

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: COMPLAINT OF CAROLYN FRAHM	DOCKET NO. FCU-2013-0007
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**ORDER DENYING MOTION TO DISMISS
AND MODIFYING PROCEDURAL SCHEDULE**

(Issued March 31, 2015)

On March 26, 2015, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and Airus, Inc. (Airus), filed a “Joint Motion for Dismissal As To Airus.” The Consumer Advocate and Airus jointly move for dismissal of Airus from this case, without prejudice, for the following reasons.

- 1) This case was commenced to investigate intrastate call completion failures to rural destinations in Iowa and to secure appropriate remedial action, as was Board Docket No. FCU-2013-0005, *Complaint of Hancock County Health Systems (Hancock)*.
- 2) Airus is an intermediate provider of long distance telephone services. Airus is a party to, and has provided discovery responses in, both this docket and the *Hancock* case. In this case, Airus’ predecessor company, IntelPeer, Inc. (IntelPeer), received certain calls from originating long distance carrier Windstream Iowa Communications, Inc. (Windstream). In the *Hancock* case, Airus’ predecessor company, IntelPeer, received certain calls from CenturyLink Communications, LLC (CenturyLink).

3) The presiding officer in both dockets has indicated the Board is focusing in these proceedings on commitments from the companies that will remediate the difficulties, and not on the imposition of penalties. There is no apparent reason why commitments from Airus should depend on the carrier from which Airus receives a call and hence no apparent reason why commitments from Airus in this docket should differ from commitments from Airus in the *Hancock* case. The solutions proposed by the Consumer Advocate in both cases are the same.

4) As to Airus, it will avoid duplication and therefore be more efficient if further proceedings as they relate to Airus are conducted in a single docket. For the sole purpose of avoiding duplication and enhancing efficiency, the Consumer Advocate and Airus therefore jointly request that Airus be dismissed from this case, without prejudice, and subject to the condition that the evidence received from Airus and from IntelePeer may be considered in both dockets.

5) The motion to dismiss has no effect on the proceedings in this docket as they relate to Windstream, and Windstream has no objection to the motion.

Therefore, the Consumer Advocate and Airus move for dismissal of Airus from this case, without prejudice, upon the condition stated in this motion.

The motion should be denied at this time for the following reasons. This case began as an individual customer complaint to the Board. Although the Board has been handling the rural call completion complaint cases differently than most

complaint cases, and the parties have been directed to focus their attention on finding solutions, this does not mean that the individual customer's circumstances are not important to an evaluation of the appropriate solutions. The particular circumstances of Ms. Frahm's case, along with the information learned from the other cases, should be used to inform the appropriate solutions the parties should develop. Obviously, some of the appropriate remedies may be common to all the call completion cases. Some may not be. There may be some remedies that should be applied to each of the individual customers who filed complaints. Some of the appropriate remedies may be specific to Ms. Frahm. At this point in the proceedings, the telephone carriers have not filed their proposed solutions and commitments and the parties have not yet filed their responses to the proposed solutions. We do not yet know what the proposed solutions and commitments will be. We do not yet know whether the information that has been presented, both as to this particular case and to all the cases as a group, will show that the telephone carriers' proposed solutions are reasonable and appropriate. The proposed solutions and commitments made by originating long distance providers such as Windstream and CenturyLink could be different in some respects from the solutions and commitments made by intermediate carriers such as Airus, but we do not yet know whether this is the case. At this time, we do not yet know whether it is appropriate and reasonable for Airus to propose the same solutions and commitments in this case as in the *Hancock* case. Therefore, it would be premature and unreasonable to dismiss Airus from this case at this time.

However, the undersigned will adjust the procedural schedule in this case so the parties' filings will be due on the same dates as the procedural schedules in the other call completion cases, including the *Hancock* case. In addition, Airus may file its proposed solutions and commitments in one of the cases in which it is involved and file a short statement in the other case referring to its report and incorporating it by reference in the other case. Of course, if some of Airus' report proposes solutions that are particular to this case and Mrs. Frahm's call completion problems, or to the particular problems experienced in the *Hancock* case, the reports will not be entirely identical. These accommodations should alleviate some of Airus' concerns regarding duplication and inefficiency.

In addition, the Board needs an update on the following information, which Windstream should file when it files its proposed solutions. It appears that Ms. Frahm reported she has not experienced any further call completion problems since March 7, 2013. Please verify that Ms. Frahm has not experienced further call completion problems since that date. Please state whether Ms. Frahm is still on an Out of Territory (OOT) network, and whether it is Verizon's network. If she is not, please provide updated information.

IT IS THEREFORE ORDERED:

1. On or before April 27, 2015, Windstream and Airus must each file its proposed effective, preventative, long-term solutions to call completion problems its customers have experienced in Iowa. These solutions must include specific actions each company has taken or will take, and a proposed timeline for when future actions

will occur. Windstream's proposal may be based on the solutions it has agreed to with the FCC, but the proposal must include commitments to the Board as to what Windstream will do in Iowa. If Windstream and the Consumer Advocate can agree on Windstream's solutions, it would be ideal. If Airus and the Consumer Advocate can agree on Airus' solutions, it would be ideal. In addition, the Board recognizes that even after Windstream's solutions have been implemented, an occasional call completion problem may occur. Therefore, part of the solution that must be proposed and implemented in this case is the establishment of better procedures, including providing information to customers on how to most effectively report call completion problems, so customers may report and have their call completion problems addressed much more quickly and effectively than has occurred in the past. As discussed in the body of this order, Airus may file its proposed solutions and commitments in one of the call completion dockets in which it is involved and file a short statement in the other case referring to its report and incorporating it by reference, to the extent the reports are identical. Also as discussed in the body of this order, Windstream must provide the updated information requested when it files its proposed solutions and commitments.

2. On or before May 26, 2015, any party may file a response to the proposed solutions.

3. At the conclusion of this partial procedural schedule, based on the filings of the parties, the undersigned administrative law judge will determine whether an additional procedural schedule needs to be set, and if one is needed, what the

procedural schedule needs to include. The parties will be given the opportunity to provide input into this determination.

4. During the pendency of this procedural schedule, if Ms. Frahm experiences any call completion problem and reports it to any of the parties, the appropriate telephone carrier must correct the problem, and either the applicable telephone carrier or the Consumer Advocate must file a report with the Board explaining the problem and what was done to correct the problem.

5. All provisions of the "Order Granting Additional Request for Modification of Procedural Schedule," issued on January 6, 2015, the "Order Granting Request for Modification of Procedural Schedule," issued on October 24, 2014, and the "Order Regarding Fifth Prehearing Conference and Procedural Schedule," issued on August 15, 2014, not specifically amended in this order remain in effect.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Joan Conrad
Executive Secretary

Dated at Des Moines, Iowa, this 31st day of March 2015.