

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology

Application No. NUSF-100

**COMMENTS OF QWEST CORPORATION d/b/a CENTURYLINK QC**

**AND UNITED TELEPHONE COMPANY OF THE WEST d/b/a CENTURYLINK**

On November 13, 2014, the Nebraska Public Service Commission (“Commission”) issued an Order Opening Docket and Seeking Comment in the above referenced proceeding. In this docket, the Commission is considering whether it should revise the methodology used to determine contributions to the Nebraska Universal Service Fund (“NUSF”). Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (collectively, “CenturyLink”) appreciate the Commission’s dedication to assuring a healthy NUSF and submit these comments for the Commission’s consideration.

As noted in the docket’s introduction, an equitable and sustainable contributions framework is more important than ever because of rapidly changing technology and evolving consumer preferences for alternative service delivery methods. Nationally landline telephone service is now the smallest of the three primary service delivery methods, compared to as recently as 2011 when it was the largest.<sup>1</sup> Furthermore, Skype (a company not even included in the discussion of service providers) celebrated its tenth year in service during 2014, announcing it had logged 70 million concurrent conversations.

These rapid technological changes and evolving consumer preferences have resulted in a declining revenue base for NUSF contributions, which translates into annual reductions of NUSF funds

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<sup>1</sup> Based on data from the CDC and FCC, as analyzed by USTelecom.  
[http://www.ustelecom.org/sites/default/files/documents/National%20Voice%20Competition%202014\\_0.pdf](http://www.ustelecom.org/sites/default/files/documents/National%20Voice%20Competition%202014_0.pdf)

available to support consumers in high cost rural areas of the state. It is vital that the Commission address the very important issue of contributions methodology reform to ensure that the NUSF continues to be funded sufficiently so that rural consumers can continue to obtain comparable and affordable services.

In its Order Opening Docket and Seeking Comment, the Commission noted that it “is not, at this time, considering the assessment of broadband services or broadening the base to include additional consumers not already contributing to the NUSF.”<sup>2</sup> CenturyLink believes the Commission will continue to have problems with declines in NUSF contributions unless it broadens the base of services which are required to contribute to the fund. In particular, broadband services, which benefit from the network that is supported by the NUSF, should also contribute to the fund. Some consumers choose to forgo landline service and use broadband based applications, such as Vonage or Skype, for their voice communications, and will further erode the base upon which NUSF contributions are made, regardless of whether contributions are based on revenues, connections, or numbers.

The Commission solicited comments on contributions reform options, including revenues-based assessment, connections-based assessment, numbers-based assessments and other potential options. None of these options will be a panacea, as each includes some advantages and disadvantages. Comprehensive reform is a complex task. Technology is a moving target, and any contribution mechanism that replaces the current system necessarily will involve a series of compromises and trade-offs, all intended to lead the Commission to achieve its fundamental goal: a system that is efficient, fair and sustainable for both carriers and consumers. By adhering to a set of core principles, the Commission can ensure that its decisions achieve efficient, fair, and sustainable reform. Additionally, the FCC is currently waiting for a recommendation from the federal-state Joint Board on contribution

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<sup>2</sup>See *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology*, Application No. NUSF-100 PI-193, p.1.

methodology. Should the FCC act on contributions reform at a federal level, it could impact the discussions in this docket as well.

Certain core principles should be used in discussing any changes to the assessment base. As CenturyLink noted in its comments to the FCC in 2012,<sup>3</sup> these core principles include: 1) *Competitive Neutrality*, contributions should be assessed in a manner that is competitively neutral; 2) *Flexibility*, the system should be sufficiently flexible to adapt to changes in technology and the marketplace; 3) *Predictability*, the assessment rate and the rules governing assessment calculations should be predictable; 4) *Scalability*, the system should be scalable to accommodate varying contribution obligations for different types of services and capacities; and 5) *Easy, Simple and Reliable*, the system should be easy to administer, simple to apply, and reliably enforceable.

In these Comments, CenturyLink provides further detail on how the Commission should apply these principles. In certain contexts, there may be a tension between some of these principles that will need to be resolved. For instance, while the Competitive Neutrality principle calls for technology-neutral obligations, the Scalability principle may require some technology specific rules to ensure that all services are assessed fairly, commensurate with their use of the network. But these tensions are resolvable, particularly once these principles are prioritized and applied based on the Commission's overall goals of efficiency, fairness, and sustainability. Finally, with these principles in hand, the Commission's decision-making process for comprehensive reform should be guided by three fundamental questions:

1. *What is the appropriate base of services to be assessed?* The core principles suggest that a reformed contribution base should include both broadband and voice services.

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<sup>3</sup> See In the Matter of Universal Service Contribution Methodology a National Broadband Plan for our Future, WC Docket No. 06-122 -<http://apps.fcc.gov/ecfs/document/view?id=7021984971>. Please note that two additional principles identified in these comments to the FCC relate to an expansion of the contributions base, which this Commission has determined is not within the scope of this docket.

2. *At what point on the network should an assessment be levied?* The principles suggest that end users should remain the point of focus under a reformed contribution system. Alternative approaches -- such as assessing contributions based on the services provided or value added by each entity in the service chain, or apportioning assessments among entities based on the total revenues generated in the market for all assessable services -- introduce unnecessary complexities and likely would prove administratively unworkable.
3. *What should be the level or amount of the assessment?* The principles illustrate the trade-offs involved in assessing contributions based on revenues, connections, numbers, or some combination of these factors. These trade-offs, together with the sum total of funds needed to achieve the Commission's Universal Service objectives, will need to be considered when answering this question.

CenturyLink looks forward to working with the Commission and industry participants to reach an equitable and sustainable framework for NUSF contributions.

### ***Revenues-Based Assessment***

Currently, contributions into the NUSF are based on intrastate end user retail telecommunications revenues. However, revenues from advanced telecommunications services are not included in the revenue base for NUSF contributions (and have been excluded from discussion in this docket). As new technologies have been introduced, the revenues subject to the NUSF contribution have declined while revenues from advanced telecommunications services have increased. And consumers have increasingly shifted to wireless and VoIP for "all-distance" calling, further reducing retail intrastate revenues. As telecommunications technology continues to evolve, it can be anticipated that the current revenue base for NUSF contributions will continue to decline, along with contributions to the NUSF.

A revenue-based model may be the easiest to design in a competitively neutral way at the outset, but it is the most susceptible to arbitrage and competitive distortions as it is difficult to administer in the face of bundling assessable and non-assessable services. In addition, experience with the current system has shown that tracking and assessing revenues produces certain inherent administrative complexities. For instance, even if the universe of assessable services is defined broadly, it is likely that some services will remain exempt, and thus carriers still will have to classify their revenues between services. Moreover, a revenues-based system may face greater jurisdictional challenges than would a system based on counting connections, numbers, or some other basic unit. If these administrative burdens cannot be eliminated, or at least severely reduced, then a revenue-based system becomes much less attractive.

The Commission could continue to employ a revenues-based contribution methodology for the NUSF; however to achieve stability in contributions to the fund, either significant changes will be needed to the assessment base or the Commission must commit to annual increases to the 6.95% NUSF surcharge. As has been the case for the past several years, a revenues-based assessment will be unlikely to provide a stable stream of contributions to the NUSF in the future. CenturyLink recommends the Commission convert from the revenues-based contribution methodology to connections-based or numbers-based methodology, especially if the Commission will not undertake a significant increase to the assessment base.

### ***Connections-Based Assessment***

As noted in the 2012 Wireline Competition Bureau's USF Contributions FNPRM, "the Commission [FCC] preliminarily believes that a connections-based assessment methodology may result in a more stable and predictable universal service support mechanism."<sup>4</sup> CenturyLink agrees with that

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<sup>4</sup> See In the Matter of Universal Service Contribution Methodology; A National Broadband Plan for our Future, WC Docket No. 06-122, GN Docket No. 09-51, Further Notice of Proposed Rulemaking, 27 FCC Rcd 5357 (April 13, 2012), ¶264.

preliminary conclusion for the federal level, and believes that a connections-based approach will similarly provide the Commission with a more stabilized stream of contributions into the NUSF than the current revenues-based assessment. Assessments calculated on the basis of connections or numbers (or both) would avoid many of the competitive issues and administrative complexities, as it would no longer be necessary (at least in most cases) to make judgments about services. Each such connection or number capable of providing telecommunications could be the basis for assessing a defined fee, with a limited set of variations to account for the scale of the connection. Such a system would be relatively simple to administer and audit, as it would rely on easily gathered, objective data, and could also be relatively easily expanded to include broadband connections.

CenturyLink acknowledges that approaches based on connections or numbers may carry their own drawbacks. For instance, scaling the assessment on each connection or number in a way that equitably reflects the end user's burden on the network can be more complex than under a revenue-based approach. Rather than applying a single factor to the revenue derived from each end user, the Commission may have to define classes of connections or numbers, based on factors such as capacity or the end user's residential or business status. Developing these classifications reintroduces a certain level of complexity and may require some technology-based judgments, which would have to be made carefully in order to avoid creating competitive distortions. First and foremost, the Commission must define what constitutes a connection. The Commission must clearly identify which connections are subject to the NUSF surcharge to avoid confusion and to ensure it achieves the equity, stability and volume of contributions necessary to meet the objectives established. In addition to the issues identified by the Commission, a connections-based assessment begs the question of whether residential and business connections should be assessed equally. For example, would a single-line business be charged the same as a residential line? Would ISDN-PRI service be considered one connection, 24 connections (one for each channel), or some other factor like the one used for federal subscriber line

charges (where a maximum of 5 is charged)? Currently all intrastate retail revenues are considered part of the assessment base; therefore subscribers of large transport services contribute to the fund at higher levels depending on the level of service received. If the Commission moved to a connections-based assessment model, would large transport services still be part of the base? If so, how would the Commission calculate the number of "connections surcharges" to apply to larger connections, such as 100 Mbps or 1Gpbs Ethernet services?

One fundamental decision the Commission will have to make is where in the chain of service providers and end users assessments should be levied. The Commission should make this decision early in the process, before focusing on the details of where and how to calculate assessments, in order to ensure that the reformed system does not subject any services to multiple assessments. The principles articulated above suggest that end users should remain the point of focus under a reformed contribution system. In a way, end users are a "lowest common denominator" or fundamental building block for any conceivable service; regardless of the underlying technology, every service ultimately must connect in some manner to an end-user customer. Thus, assessing contributions at the end-user level may be the approach most likely to promote administrability, and adapt naturally to changes in technologies and business models without the need for significant Commission intervention. Alternative approaches, such as assessing contributions based on the services provided or value added by each carrier, introduce unnecessary complexities and likely would prove administratively unworkable. Such approaches would suffer all the existing complexities and arbitrage opportunities inherent in determining which services' revenues are assessable. These alternatives also would add to the difficulty of developing a fair method of calculating the "value added" by an entity (which requires measurement of both revenue and cost) and/or each entity's share of the relevant market. The judgment calls that likely would be required in making such calculations would increase administrative burdens on

contributors and regulators, and introduce new opportunities for arbitrage. These alternatives thus run counter to the Commission's goal of establishing an efficient and fair contribution system.

### ***Numbers-Based Assessment***

A numbers-based assessment methodology is similar to the connections-based methodology, where the “voice connection” has been defined to be the number that is assigned to the connection to the network; today those connections are represented by telephone numbers. In the future, as technology changes, those numbers could be IP addresses or some other form of number based identification. Using a numbers-based assessment will eliminate the troublesome task of defining a “connection” to the communications network for voice service; however there are still a number of issues that the Commission must address. For example, a large business customer may have hundreds or thousands of numbers assigned to it, many of which may not currently be in use. For these large business customers, the number of working numbers will vary from month to month. In addition, if these customers were assessed a surcharge for each number (either working or assigned), they may see a significant increase in the surcharge paid.

Should a numbers-based assessment methodology be selected, CenturyLink strongly believes that working retail numbers be the assessment base, and suggests that the Commission place a cap on the number of numbers to which a single subscriber will be assessed the NUSF surcharges, similar to the cap that is currently in place for the E911 surcharge. The Commission should not base the assessment on North American Number Plan Administrator assigned telephone numbers, nor on available but unassigned numbers. Only working retail numbers accurately identify revenue-producing customers. As noted above, the Commission should cap the each provider’s surcharge to a single subscriber. For example, if the cap is 1,000 numbers, a business could be charged 3,000 “surcharges” if the business customer takes service from three wireline providers, or from a wireline provider, a VoIP provider, and a wireless provider (or any other combination of providers). The Commission asks a number of excellent

questions about business and toll free services that will also need to be addressed before selecting the numbers-based assessment methodology.

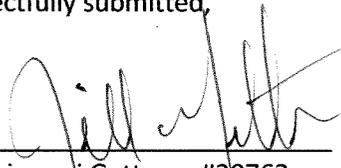
Equitable treatment for a numbers-based assessment would also require nomadic VoIP providers, such as Vonage and Magic Jack, to contribute into the NUSF. These providers, and their customers, currently are not required to pay into the NUSF, but would be once the Commission changes to a numbers-based assessment methodology to ensure that all retail end users of communications services are treated equally.

## **CONCLUSION**

Absent action by the Commission to reform NUSF contribution methodology, the Commission will find that it must assess increasingly higher assessments on a shrinking revenue base to insure sufficient funds are available for the NUSF. While none of the alternatives suggested by the Commission is perfect, doing nothing cannot be seen as a viable option. CenturyLink urges the Commission to move towards a connections-based or numbers-based assessment. CenturyLink also recommends the Commission define a connection as any point the subscriber connects to the communications network enabling wireline and wireless local exchange telephone service, interconnected voice over internet protocol (“VoIP”) service and any other retail telecommunications end-user service. Each residential connection should be included in the assessment base, and each business connection should likewise be counted, up to a “connection cap” that is calculated by each provider.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 13<sup>th</sup> day of February, 2015, a true and correct copy of the foregoing was delivered via email and hand-delivery to the following:

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