

WINDSTREAM CORP
Form 425
November 03, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (date of earliest event reported): November 3, 2009

WINDSTREAM CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State or Other Jurisdiction of Incorporation)

001-32422
(Commission File Number)

20-0792300
(IRS Employer Identification No.)

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4001 Rodney Parham Road, Little Rock, Arkansas 72212

(Address of Principal Executive Offices, Including Zip Code)

(501) 748-7000

(Registrant's Telephone Number, Including Area Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

ITEM 8.01 Other Events.

On November 2, 2009, Windstream Corporation (Windstream), NuVox, Inc. (NuVox) and Night Merger Sub, Inc., a wholly-owned subsidiary of Windstream, entered into an agreement and plan of merger (the Merger Agreement) pursuant to which Windstream has agreed to acquire all of the issued and outstanding shares of common stock of NuVox.

On November 3, 2009, Windstream issued a press release announcing the execution of the Merger Agreement, as discussed above. A copy of the press release is filed as Exhibit 99.1 hereto and incorporated herein by reference.

Non-GAAP Financial Measure

The attached press release includes a non-GAAP measure titled operating income before depreciation and amortization, or OIBDA. Windstream's management considers OIBDA to be useful to investors because OIBDA provides information specific to a company's operating performance.

Cautionary Statement Regarding Forward-Looking Statements

Windstream claims the protection of the safe-harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. Forward-looking statements, including statements regarding the completion of the acquisition and expected benefits of the acquisition, are subject to uncertainties that could cause actual future events and results to differ materially from those expressed in the forward-looking statements. These forward-looking statements are based on estimates, projections, beliefs and assumptions that Windstream believes are reasonable but are not guarantees of future events and results. Actual future events and results of Windstream may differ materially from those expressed in these forward-looking statements as a result of a number of important factors. Factors that could cause actual results to differ materially from those contemplated above include, among others: receipt of required approvals of regulatory agencies; the possibility that the anticipated benefits from the acquisition cannot be fully realized or may take longer to realize than expected; the possibility that costs or difficulties related to the integration of NuVox operations into Windstream will be greater than expected; the ability of the combined company to retain and hire key personnel; and those additional factors under the caption "Risk Factors" in Windstream's Form 10-K for the year ended Dec. 31, 2008 and in subsequent Securities and Exchange Commission filings. In addition to these factors, actual future performance, outcomes and results may differ materially because of more general factors including, among others, general industry and market conditions and growth rates, economic conditions, and governmental and public policy changes. Windstream undertakes no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. The foregoing review of factors that could cause Windstream's actual results to differ materially from those contemplated in the forward-looking statements should be considered in connection with information regarding risks and uncertainties that may affect Windstream's future results included in Windstream's filings with the Securities and Exchange Commission at www.sec.gov.

Additional Information and Where to Find It

The press release attached hereto as Exhibit 99.1 may be deemed to be solicitation material in respect of the proposed merger of NuVox and Windstream. In connection with the proposed merger, Windstream will file a Registration Statement on Form S-4 with the SEC that will contain an information statement/prospectus. **NuVox investors and security holders are advised to read the information statement/prospectus and any other relevant documents filed with the SEC when they become available because those documents will contain important information about NuVox, Windstream and the proposed merger.** The final information statement/prospectus will be mailed to stockholders of NuVox. Investors and security holders may obtain a free copy of the information statement/prospectus when it becomes available at the SEC's web site at www.sec.gov. Free copies of the information statement/prospectus, when it becomes available, may also be obtained from Windstream upon written request to Windstream Investor Relations, 4001 Rodney Parham Road, Little Rock, Arkansas 72212 or by calling (866) 320-7922, or from NuVox upon written request to NuVox, Two North Main Street, Greenville, South Carolina 29601 or by calling (877) 466-8869.

This communication shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

The following exhibit is furnished herewith:

Exhibit

| Number | Description |
|---------------|---------------------------------------|
| 99.1 | Press release, dated November 3, 2009 |

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this Current Report on Form 8-K to be signed on its behalf by the undersigned hereunto duly authorized.

WINDSTREAM CORPORATION

By: /s/ JOHN P. FLETCHER
Name: **John P. Fletcher**
Title: **Executive Vice President & General Counsel**

Dated: November 3, 2009

EXHIBIT INDEX

Exhibit

Number

Description

99.1 Press release, dated November 3, 2009