

Hearing Date: August 20, 2019, at 11:00 a.m. (prevailing Eastern Time)
Objection Deadline: August 13, 2019, 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 HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 19-22312 (RDD)
)	
Debtors.)	(Jointly Administered)
)	

¹ The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the 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 Debtors' claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.



**NOTICE OF HEARING ON JOINT MOTION OF THE
DEBTORS AND THE COMMITTEE FOR ENTRY OF AN ORDER
ESTABLISHING CREDITOR INFORMATION SHARING PROCEDURES
AND PROTOCOLS UNDER 11 U.S.C. §§ 105(A), 107(B), AND 1102(B)(3)(A)**

PLEASE TAKE NOTICE that on July 23, 2019, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Joint Motion of the Debtors and the Committee for Entry of an Order Establishing Creditor Information Sharing Procedures and Protocols under 11 U.S.C. §§ 105(A), 107(B), and 1102(B)(3)(A)* (the “Motion”). A hearing (the “Hearing”) on the Motion will be held before the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601, on **August 20, 2019, at 11:00 a.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the relief requested in the Motion 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”) approved by the Court; (c) be filed electronically with the Court on the docket of *In re Windstream Holdings, Inc.*, Case 19-22312 (RDD) 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>); and (d) be served so as to be actually received by **August 13, 2019, at 4:00 p.m., prevailing Eastern Time**, by (i) the entities on the Master Service List (as defined in the Case Management Order and available on the Debtors’ case website at

<http://www.kccllc.net/windstream>) and (ii) any person or entity with a particularized interest in the subject matter of the Motion.

PLEASE TAKE FURTHER NOTICE that if no objections are timely filed and served with respect to the Motion, the Debtors shall, on or after the Objection Deadline, submit to the Court an order substantially in the form annexed as **Exhibit A** to the Motion, which order the Court may enter with no further notice or opportunity to be heard.

PLEASE TAKE FURTHER NOTICE that the Hearing may be continued or adjourned thereafter from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing. The Debtors will file an agenda before the Hearing, which may modify or supplement the Motion to be heard at the Hearing.

PLEASE TAKE FURTHER NOTICE that a copy of the Motion 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 Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

Dated: July 23, 2019
New York, New York

/s/ Stephen E. Hessler

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Debtors.)	(Jointly Administered)
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**JOINT MOTION OF THE DEBTORS AND THE
CREDITORS' COMMITTEE FOR ENTRY OF AN ORDER
ESTABLISHING CREDITOR INFORMATION SHARING PROCEDURES
AND PROTOCOLS UNDER 11 U.S.C. §§ 105(A), 107(B), AND 1102(B)(3)(A)**

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Windstream Holdings, Inc. and its debtor affiliates as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) and the official committee of unsecured creditors (the “Committee”) respectfully submit this motion (the “Motion”) for entry of an order substantially in the form attached hereto as Exhibit A (the “Order”), pursuant to sections 105(a), 107(b), and 1102(b)(3)(A) of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), providing that the Committee is not authorized or required, pursuant to section 1102(b)(3)(A) of the Bankruptcy Code, to provide access to the Debtors’ confidential and other non-public proprietary information, the Committee’s confidential information, or to privileged information, to the creditors it represents; and setting and fixing creditor information sharing procedures and protocols. In support of the Motion, the Debtors and the Committee respectfully state as follows:

RELIEF REQUESTED

1. In order to ensure that the Committee is able to comply with its obligations under section 1102(b)(3)(A) of the Bankruptcy Code and to protect the Debtors’ confidential, privileged or proprietary information as well as protect the Committee’s privileged information, the Debtors and the Committee request entry of the Order, clarifying that section 1102(b)(3)(A) of the Bankruptcy Code does not authorize or require the Parties (as defined below) to provide access to (a) Confidential Information (as defined below) or (b) Privileged Information (as defined below).

2. To balance the need to maintain the confidentiality of the Confidential Information and Privileged Information with creditors’ need for information regarding these chapter 11 cases, the Debtors and the Committee propose the following protocol (the “Protocol”)³ to be approved

³ Similar relief was granted in *In re Riverstone Networks, Inc.*, Case No. 06-10110 (CSS) (Bankr. Del. Apr. 11, 2006) [Docket No. 264]; *In re Skybus Airlines, Inc.*, Case No. 08-10637 (CSS) (Bankr. Del. May 30, 2008) [Docket No. 243]; *In re Sportsman’s Warehouse, Inc.*, Case No. 09-10990 (CSS) (Bankr. Del. Apr. 29, 2009) [Docket No. 251].

by this Court for the dissemination of information to any entity (all references to “entity” herein shall be as defined in section 101(15) of the Bankruptcy Code, “Entity”).

INFORMATION SHARING PROTOCOL

I. Committee Information Requests

3. The Debtors shall make good faith, commercially reasonable efforts to provide reasonable access to information to the Committee (together with the Debtors, each a “Party,” and collectively the “Parties”). The Committee may submit a written request for information to the Debtors (a “Committee Information Request”) for the benefit of the Debtors’ creditors and the Debtors shall, as soon as practicable, but no more than twenty (20) days after receipt of the Committee Information Request, provide a response to the Committee Information Request, including providing access to the information requested or the reasons the Committee Information Request cannot be complied with.

II. Access to Information

4. In accordance with section 1102(b)(3)(A) and (B) of the Bankruptcy Code, the Committee and the Debtors are authorized to, until the earliest to occur of (a): (i) dissolution of the Committee, (ii) dismissal of the Debtors’ chapter 11 cases, or (iii) conversion of the Debtors’ chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, and (b) a further order of the Court, establish and maintain an internet-accessed website that provides, without limitation:

- a. general information concerning the Debtors, including, case docket, access to docket filings, and contact information for the Debtors, certain of their advisors, and the Committee advisors;
- b. a calendar with upcoming significant events in the cases;
- c. access to the claims register maintained by KCC LLC, the Debtors’ claims and noticing agent;
- d. a general overview of the chapter 11 cases;

- e. a non-public form to submit creditor questions, comments and requests for access to information;
- f. responses to frequently asked creditor questions, comments, and requests for access to information; provided, that the Committee may privately provide responses to individual questions in the exercise of its reasonable discretion, subject to this Protocol; and
- g. links to other relevant websites.

III. Data Repository and Review Tool

5. Unless otherwise agreed to by the Parties, documents produced by each Party to the other Party shall be provided with the delimited load file(s) and delimited cross-reference file(s) in a format compatible with Relativity. Every TIFF in each production must be referenced in the production's corresponding load file. The total number of images referenced in a production's load file should match the total number of TIFF files in the production. The database load file shall include a reference to any native files that are produced.

IV. Creditor Information Requests

6. Any creditor (a "Requesting Creditor") may submit a written request for information (a "Creditor Information Request") to the Debtors and the Committee if the Requesting Creditor requests the Debtors' information or just to the Committee if the Requesting Creditor requests the Committee's information. Each Creditor Information Request must contain:

- a. a description of the requested information;
- b. the Requesting Creditor's aggregate beneficial holdings of first lien debt, any second lien notes, unsecured notes, or common stock of the Debtors, any debt or equity of Uniti Group, Inc., and any credit default swaps regarding any debt of the Debtors or Uniti Group, Inc.; and
- c. if the Creditor Information Request is submitted to the Committee, information regarding the Requesting Creditor's claim against the Debtors sufficient to satisfy the Committee, in its sole discretion, that such Requesting Creditor holds claims of the kind represented by the Committee.

7. If the Committee or the Debtors, as applicable, receive a Creditor Information Request that the Debtors determine, in their sole discretion, complies with the requirements outlined herein for requests of the Debtors' information or that the Committee determines, in its sole discretion, complies with the requirements outlined herein for requests of the Committee's information, the Committee or the Debtors, as applicable, shall:

- a. As soon as practicable, but no more than twenty (20) days after receipt of the Creditor Information Request, provide a response to the Creditor Information Request (the "Response"), including providing access to the information requested or the reasons the Creditor Information Request cannot be complied with.
- b. If the Response is to deny the Creditor Information Request because the Committee or the Debtors, as applicable, believe the Creditor Information Request (i) contains insufficient information, (ii) implicates Confidential Information or Privileged Information that need not be disclosed pursuant to the terms of this Protocol or otherwise under 11 U.S.C. § 1102(b)(3)(A), or (iii) is unduly burdensome, the Committee or the Debtors, as applicable, shall notify such Entity of that determination to the extent the request implicates such Party's information.
- c. If the Committee or the Debtors deny the Creditor Information Request because it requests Confidential Information or Privileged Information, the Requesting Creditor may, after a good faith effort to meet and confer with an authorized representative of the Committee or the Debtors (and an authorized representative of the Debtors, the Committee, or the third-party Entity, as applicable) regarding the Creditor Information Request and the Response, seek to compel such disclosure for cause pursuant to a motion and hearing. Such motion shall be served and the hearing on such motion shall be noticed and scheduled for the next available omnibus hearing at least fourteen (14) days from the date of the motion, or such other date as the Court is available, unless the Court grants otherwise. Nothing herein shall be deemed to preclude the Requesting Creditor from requesting that the Court conduct an in camera review of any information specifically responsive to the Requesting Creditor's request that the Committee or the Debtors claim is Confidential Information or Privileged Information. If the Response is to provide Confidential Information, the Committee shall only provide such information in accordance with section VI hereof.
- d. In its Response to a Creditor Information Request for access to Confidential Information or Privileged Information, the Committee or the Debtors, as applicable, shall consider, (if the Creditor Information Request seeks the Debtors' Confidential Information, together with the Debtors,) whether (i) the Requesting Creditor is willing to agree to reasonable confidentiality and trading restrictions with respect to such Confidential Information and represents that such trading restrictions and any information-screening process complies with applicable securities laws; and

(ii) under the particular facts, such agreement and any information-screening process that it implements will reasonably protect the confidentiality of such Confidential Information; provided, however, that if the Committee, and/or, as applicable, the Debtors, elect(s) to provide access to Confidential Information on the basis of such confidentiality and trading restrictions, neither the Debtors or the Committee shall have responsibility for the Requesting Creditor's compliance with, or liability for violation of, applicable securities or other laws. The Committee or the Debtors, as applicable, may condition providing such Confidential Information on the Requesting Creditor signing a protective order. Any disputes with respect to this paragraph shall be resolved as provided in the preceding paragraph, and, to the extent applicable, section VI hereof.

8. Nothing in this Protocol requires the Committee to provide access to information or solicit comments from any Entity that has not demonstrated to the satisfaction of the Committee, in its sole discretion, or to the Court, that it holds claims of the kind described in section 1102(b)(3) of the Bankruptcy Code.

V. Confidential and Privileged Information

9. Neither the Debtors nor the Committee shall be required to disseminate to any Entity, without further order of the Court:

- a. confidential, or other non-public proprietary information concerning the Debtors or the Committee, including (without limitation) all matters discussed at Committee meetings (whether or not memorialized in any minutes thereof), any information or material (whether written, electronic or oral) distributed to a member of the Committee or its representatives and any information or material (including any notes, analysis, compilations studies, interpretations, memoranda, or other documents and writings prepared by the Committee or its professionals) that contains information received from the Debtors or their representatives, in each instance, that is not generally available to the public (collectively, the "Confidential Information"), or
- b. any other information if the effect of such disclosure would constitute a general or subject matter waiver of the attorney-client, work product, or other applicable privilege possessed by the Committee (collectively, the "Privileged Information").

10. Notwithstanding anything herein to the contrary, any information received (formally or informally) by the Committee from any Entity in connection with an examination pursuant to Bankruptcy Rule 2004 or in connection with discovery in any contested matter,

adversary proceeding, or other litigation, including, but not limited to any confidentiality agreement and stipulated protective order entered in these chapter 11 cases, shall not be governed by the terms of this Protocol but, rather, by any order governing such discovery or by mutual agreement of the Committee and the Entity producing such information.

11. The Debtors shall make reasonable efforts to assist the Committee in identifying any Confidential Information concerning the Debtors that is provided by the Debtors or their agents or professionals, or by any third party, to the Committee, its agents, or its professionals. Any documents, information, or other materials designated by the Debtors as confidential shall be treated as Confidential Information for purposes of this Protocol, subject to any rights that the Parties may have in this Order.

VI. Release of Confidential Information of Third Parties

12. If a Creditor Information Request implicates Confidential Information of the Debtors (or any third-party Entity) and the Committee agrees that such request should be satisfied, or if the Committee on its own wishes to disclose such Confidential Information to creditors, the Committee may make a request to the Debtors (a “Confidential Information Request”) for the benefit of the Debtors’ creditors:

- a. if the Confidential Information is information of the Debtors, by submitting a written request, each captioned as a “Confidential Information Request,” to counsel to the Debtors at (i) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Stephen E. Hessler) and (ii) Kirkland & Ellis LLP, 300 North LaSalle, Chicago, IL 60654 (Attn: Marc Kieselstein, Ross M. Kwasteniet, Richard U.S. Howell, Brad Weiland, and John R. Luze), stating that such Confidential Information will not be provided in the manner described in the Confidential Information Request without the Debtors’ prior consent (which shall be provided or denied no later than seven (7) business days from receiving the Confidential Information Request); and, if the Debtors deny the Confidential Information Request, the Debtors shall engage in good faith discussions with the Committee and the Requesting Creditor (if applicable) regarding the denial. The Requesting Creditor and/or the Committee may schedule a hearing with the Court seeking a ruling with respect to the Confidential Information Request under

11 U.S.C. §§ 704(a)(7) & 1106(a)(1). Such motion shall be noticed and scheduled for the next available omnibus hearing at least fourteen (14) days from the date of the motion, or such other date as the Court is available, unless the Court grants otherwise; and

- b. if the Confidential Information Request implicates information of a third-party Entity, by submitting a written request to such Entity and its counsel of record, within seven (7) business days of the receipt of such Confidential Information Request, stating that such information will be provided in the manner described in the Confidential Information Request unless such Entity objects to such Confidential Information Request on or before seven (7) business days after the service of such Confidential Information Request; and, after the lodging of such an objection, the Committee, the Requesting Creditor, such Entity, and the Debtors may schedule a hearing with the Court seeking a ruling with respect to the Confidential Information Request. Such motion shall be noticed and scheduled for the next available omnibus hearing at least fourteen (14) days from the date of the motion, or such other date as the Court is available, unless the Court grants otherwise.
- c. In the event of any objection to the disclosure of Confidential Information pursuant to this paragraph, no such information shall be provided until such time and to the extent provided in an order by the Court that has become final and non-appealable.

VII. Confidentiality Agreements

13. Notwithstanding anything contained herein, (a) unless the Court orders otherwise with respect to a Confidential Information Request, the Committee shall not provide any Confidential Information of the Debtors to any third-party without the third-party executing an appropriate confidentiality agreement with the Debtors in a form and substance satisfactory to the Debtors and (b) the relief granted pursuant to this Order shall be subject in all respects to the confidentiality agreements executed by and between the Debtors and the Committee's professionals and the bylaws governing the operation of the Committee.

14. Nothing in this Protocol limits the Debtors' right to provide information by any other means not described in this Protocol, including providing information subject to existing or future confidentiality agreements.

VIII. Privilege Log

15. If the Parties withhold or redact any documents on the grounds of privilege, work product, or any other type of protection or immunity from disclosure, that Party shall provide the other Party with a privilege log consistent with Federal Rule of Civil Procedure (“Rule”) 26(b)(5), as incorporated by Bankruptcy Rules 7026 and 9014, or in such other form as agreed by the Parties or authorized by the Court. Privilege logs will be served on a rolling basis.

16. The Parties will work in good faith to agree upon efficient means of providing information regarding claims of privilege. For example, when asserting privilege on the identical basis with respect to multiple documents, it is presumptively proper to provide the information required by Rule 26(b)(5) by group or category. A privilege log that groups documents or otherwise departs from a document-by-document or communication-by-communication listing is not objectionable solely on that basis, but may be objected to if the substantive information required by Rule 26(b)(5) has not been provided in a comprehensible form.

17. Unless the time for compliance is extended by the Court or by agreement of the Parties, the Parties shall provide privilege logs no later than twenty-eight (28) days after the substantial completion of their production of documents in response to a set of document requests; provided, however, that with respect to the Committee’s First Request for the Production of Documents from the Debtors dated April 23, 2019, the Debtors shall provide the privilege logs in connection with the documents produced on May 13, 2019 no later than twenty-eight (28) days following the entry of the Protocol by the Court.

18. Any dispute with respect to the privilege logs that cannot be resolved in good faith consultation may be presented to the Court in accordance with section IX hereof.

IX. Discovery Disputes.

19. Unless otherwise agreed to by the Parties or ordered by the Court, any dispute with regard to discovery conducted under this Order that cannot be resolved by good faith consultation shall be presented to the Court pursuant to the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York, the Court's "Chambers' Rules," and any other applicable rules.

20. Any recipient of a discovery request pursuant to this Protocol retains the right to seek a protective order from the Court in accordance with the applicable rules.

X. No Prejudice to Right to Seek Discovery

21. Nothing herein affects the right of the Committee or any third-party Entity to seek information in connection with an examination pursuant to Bankruptcy Rule 2004 or in connection with discovery in any contested matter, adversary proceeding, or other litigation.

XI. Exculpation

22. Neither the Debtors, the Committee, or any of their respective directors, officers, employees, members, attorneys, consultants, advisors, and agents (acting in such capacity) (each, an "Exculpated Party"), shall have or incur any liability to any Entity (including the Debtors and their affiliates) for any act taken or omitted to be taken pursuant to the procedures set forth herein; provided, however, that the foregoing shall not affect the liability of any Exculpated Party protected pursuant to this paragraph that otherwise would result from any such act or omission to the extent that such act or omission is determined in a final non-appealable order to have constituted a breach of fiduciary duty, gross negligence, or willful misconduct, including, without limitation, fraud and criminal misconduct, or the breach of any confidentiality agreement or order.

Without limiting the foregoing, the exculpation provided in this paragraph shall be coextensive with any Exculpated Party's qualified immunity under applicable law.

BASIS FOR RELIEF

XII. As Written, the Statute Requires Undefined "Access to Information"

23. Section 1102(b)(3) of the Bankruptcy Code provides, in relevant part, that the Committee shall "provide access to information for creditors who—(i) hold claims of the kind represented by that committee; and (ii) are not appointed to the committee" 11 U.S.C. § 102(b)(3)(A). This section does not define "access to information." It is common for a debtor to share confidential information with a committee to allow the committee to assess, among other things, a debtor's capital structure, the results of any revised operations of the debtor in the bankruptcy cases, and the debtor's overall prospects for restructuring and the pursuit of strategic alternatives in chapter 11. In addition, a committee may execute confidentiality agreements with respect to certain information so that a debtor can ensure that committee members will keep information confidential and will not use such information except in connection with the bankruptcy cases.

24. Under section 105(a) of the Bankruptcy Code, this Court may "issue any order ... that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). The Parties respectfully submit that the relief requested by this Motion is necessary to allow the Committee to fulfill its statutory obligations as contemplated. The Parties further submit that the relief requested by this Motion is within this Court's authority and is necessary and appropriate to carry out the provisions of the Bankruptcy Code.

25. In addition, section 107(b) of the Bankruptcy Code provides that "[o]n request of a party in interest, the bankruptcy court shall ... protect an entity with respect to a trade secret or

confidential research development, or commercial information.” 11 U.S. C. § 107(b). Pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, this Court is empowered to protect the Confidential Information and Privileged Information from disclosure to general creditors.

26. Accordingly, the Parties request that the Court enter an order approving the Protocol proposed above, which will clarify the rights and duties of the Committee and creditors to information of the Debtors. Such relief will help maximize the value of the estates for creditors by streamlining the flow of information from the Debtors to the Committee and creditors.

CONCLUSION

WHEREFORE, the Debtors and the Committee respectfully request that the Court (i) grant the Motion, (ii) approve the Protocol, and (iii) grant such other and further relief as it deems just and proper.

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Dated: July 23, 2019
New York, New York

/s/ Stephen E. Hessler

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Exhibit A

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**ORDER GRANTING JOINT MOTION OF THE DEBTORS
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AND PROTOCOLS UNDER 11 U.S.C. §§ 105(A), 107(B), AND 1102(B)(3)(A)**

¹ The last four digits of Debtor Windstream Holdings, Inc.'s tax identification number are 7717. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the 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 Debtors' claims and noticing agent at <http://www.kcellc.net/windstream>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) and of the official committee of unsecured creditors (the “Committee”) for entry of an order (this “Order”), pursuant to Bankruptcy Code sections 105(a), 107(b) and 1102, as supplemented by Bankruptcy Rule 9018, providing that the Committee shall not be required under section 1102(b)(3)(A) of the Bankruptcy Code to provide the unsecured creditors it represents access to confidential and other nonpublic proprietary information or privileged information, except as set forth in the Protocol, 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 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and the Motion being a core proceeding under 28 U.S.C. § 157(b) that this Court may decide by a final order consistent with Article III of the United States Constitution; and this Court having found that venue of the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and upon all of the proceedings had before the Court; and after due deliberation this Court having determined that the legal and factual bases set forth in the Motion establish good and sufficient cause for the relief granted herein, in that such relief is in the best interests of the Debtors’ estates, creditors, and other parties in interest; now, therefore, it is hereby ORDERED that:

1. The Motion is granted.
2. The following information sharing protocol (the “Protocol”) is hereby approved:

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

I. Committee Information Requests

3. The Debtors shall make good faith, commercially reasonable efforts to provide reasonable access to information to the Committee (together with the Debtors, each a “Party,” and collectively the “Parties”). The Committee may submit a written request for information to the Debtors (a “Committee Information Request”) for the benefit of the Debtors’ creditors and the Debtors shall, as soon as practicable, but no more than twenty (20) days after receipt of the Committee Information Request, provide a response to the Committee Information Request, including providing access to the information requested or the reasons the Committee Information Request cannot be complied with.

II. Access to Information

4. In accordance with section 1102(b)(3)(A) and (B) of the Bankruptcy Code, the Committee and the Debtors are authorized to, until the earliest to occur of (a): (i) dissolution of the Committee, (ii) dismissal of the Debtors’ chapter 11 cases, or (iii) conversion of the Debtors’ chapter 11 cases to cases under chapter 7 of the Bankruptcy Code, and (b) a further order of the Court, establish and maintain an internet-accessed website that provides, without limitation:

- a. general information concerning the Debtors, including, case docket, access to docket filings, and contact information for the Debtors, certain of their advisors, and the Committee advisors;
- b. a calendar with upcoming significant events in the cases;
- c. access to the claims register maintained by KCC LLC, the Debtors’ claims and noticing agent;
- d. a general overview of the chapter 11 cases;
- e. a non-public form to submit creditor questions, comments and requests for access to information;

- f. responses to frequently asked creditor questions, comments, and requests for access to information; provided, that the Committee may privately provide responses to individual questions in the exercise of its reasonable discretion, subject to this Protocol; and
- g. links to other relevant websites.

III. Data Repository and Review Tool

5. Unless otherwise agreed to by the Parties, documents produced by each Party to the other Party shall be provided with the delimited load file(s) and delimited cross-reference file(s) in a format compatible with Relativity. Every TIFF in each production must be referenced in the production's corresponding load file. The total number of images referenced in a production's load file should match the total number of TIFF files in the production. The database load file shall include a reference to any native files that are produced.

IV. Creditor Information Requests

6. Any creditor (a "Requesting Creditor") may submit a written request for information (a "Creditor Information Request") to the Debtors and the Committee if the Requesting Creditor requests the Debtors' information or just to the Committee if the Requesting Creditor requests the Committee's information. Each Creditor Information Request must contain:

- a. a description of the requested information;
- b. the Requesting Creditor's aggregate beneficial holdings of first lien debt, any second lien notes, unsecured notes, or common stock of the Debtors, any debt or equity of Uniti Group, Inc., and any credit default swaps regarding any debt of the Debtors or Uniti Group, Inc.; and
- c. if the Creditor Information Request is submitted to the Committee, information regarding the Requesting Creditor's claim against the Debtors sufficient to satisfy the Committee, in its sole discretion, that such Requesting Creditor holds claims of the kind represented by the Committee.

7. If the Committee or the Debtors, as applicable, receive a Creditor Information Request that the Debtors determine, in their sole discretion, complies with the requirements

outlined herein for requests of the Debtors' information or that the Committee determines, in its sole discretion, complies with the requirements outlined herein for requests of the Committee's information, the Committee or the Debtors, as applicable, shall:

- a. As soon as practicable, but no more than twenty (20) days after receipt of the Creditor Information Request, provide a response to the Creditor Information Request (the "Response"), including providing access to the information requested or the reasons the Creditor Information Request cannot be complied with.
- b. If the Response is to deny the Creditor Information Request because the Committee or the Debtors, as applicable, believe the Creditor Information Request (i) contains insufficient information, (ii) implicates Confidential Information or Privileged Information that need not be disclosed pursuant to the terms of this Protocol or otherwise under 11 U.S.C. § 1102(b)(3)(A), or (iii) is unduly burdensome, the Committee or the Debtors, as applicable, shall notify such Entity of that determination to the extent the request implicates such Party's information.
- c. If the Committee or the Debtors deny the Creditor Information Request because it requests Confidential Information or Privileged Information, the Requesting Creditor may, after a good faith effort to meet and confer with an authorized representative of the Committee or the Debtors (and an authorized representative of the Debtors, the Committee, or the third-party Entity, as applicable) regarding the Creditor Information Request and the Response, seek to compel such disclosure for cause pursuant to a motion and hearing. Such motion shall be served and the hearing on such motion shall be noticed and scheduled for the next available omnibus hearing at least fourteen (14) days from the date of the motion, or such other date as the Court is available, unless the Court grants otherwise. Nothing herein shall be deemed to preclude the Requesting Creditor from requesting that the Court conduct an in camera review of any information specifically responsive to the Requesting Creditor's request that the Committee or the Debtors claim is Confidential Information or Privileged Information. If the Response is to provide Confidential Information, the Committee shall only provide such information in accordance with section VI hereof.
- d. In its Response to a Creditor Information Request for access to Confidential Information or Privileged Information, the Committee or the Debtors, as applicable, shall consider, (if the Creditor Information Request seeks the Debtors' Confidential Information, together with the Debtors,) whether (i) the Requesting Creditor is willing to agree to reasonable confidentiality and trading restrictions with respect to such Confidential Information and represents that such trading restrictions and any information-screening process complies with applicable securities laws; and (ii) under the particular facts, such agreement and any information-screening process that it implements will reasonably protect the confidentiality of such Confidential Information; provided, however, that if the Committee, and/or, as applicable, the Debtors, elect(s) to provide access to Confidential Information on

the basis of such confidentiality and trading restrictions, neither the Debtors or the Committee shall have responsibility for the Requesting Creditor's compliance with, or liability for violation of, applicable securities or other laws. The Committee or the Debtors, as applicable, may condition providing such Confidential Information on the Requesting Creditor signing a protective order. Any disputes with respect to this paragraph shall be resolved as provided in the preceding paragraph, and, to the extent applicable, section VI hereof.

8. Nothing in this Protocol requires the Committee to provide access to information or solicit comments from any Entity that has not demonstrated to the satisfaction of the Committee, in its sole discretion, or to the Court, that it holds claims of the kind described in section 1102(b)(3) of the Bankruptcy Code.

V. Confidential and Privileged Information

9. Neither the Debtors nor the Committee shall be required to disseminate to any Entity, without further order of the Court:

- a. confidential, or other non-public proprietary information concerning the Debtors or the Committee, including (without limitation) all matters discussed at Committee meetings (whether or not memorialized in any minutes thereof), any information or material (whether written, electronic or oral) distributed to a member of the Committee or its representatives and any information or material (including any notes, analysis, compilations studies, interpretations, memoranda, or other documents and writings prepared by the Committee or its professionals) that contains information received from the Debtors or their representatives, in each instance, that is not generally available to the public (collectively, the "Confidential Information"), or
- b. any other information if the effect of such disclosure would constitute a general or subject matter waiver of the attorney-client, work product, or other applicable privilege possessed by the Committee (collectively, the "Privileged Information").

10. Notwithstanding anything herein to the contrary, any information received (formally or informally) by the Committee from any Entity in connection with an examination pursuant to Bankruptcy Rule 2004 or in connection with discovery in any contested matter, adversary proceeding, or other litigation, including, but not limited to any confidentiality agreement and stipulated protective order entered in these chapter 11 cases, shall not be governed

by the terms of this Protocol but, rather, by any order governing such discovery or by mutual agreement of the Committee and the Entity producing such information.

11. The Debtors shall make reasonable efforts to assist the Committee in identifying any Confidential Information concerning the Debtors that is provided by the Debtors or their agents or professionals, or by any third party, to the Committee, its agents, or its professionals. Any documents, information, or other materials designated by the Debtors as confidential shall be treated as Confidential Information for purposes of this Protocol, subject to any rights that the Parties may have in this Order.

VI. Release of Confidential Information of Third Parties

12. If a Creditor Information Request implicates Confidential Information of the Debtors (or any third-party Entity) and the Committee agrees that such request should be satisfied, or if the Committee on its own wishes to disclose such Confidential Information to creditors, the Committee may make a request to the Debtors (a “Confidential Information Request”) for the benefit of the Debtors’ creditors:

- a. if the Confidential Information is information of the Debtors, by submitting a written request, each captioned as a “Confidential Information Request,” to counsel to the Debtors at (i) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Stephen E. Hessler) and (ii) Kirkland & Ellis LLP, 300 North LaSalle, Chicago, IL 60654 (Attn: Marc Kieselstein, Ross M. Kwasteniet, Richard U.S. Howell, Brad Weiland, and John R. Luze), stating that such Confidential Information will not be provided in the manner described in the Confidential Information Request without the Debtors’ prior consent (which shall be provided or denied no later than seven (7) business days from receiving the Confidential Information Request); and, if the Debtors deny the Confidential Information Request, the Debtors shall engage in good faith discussions with the Committee and the Requesting Creditor (if applicable) regarding the denial. The Requesting Creditor and/or the Committee may schedule a hearing with the Court seeking a ruling with respect to the Confidential Information Request under 11 U.S.C. §§ 704(a)(7) & 1106(a)(1). Such motion shall be noticed and scheduled for the next available omnibus hearing at least fourteen (14) days from the date of the motion, or such other date as the Court is available, unless the Court grants otherwise; and

- b. if the Confidential Information Request implicates information of a third-party Entity, by submitting a written request to such Entity and its counsel of record, within seven (7) business days of the receipt of such Confidential Information Request, stating that such information will be provided in the manner described in the Confidential Information Request unless such Entity objects to such Confidential Information Request on or before seven (7) business days after the service of such Confidential Information Request; and, after the lodging of such an objection, the Committee, the Requesting Creditor, such Entity, and the Debtors may schedule a hearing with the Court seeking a ruling with respect to the Confidential Information Request. Such motion shall be noticed and scheduled for the next available omnibus hearing at least fourteen (14) days from the date of the motion, or such other date as the Court is available, unless the Court grants otherwise.
- c. In the event of any objection to the disclosure of Confidential Information pursuant to this paragraph, no such information shall be provided until such time and to the extent provided in an order by the Court that has become final and non-appealable.

VII. Confidentiality Agreements

13. Notwithstanding anything contained herein, (a) unless the Court orders otherwise with respect to a Confidential Information Request, the Committee shall not provide any Confidential Information of the Debtors to any third-party without the third-party executing an appropriate confidentiality agreement with the Debtors in a form and substance satisfactory to the Debtors and (b) the relief granted pursuant to this Order shall be subject in all respects to the confidentiality agreements executed by and between the Debtors and the Committee's professionals and the bylaws governing the operation of the Committee.

14. Nothing in this Protocol limits the Debtors' right to provide information by any other means not described in this Protocol, including providing information subject to existing or future confidentiality agreements.

VIII. Privilege Log

15. If the Parties withhold or redact any documents on the grounds of privilege, work product, or any other type of protection or immunity from disclosure, that Party shall provide the other Party with a privilege log consistent with Federal Rule of Civil Procedure ("Rule") 26(b)(5),

as incorporated by Bankruptcy Rules 7026 and 9014, or in such other form as agreed by the Parties or authorized by the Court. Privilege logs will be served on a rolling basis.

16. The Parties will work in good faith to agree upon efficient means of providing information regarding claims of privilege. For example, when asserting privilege on the identical basis with respect to multiple documents, it is presumptively proper to provide the information required by Rule 26(b)(5) by group or category. A privilege log that groups documents or otherwise departs from a document-by-document or communication-by-communication listing is not objectionable solely on that basis, but may be objected to if the substantive information required by Rule 26(b)(5) has not been provided in a comprehensible form.

17. Unless the time for compliance is extended by the Court or by agreement of the Parties, the Parties shall provide privilege logs no later than twenty-eight (28) days after the substantial completion of their production of documents in response to a set of document requests; provided, however, that with respect to the Committee's First Request for the Production of Documents from the Debtors dated April 23, 2019, the Debtors shall provide the privilege logs in connection with the documents produced on May 13, 2019 no later than twenty-eight (28) days following the entry of the Protocol by the Court.

18. Any dispute with respect to the privilege logs that cannot be resolved in good faith consultation may be presented to the Court in accordance with section IX hereof.

IX. Discovery Disputes.

19. Unless otherwise agreed to by the Parties or ordered by the Court, any dispute with regard to discovery conducted under this Order that cannot be resolved by good faith consultation shall be presented to the Court pursuant to the Local Bankruptcy Rules for the United States

Bankruptcy Court for the Southern District of New York, the Court's "Chambers' Rules," and any other applicable rules.

20. Any recipient of a discovery request pursuant to this Protocol retains the right to seek a protective order from the Court in accordance with the applicable rules.

X. No Prejudice to Right to Seek Discovery

21. Nothing herein affects the right of the Committee or any third-party Entity to seek information in connection with an examination pursuant to Bankruptcy Rule 2004 or in connection with discovery in any contested matter, adversary proceeding, or other litigation.

XI. Exculpation

22. Neither the Debtors, the Committee, or any of their respective directors, officers, employees, members, attorneys, consultants, advisors, and agents (acting in such capacity) (each, an "Exculpated Party"), shall have or incur any liability to any Entity (including the Debtors and their affiliates) for any act taken or omitted to be taken pursuant to the procedures set forth herein; provided, however, that the foregoing shall not affect the liability of any Exculpated Party protected pursuant to this paragraph that otherwise would result from any such act or omission to the extent that such act or omission is determined in a final non-appealable order to have constituted a breach of fiduciary duty, gross negligence, or willful misconduct, including, without limitation, fraud and criminal misconduct, or the breach of any confidentiality agreement or order. Without limiting the foregoing, the exculpation provided in this paragraph shall be coextensive with any Exculpated Party's qualified immunity under applicable law.

23. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

White Plains, New York
Dated: _____, 2019

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE