Outstanding Claims not being

²⁶ See Confirmation Order, at par. 123.

²⁷ 11 U.S.C. § 105(a) (“The Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”).

fully resolved, the Reorganized Debtors may be subject to additional and substantial fees in accordance with 28 U.S.C. § 1930(a)(6), and such retention of jurisdiction would not prejudice CMN.

II. The Engagement of the Noticing and Claims Agent Should be Terminated.

30. Pursuant to the KCC Order, KCC was retained to, among other things, receive, maintain, record, and otherwise assist with administering Claims filed and scheduled in, and to provide noticing services with respect to, the Chapter 11 Cases. As noted above, the Reorganized Debtors have made all distributions in accordance with the Plan (other than as to the Outstanding Claims). The Reorganized Debtors therefore no longer require the claims and noticing services of KCC. Accordingly, the Reorganized Debtors submit that the termination of KCC's engagement as Claims and Noticing Agent is appropriate under the circumstances.

31. The Reorganized Debtors request that, to the extent applicable, KCC be directed to (i) prepare final claims registers for the Clerk's Office pursuant to the current guidelines for implementing 28 U.S.C. § 156(c) and (ii) transport all claims (if any) to the Federal Archives, at the direction of the Clerk's Office. These services will be paid for by the Reorganized Debtors.

32. Based upon the foregoing, the Reorganized Debtors submit that the relief requested by this Motion is warranted under the circumstances and should be granted.

RESERVATION OF RIGHTS

33. The Reorganized Debtors reserve the right, in accordance with applicable law, to further supplement this Motion as necessary.

NOTICE

34. The Reorganized Debtors will provide notice to (a) the Office of the U.S. Trustee; (b) the Claims and Noticing Agent; (c) the entities on the Master Service List (as defined in the Case Management Order and available on the Reorganized Debtors' case website at

www.kcellc.net/windstream), and (d) parties that have filed a request for service of papers under Bankruptcy Rule 2002. In light of the nature of the relief requested, the Reorganized Debtors submit that no other or further notice is necessary.

NO PRIOR REQUEST

35. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Reorganized Debtors respectfully request that the Court enter a final decree substantially the form attached hereto granting the relief requested herein and such other relief as is just and proper.

Dated: August 17, 2022
New York, New York

/s/ Ross M. Kwasteniet

James H.M. Sprayregen, P.C.

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Counsel to the Reorganized Debtors

Exhibit A

Order

(See attached)

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Counsel to the Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:				Chapter 11	
WINDSTREAM FINANCE CORP., <i>et al.</i> , ¹				Case No. 19-22397 (LGB)	
Reorganized Debtors.				(Formerly Jointly Administered under	
				Lead Case: Windstream Holdings, Inc.,	
				Case No. 19-22312)	

FINAL DECREE CLOSING THE CHAPTER 11 CASES

Upon the motion (the “Motion”)² of the Reorganized Debtors for the entry of an order (this “Order”) closing the Remaining Case, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012, as a core proceeding pursuant to 28 U.S.C. § 157(b) that this Court may decide by a final order consistent with Article III of the United States

¹ The last four digits of the Reorganized Debtor Windstream Finance Corp.’s tax identification number are 5713. Due to the large number of Reorganized Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the reorganized debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Constitution; and this Court having found that venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Reorganized Debtors' notice of the Motion's request for relief and the opportunity for a hearing thereon were appropriate under the circumstances and no other notice thereof need be provided; and upon the record of the hearing held by the Court, if any, and all of the proceedings herein; and, after due deliberation, this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish good and sufficient cause for the relief granted herein; and this Court having determined, in light of the nature and status of the claims objection as to each of the Outstanding Claims (*i.e.*, Claim Nos. 5161, 8710, and 8713), that the interests of judicial economy, convenience to the parties, fairness and comity are served by the retention of jurisdiction over the Outstanding Matter, therefore, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The docket of the chapter 11 case *In re Windstream Finance Corp., et al.*, Case No. 19-22397 (LGB) (the "Remaining Case") is hereby closed; *provided that* the Court shall retain jurisdiction in accordance with Article XI of the Plan (Retention of Jurisdiction); *provided further that* the Court shall retain jurisdiction over the Outstanding Matter.
3. KCC shall, to the extent applicable, (i) prepare a final claims register(s) for the Clerk's Office pursuant to the guidelines for implementing 28 U.S.C. § 156(c) and (ii) box and transport all claims (if any) to the Federal Archives, at the direction of the Clerk's Office. The services to be rendered by KCC in accordance with the preceding sentence shall be charged to the Reorganized Debtors.

4. Except as provided herein, KCC is hereby terminated and released as claims and noticing agent in these Chapter 11 Cases under Bankruptcy Rule 2002, 28 U.S.C. § 156(c), and the KCC Order.

5. Entry of this Order is without prejudice to the rights of the Debtors or the Reorganized Debtors to seek to reopen the Chapter 11 Cases for good cause shown in accordance with 11 U.S.C. § 350(b), including, for the avoidance of doubt, to resolve the Outstanding Claims. Upon reopening of any of the Chapter 11 Cases, quarterly fees will be imposed and paid pursuant to 28 U.S.C. § 1930(a)(6) and calculated based upon all disbursements for the period of reopening.

6. The Reorganized Debtors and their agents are authorized to take all actions necessary to effectuate the relief granted in accordance with the Motion and pursuant to this Order.

7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. Notice of the Motion shall be deemed good and sufficient, and the applicable requirements of the Bankruptcy Rules and Local Bankruptcy Rules have been satisfied.

9. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

10. The Reorganized Debtors shall reserve sufficient funds to pay the Office of the U.S. Trustee the amount of any quarterly fees due pursuant to 28 U.S.C. § 1930 and any applicable interest due pursuant to 31 U.S.C. § 3717, which fees and interest, if any, shall be paid within fifteen (15) days of the entry of this Order. Within five (5) days after the entry of the Order, the Debtors shall provide to the United States Trustee an affidavit indicating cash disbursements for the period from July 1, 2022 to the date that the Order has been entered.

New York, New York
Dated: _____, 2022

THE HONORABLE LISA G. BECKERMAN
UNITED STATES BANKRUPTCY JUDGE