

Presentment Date and Time: September 27, 2019, at 10:00 a.m. (prevailing Eastern Time)

Objection Deadline: September 25, 2019, at 4:00 p.m. (prevailing Eastern Time)

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Counsel to the Debtors and Debtors in Possession

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

In re:

WINDSTREAM HOLDINGS, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 19-22312 (RDD)
)

) (Jointly Administered)
)

**NOTICE OF PRESENTMENT OF
STIPULATION AND AGREED ORDER FOR LIMITED
RELIEF FROM THE AUTOMATIC STAY TO EFFECTUATE A SETOFF**

PLEASE TAKE NOTICE that on September 11, 2019, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Stipulation and Agreed Order for Limited Relief from the Automatic Stay to Effectuate a Setoff* (the “Stipulation and Agreed Order”) attached hereto as **Exhibit A**, which grants Inteliquent² limited relief from the automatic stay

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.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Stipulation and Agreed Order.



pursuant 11 U.S.C. § 362(d) to effectuate a setoff of the Parties Claims in accordance with the terms in the Stipulation and Agreed Order.

PLEASE TAKE FURTHER NOTICE that the Stipulation and Agreed Order, will be presented for signature by the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601, on **September 27, 2019, at 10:00 a.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that the Debtors agreed to Inteliquent's request to setoff the Windstream's Claims and Windstream Disputes against Inteliquent's Prepetition Claims in accordance with the Offset Agreement and subject to the terms set forth in the Stipulation and Agreed Order. The Parties will take action pursuant to the Stipulation and Agreed Order, which may be entered without a hearing unless an objection is made timely. Any responses or objections to the relief requested in the Stipulation and Agreed Order 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 Bankruptcy Court; (c) be filed electronically with the Bankruptcy Court on the docket of *In re Windstream Holdings, Inc.*, Case 19-22312 (RDD) by registered users of the Bankruptcy Court's electronic filing system and in accordance with the General Order M-399 (which is available on the Bankruptcy Court's website at <http://www.nysb.uscourts.gov>); and (d) be served so as to be actually received by **September 25, 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 Stipulation and Agreed Order.

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Stipulation and Agreed Order, the Debtors shall, on or after the Objection Deadline, submit to the Court the Stipulation and Agreed Order, which order the Court may enter with no further notice or opportunity to be heard.

PLEASE TAKE FURTHER NOTICE that, if an Objection is timely filed and served, a hearing (the “Hearing”) will be held to consider the Stipulation and Agreed Order on **September 27, 2019, at 10:00 a.m. (prevailing Eastern Time)** before the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601.

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

Dated: September 11, 2019
New York, New York

/s/ Stephen E. Hessler, P.C.

Stephen E. Hessler, P.C.

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Exhibit A

Stipulation and Agreed Order

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

In re:

WINDSTREAM HOLDINGS, INC., *et al.*,³

Debtors.

)
) Chapter 11
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) Case No. 19-22312 (RDD)

) (Jointly Administered)
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**STIPULATION AND AGREED ORDER FOR LIMITED RELIEF FROM THE
AUTOMATIC STAY TO EFFECTUATE A SETOFF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) and Inteliquent, Inc. (“Inteliquent” and, together with the Debtors, the “Parties” and each a “Party”) hereby enter into this stipulation and agreed order (the “Stipulation and Agreed Order”) as follows:

³ 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.

RECITALS⁴

WHEREAS, on February 25, 2019 (the “Petition Date”), the Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), and such cases are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure [Docket No. 56] (collectively, the “Chapter 11 Cases”). The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

WHEREAS, the Parties agree that Inteliquent has asserted claims against Windstream Services, LLC (“Windstream”) for alleged unpaid amounts for telecommunications goods and services provided to Windstream prior to the Petition Date (“Inteliquent’s Prepetition Claims”).

WHEREAS, through a series of acquisitions, Inteliquent, Inc. is a sister company of ANPI Business, LLC d/b/a Voyant Communications (“Voyant”). On May 17, 2019, Voyant filed a proof of claim in the Bankruptcy Court (the “Excluded Voyant Claim”). For clarity, Inteliquent’s Prepetition Claims excludes the Excluded Voyant Claim.

WHEREAS, the Parties agree that Windstream has (1) disputed and withheld certain amounts billed by Inteliquent for telecommunications goods and services provided to Windstream prior to the Petition Date (“Windstream Withheld Disputes”) and (2) disputed and paid under protest certain of the amounts billed by Inteliquent for telecommunications goods and services

⁴ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Offset Agreement (defined below).

provided to Windstream prior to the Petition Date (“Windstream PUP Disputes”, together with the Windstream Withheld Disputes, the “Windstream Disputes”).

WHEREAS, the Parties agree that Windstream has certain claims against Inteliquent for alleged unpaid amounts for telecommunications goods and services provided to Inteliquent prior to the Petition Date (“Windstream Claims”).

WHEREAS, the Parties entered into that certain Release and Settlement Offset Agreement (“Offset Agreement”), dated August 26, 2019, to effectuate a set off to resolve Inteliquent’s Prepetition Claims, the Windstream Disputes and the Windstream Claims (collectively, the “Parties Claims”).

WHEREAS, as of the date hereof, the Parties have agreed to lift the automatic stay under section 365 of the Bankruptcy Code solely for the purpose of authorizing Inteliquent to effectuate a setoff to resolve the Parties Claims by way of an offset of amounts due on the terms and conditions set forth in the Offset Agreement and this Stipulation and Agreed Order.

WHEREAS, as part of the settlement negotiations, the Parties entered into that certain Second Master Addendum, dated August 26, 2019 (“Addendum”).

WHEREAS, as of the date hereof, the Parties have agreed that the Addendum shall be effective and enforceable as of the date of the entry of the Stipulation and Agreed Order.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED AND UPON APPROVAL BY THE BANKRUPTCY COURT OF THIS STIPULATION, THE FOLLOWING IS SO ORDERED:

1. This Stipulation and Agreed Order shall only be effective and enforceable upon its approval and entry by the Bankruptcy Court on the docket for these Chapter 11 cases, and then it shall be immediately effective and enforceable.

2. The foregoing recitals are hereby incorporated by reference into this Stipulation and Agreed Order.

3. The automatic stay under section 362 of the Bankruptcy Code is hereby modified solely to permit Inteliquent to effectuate a setoff with respect to the Parties Claims pursuant to the Offset Agreement.

4. Upon the Bankruptcy Court's approval and entry of this Stipulation and Agreed Order, (a) Inteliquent's proof of claims (Claim Nos. 5649, 5663, 5667, 5668, and 5670) filed against the Debtors in the Chapter 11 Cases in connection with Inteliquent's Prepetition Claims, as well as any and all other disputes and claims of the Parties related to billings for telecommunications goods and services provided by the Parties to each other prior to the date stated in the Offset Agreement shall be deemed disallowed, except with respect to the Excluded Voyant Claim, and (b) Inteliquent fully, finally, and forever releases and discharges its claims (as defined in section 101(5) of the Bankruptcy Code) against the Debtors relating to the Parties Claims, as well as any and all other disputes and claims of the Parties related to billings for telecommunications goods and services provided by the Parties to each other prior to the date stated in the Offset Agreement, excluding the Excluded Voyant Claim. These agreed upon terms may be reflected on the Bankruptcy Court's official claims register. For the avoidance of doubt, this Stipulation and Agreed Order shall be or be deemed to be a satisfaction, settlement, release, or discharge of any claim of Inteliquent in any capacity with respect to the Parties Claims.

5. The Offset Agreement and the Addendum shall be effective and enforceable upon the Bankruptcy Court's approval and entry of this Stipulation and Agreed Order.

6. Nothing in this Stipulation and Agreed Order nor any actions taken pursuant hereto shall be deemed as (a) an admission as to the validity of any claim against any Debtor entity for

the Excluded Voyant Claim, (b) a waiver of the Parties' rights relating to the Excluded Voyant Claim, (c) a promise or requirement to pay any alleged claim arising from the Excluded Voyant Claim other than as set forth in this Stipulation and Agreed Order, or (d) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code.

7. Neither this Stipulation and Agreed Order nor any actions taken pursuant hereto shall constitute evidence admissible against the Parties in any action or proceeding other than one to enforce the terms of this Stipulation and Agreed Order.

8. The Parties intend for this Stipulation and Agreed Order to be binding upon their successors, agents, assigns, including bankruptcy trustees and estate representatives and any parent, subsidiary, or affiliated entity of the Parties.

9. The Debtors reserve all rights against Voyant and Inteliquent with respect to the Excluded Voyant Claim.

10. Inteliquent and Voyant reserve all rights against the Debtors with respect to the Excluded Voyant Claim.

11. The undersigned hereby represent and warrant that they have full authority to execute this Stipulation and Agreed Order on behalf of the respective Parties and that the respective Parties have full knowledge of and have consented to this Stipulation and Agreed Order.

12. The Parties agree that each of them, through their respective counsel, has had a full opportunity to participate in the drafting of this Stipulation and Agreed Order, and, accordingly, any claimed ambiguity shall be construed neither for nor against either of the Parties.

13. This Stipulation and Agreed Order constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior discussions, agreements, and understandings, both written and oral, among the Parties with respect thereto.

14. This Stipulation and Agreed Order shall not be modified, altered, amended, or supplemented except pursuant to a written agreement between the Parties or their authorized representatives or an order that the Bankruptcy Court may enter on the docket for the Chapter 11 Cases.

15. The Bankruptcy Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Agreed Order, and the Parties hereby consent to such jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation and Agreed Order.

IT IS SO ORDERED.

Signed:

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

IN WITNESS WHEREOF, the Parties, by their authorized counsel, executed this
Stipulation and Agreed Order as of the date written below.

Dated: September 11, 2019
New York, New York

/s/ Stephen E. Hessler, P.C.

Stephen E. Hessler, P.C.

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