

Determinations Committee Decision

Date:	October 06, 2017
Determinations Committee:	Americas
Meeting Date:	October 06, 2017

DC Issue 2017092801:	Has a Failure to Pay Credit Event occurred with respect to Windstream Services, LLC?	
Question for vote	Do you agree to publish the attached statement? (See Annex)	
Vote result:	Yes	
Votes:	15 'Yes' votes and 0 'No' votes	
	AllianceBernstein L.P.	Yes
	Bank of America N.A.	Yes
	Barclays Bank plc	Yes
	BNP Paribas	Yes
	Citadel LLC	Yes
	Citibank, N.A.	Yes
	Credit Suisse International	Yes
	Cyrus Capital Partners, L.P.	Yes
	Deutsche Bank AG	Yes
	Elliott Management Corporation	Yes
	Goldman Sachs International	Yes
	JPMorgan Chase Bank, N.A.	Yes
	Mizuho Securities Co., Ltd.	Yes
	Pacific Investment Management Co., LLC	Yes
	Société Générale	Yes

Annex

Americas DC Meeting Statement October 6, 2017

DC Issue Number 2017092801

Windstream Services, LLC

Summary

On October 4, 2017, the Americas DC Resolved that a Failure to Pay Credit Event had not occurred with respect to Credit Derivative Transactions that specify Windstream Services, LLC (f/k/a Windstream Corporation) (**Windstream**) as the Reference Entity.

Each capitalized term used but not defined in this Meeting Statement has the meaning given to such term in the (a) the 2014 Credit Derivatives Definitions published by the International Swaps and Derivatives Association, Inc. (the **2014 Definitions**), (b) the Credit Derivatives Determinations Committees Rules (January 20, 2016 version) (the **DC Rules**), or (c) the Indenture for the 6^{3/8}% Senior Notes due 2023 dated as of January 23, 2013 between Windstream and U.S. Bank National Association as Trustee (the **Indenture**)¹, as applicable.

Failure to Pay Definition

The definition of Failure to Pay under the 2014 Definitions states as follows:

"Failure to Pay" means, after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations, in accordance with the terms of such Obligations at the time of such failure.

The Americas DC focused on the question of whether or not an amount had become "due" under the Indenture for purposes of this definition.

Scope of DC Determination

The Americas DC determined not to address whether the transactions described in the information submitted in connection with the DC Credit Event Question, including the spin-off in April 2015 of common stock of a Windstream affiliate, Uniti Group Inc., did in fact constitute a "Sale and Leaseback Transaction" or an "Asset Sale" for purposes of the Indenture, or whether an Event of Default had in fact occurred under the Indenture.

Instead, the Americas DC limited its determination to the question of whether, if the transactions described in the DC Credit Event Question did in fact constitute a Sale and Leaseback Transaction as asserted in the DC Credit Event Question², an amount had become "due" for purposes of the Failure to Pay definition.

¹ Available online at: <https://www.sec.gov/Archives/edgar/data/1282266/000119312513020891/d472206dex41.htm>.

² The submission to the Americas DC states as follows: "Moreover, because the April 2015 transaction constituted a sale leaseback transaction, Section 4.19(iii) of the Indenture required Windstream to apply the proceeds of the transaction in compliance with Section 4.10 of the Indenture. Any excess consideration from the 2015 transaction,

Determination of Amounts "Due" under the Indenture

Section 4.19(iii) of the Indenture provides that Windstream shall not enter into any Sale and Leaseback Transaction, provided that Windstream may enter into a Sale and Leaseback Transaction if the transfer of assets in that Sale and Leaseback Transaction is permitted and the Company applies the proceeds of such transaction in compliance with Section 4.10.

Section 4.10 of the Indenture provides, among other things, for the allocation of the Net Proceeds of any Asset Sale. If the Net Proceeds of such an Asset Sale are not allocated to repurchase certain outstanding indebtedness or purchase replacement assets pursuant to Section 4.10(b) of the Indenture, Windstream is required under Section 4.10(c) to "make an offer (an **Asset Sale Offer**) to all Holders of Notes and all holders of other Indebtedness that is pari passu with the Notes or any Note Guarantee containing provisions similar to those set forth in this Indenture with respect to offers to purchase with the proceeds of sales of assets, to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds".

The DC Credit Event Question asserts that a Failure to Pay has occurred because no offer to purchase the Notes was made under Section 4.10 of the Indenture.³

The Americas DC determined that even if Windstream were in fact required to make an offer for the Notes (a question that the Americas DC determined not to address) under Section 4.10 of the Indenture, such an offer would not result in an amount being "due" for purposes of the Failure to Pay definition until, as an initial matter, such an offer were in fact accepted by the Noteholders.

On the basis of the information submitted, the Americas DC Resolved no Failure to Pay Credit Event has occurred.

after payment of debt under Windstream's credit agreement and the purchase of replacement assets, was not, and continues not to be, used to repurchase its indebtedness, including the 6 3/8% Senior Notes within 366 days after the April 2015 transaction in violation of Section 4.10 of the Indenture. The failure to use excess cash to repurchase 6 3/8% Senior Notes and other indebtedness when required under Section 4.10 constitutes a Failure to Pay Credit Event."

³ See FN 2 above.