

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own) Application No. NUSF-91
motion, to increase broadband adoption among)
low-income consumers through the development)
of a Nebraska broadband telephone assistance)
program.)

COMMENTS OF THE RURAL INDEPENDENT COMPANIES

**I.
INTRODUCTION**

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Comments in response to the Commission’s Order Seeking Comment entered in this proceeding on August 13, 2013.² RIC appreciates the opportunity to provide the following Comments to the Commission.

**II.
ISSUES FOR COMMENT**

- 1. Should the Commission consider implementing a Nebraska-specific broadband lifeline program by adding a broadband component to its existing NTAP program to increase adoption among low-income consumers in Nebraska? Please explain.**

¹Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telephone Co., Inc. and Three River Telco.

² *In the Matter of the Petition on the Nebraska Telephone Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 8, *In the Matter of the Nebraska Public Service Commission on its Own Motion Seeking to Implement Policies and Procedures Related to Providing Dedicated Universal Service Support for Wireless Telecommunications Services*. Application No. NUSF-69, Order Seeking Comment, April 23, 2013, (the “P.O. #8 Order”).

RIC believes that it is reasonable for the Commission to give consideration to possible implementation of a Nebraska Broadband Adoption Lifeline Pilot Program (the “Broadband Adoption Program”). The comments that the Commission will receive in this docket should assist the Commission with identification of the pros and cons of implementing the Broadband Adoption Program, should it determine it is in the public interest to move forward with the program.

In addition to the issues raised by the Commission in this docket, the Commission should also consider whether implementation of the Broadband Adoption Program will be administratively burdensome and in this regard, determine whether additional staffing will be needed to administer the Broadband Adoption Program. The administrative workload resulting from the addition of a broadband component to the existing NTAP or development of the Broadband Adoption Program would be significant and must be considered by the Commission to ensure adequate staffing.

In the wake of changes to the federal Lifeline telephone program, the Commission, as the state Lifeline administrator, is responsible for even more administrative functions performed under the telephone Lifeline/NTAP program. Commission staff will remain responsible for the initial eligibility determinations for the Lifeline program. Commission staff also have the added responsibilities of conducting an annual Lifeline eligibility recertification of each and every Lifeline subscriber in the State of Nebraska, procuring from each Lifeline subscriber a self-certification verifying continued eligibility for Lifeline, and providing to the ETCs the results of the annual recertification process so that ETCs may populate and file a FCC Form 555 with USAC, the FCC and the Commission by January 31st of each year.

NTAP has had the benefit of shaping and modeling its program processes after the federal Lifeline telephone program. However, since a federal broadband assistance program does not yet exist, the Commission would have to design and develop the Broadband Adoption Program criteria, draft rules and regulations, implement the process for adoption thereof, and train staff. It is foreseeable that the Commission may need additional staff to not only keep the current NTAP program functioning, but to also implement the Broadband Adoption Program.

The Commission must also consider whether appropriate measures are in place to safeguard against waste, fraud and abuse that could be attendant to the Broadband Adoption Program. The federal Lifeline telephone assistance program underwent significant reforms in 2012 designed to substantially strengthen protections against waste, fraud and abuse in the Lifeline program.³ Prior to the release of the *Lifeline Reform Order*, audits conducted by the Universal Service Administrative Corporation (“USAC”) and the Federal Communications Commission (“FCC”) uncovered numerous instances of waste, fraud and abuse in the program. Lifeline participants were found to be receiving duplicative benefits, i.e., multiple Lifeline discounts on multiple telephone accounts or members of the same household were receiving Lifeline benefits on different telephone numbers. Of the 12 million plus subscriber records reviewed by the FCC, 1.1 million duplicate subscriptions were eliminated.⁴ As a result, the FCC adopted rules targeted to eradicate occurrences of waste, fraud and abuse in the federal Lifeline program, including a requirement that all new Lifeline applicants must show documented proof of participation in a

³ See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking (rel. February 6, 2012) (the “*Lifeline Reform Order*”).

⁴ See Federal Communications Commission News Release, *Lifeline Reforms Saved More than \$210 million in 2012, Beating Target, FCC Announces 14 Pilot Projects to Increase Broadband Adoption Using a Portion of Savings from Lifeline Reform*, Dec. 19, 2012.

qualifying assistance program and certify, under the penalty of perjury, to a list of program requirements. Since the Commission is considering implementation of the Broadband Adoption Program prior to adoption of a permanent federal program, it is reasonable to anticipate that the Commission will need to independently implement measures to address waste, fraud and abuse prior to or in connection with possible approval of the Broadband Adoption Program.

In addition, USAC and the FCC are currently developing the National Lifeline Accountability Database (“NLAD”) to ensure Lifeline subscribers are not receiving duplicate benefits or that multiple members of the same household are not receiving Lifeline benefits. Once the NLAD is operational, the Commission, as the state Lifeline administrator, will be required to query the NLAD prior to enrolling any participant in NTAP to verify that the applicant, or any other person residing in the applicant’s household, is not already receiving a Lifeline benefit. As RIC will discuss later in these comments, the Commission should consider the benefits and efficiencies of delaying implementation of the Broadband Adoption Program until a federal broadband program is implemented.

2. Does the Commission have the authority under its current statutory framework to implement a broadband component to its NTAP program? Why or why not?

The existing statutory framework applicable to the Broadband Adoption Program.

Section 86-329 of the Nebraska Statutes specifically addresses and directs the Commission to establish the NTAP. This Section states the purpose of NTAP and limits the use of NTAP support to maintenance of “affordable rates for *residential basic local exchange services* supported by federal and state universal service mechanisms.” (emphasis added)

Sections 86-317 and 86-323 of the Nebraska Statutes set forth general statements as to the purpose of the Nebraska Telecommunications Universal Service Fund Act (the “NTUSF Act”) and the policies of the State regarding use of the NUSF, respectively. The statement of

purpose focuses on provision to all Nebraskans of “comparable accessibility to *telecommunications services* at affordable prices.” (emphasis added) The policy statements in Section 86-323 broaden the scope of the NTUSF Act to include telecommunications *and* information services. The inclusion of information services (which the Commission has interpreted to include broadband service)⁵ may provide a statutory basis to support the Broadband Adoption Program.

However, as a general rule of statutory construction, if a conflict exists between two statutes on the same subject matter, the special provisions of a statute prevail over the general provisions in the same or other statutes. *State v. County of Lancaster*, 272 Neb. 376, 721 N.W.2d 644 (2006); *see also, Mogensen v. Board of Supervisors*, 268 Neb. 26, 679 N.W.2d 413 (2004). Certainly, Section 86-329 represents the specific statute within the NTUSF Act that delegates the authority to the Commission to establish and administer the NTAP. Since this Section provides that NTAP support is to be “specifically targeted to maintain affordable rates for residential basic local exchange services,” a question exists as to whether the Broadband Adoption Program can be adopted as a new component of NTAP.

Based upon a review of the Commission’s prior NTAP orders, there does not appear to be any discussion of the scope of the Commission’s legal authority, most particularly as such authority might relate to establishment of a program supporting broadband adoption through the NTAP.

Do the Commission’s various NUSF-77 Progression Orders provide any guidance with regard to this question?

⁵ *In the Matter of the Petition on the Nebraska Telephone Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 7 at 11.

Progression Order No. 1 explored the Commission's authority to utilize NUSF surcharge receipts to fund broadband grants. On page 3, the Commission relied upon section 86-323 and its inclusion of "information services" as the basis for giving broad reading to this policy statement and concluding that the Commission has the authority "to carry out the legislative policy in regards to an information service such as broadband." The Commission also relied upon the fact that the Legislature provided that NUSF should supplement Federal USF and because the FCC has declared that it will support broadband with Federal USF, "the Commission should support state deployment of broadband with the NUSF."

In Progression Order No. 6, page 3, the Commission recited its position that since 2004, access to advanced information services has been facilitated through its universal service policies and use of NUSF support for the underlying network that is capable of providing information services has been approved by the Commission.

In the Staff comments relating to Progression Order No. 6, and specifically with regard to Commission-supported initiatives to promote broadband adoption, the Staff concluded that "the Commission Staff does not believe the Commission has the ability to utilize state universal service support for broadband adoption absent a statutory change." The Staff's reasoning supporting this conclusion should be carefully considered by the Commission as it analyzes the above Question 2. In fact, the Commission endorsed these Staff recommendations in Progression Order No. 7, pages 7-8 and 11-12, stating its conclusion that "[t]he Commission agrees with the staff's recommendation."

What conclusions can be reached based upon the foregoing?

Primarily based upon the specific wording of Section 86-329, it seems that there is at least some question as to whether the Commission has existing legal authority to institute an

NUSF-supported addition to NTAP for the purpose of providing support for broadband adoption. However, legal arguments can be made on both sides of this issue.

3. If the Commission should adopt such a program how should it be implemented?

- a. Should the Commission set aside a certain amount from the universal service fund and dedicate such funds to the NTAP broadband program? The Commission seeks comment on whether the Commission should initially cap the NTAP broadband program at no more than \$5 million per year? Why or why not?**

If the Commission decides to proceed with a program to offset low-income subscribers' prices paid for broadband service, a critical component of such a program would be to determine and to limit the amount of support to be provided to each eligible low-income subscriber so as not to jeopardize the overall viability of other NUSF programs. The Commission should only consider setting aside NUSF support for the Broadband Adoption Program if funding is available without reducing NUSF support levels currently provided for existing NUSF programs, including but not limited to the High Cost Program.⁶ If funding is not available on this basis then the Commission should not implement the Broadband Adoption Program unless the NUSF contribution base is broadened sufficiently to generate necessary funding for the Broadband Adoption Program.⁷

As discussed in response to question 3(c)(i) below, there are a significant number of potential households that could be eligible for support based upon the current NTAP eligibility rules. NUSF support for the Broadband Adoption Program should be capped at a maximum

⁶ It must be noted that overall distributions in the NUSF High Cost Program have declined over the years, presumably because contributions have declined since the funding base of intrastate telecommunications revenues is smaller.

⁷ Contribution reform is a subject in which the RIC member companies have a strong interest. As such, the RIC member companies would welcome the opportunity to engage in a dialogue with the Commission on this subject. However, contribution reform seems to be beyond the scope of the instant docket.

annual support level of \$5 million unless revisions are made to the contribution base (presumably including assessing broadband services) to generate additional NUSF revenue.

b. Should the Commission provide a discount on recurring broadband rates similar to the current telephone assistance program? If not, why not?

The Commission should not simply seek to graft the existing NTAP funding framework on to any potential low-income broadband program. As discussed in greater detail in the RIC response to Question 4, the issues related to adoption of broadband services by low-income individuals is likely broader than for traditional telephone service. If the Commission implements the Broadband Adoption Program to increase broadband adoption among low-income consumers by providing a discount on recurring broadband rates, the Commission should structure the Program to permit carriers to provide a monthly, recurring discount on the bills of each eligible consumer. Once a monthly discount has been provided to the eligible consumer, the carrier should be eligible to seek reimbursement from the Commission for the amount of the broadband subsidies provided to consumers. In order to be eligible to receive such reimbursement a broadband provider should be required to obtain and hold Eligible Telecommunications Carrier (“ETC”) status.

Further, much like the administration of the current NTAP, if the Commission proceeds with the Broadband Adoption Program the Commission must initially determine eligibility by verifying a person’s participation in a qualifying assistance program, but it would do so absent any FCC directives or rules since no federal broadband program exists. The Commission will also need to continue to deliver to the ETCs the names of all eligible consumers so that the monthly discount can be applied to that consumer’s billing statement. Since ETCs use the FCC Form 497 as the existing reporting mechanism for NTAP telephone subscribers, the Commission

would need to develop a separate reporting mechanism for ETCs to report the monthly Broadband Adoption Program consumer participants for carrier reimbursement purposes.

c. If so, what would be the appropriate discount?

i. Should the discount be a fixed amount? Would twenty dollars (\$20.00) per household per month be reasonable? Why or why not?

The Commission should strive to strike a proper balance between providing a sufficient discount that will prompt households to adopt broadband, but not providing excessive discounts that are unwarranted and/or may make the entire NUSF program unsustainable. Various levels of discounts may be required based on broadband service pricing and income elasticities. One fixed discount level may not be adequate given broadband service is priced significantly higher in some geographic areas as compared to other areas. A single fixed discount level may not induce households with varying levels of income and with varying levels of retail pricing of broadband service to participate in the Broadband Adoption Program.

The Commission should be cautious as it considers the subsidy amount for each subscriber. By way of comparison, the NTAP currently provides a discount of \$3.50/month for voice service that generally costs around \$25.00/month, which translates to approximately 14% of the total cost of the services. At \$20.00/month, the NUSF would be providing nearly six times the level of support for broadband services as it does for telephone voice service. The Commission should compile the range of broadband rates for which NUSF support may be provided for a baseline level of broadband service. So, for instance, if the rate for a broadband service which the Commission seeks to support is \$19.95 per month in a given area, a \$20.00 per month support amount would obviously be excessive. On the other hand, if the retail rate for broadband service in a sparsely populated, high-cost area is \$39.95 per month, a \$20.00 per month support amount might be reasonable.

In addition, the Commission should consider the universe of households eligible for the Broadband Adoption Program based upon current NTAP rules, and develop further guidelines to prioritize funding in the event that demand for funds outstrips the available supply of funds. Although there is likely a degree of overlap among the populations participating in the various programs, it is worth noting the following data regarding potential number of households that may be eligible for Broadband Adoption Program support, assuming that current NTAP eligibility rules are applied to the Broadband Adoption Program.

According to the Nebraska Department of Health and Human Services Medicaid Annual Report, in Nebraska for Fiscal Year 2012, there were 237,543 average monthly eligible persons for Medicaid. As of January 2013, 180,000 Nebraska residents qualified for the Supplemental Nutrition Assistance Program. For Fiscal Year 2010, Low Income Home Energy Assistance Program had 44,191 qualifying households in Nebraska. In the most recent year for which data is available on the Nebraska Department of Education website, 333,001 children enrolled in 1,047 schools and residential child care facilities in Nebraska schools qualified for the National School Lunch Program.⁸ Meanwhile, approximately 13,800 Nebraska households are subscribed in Lifeline. Thus, the “pool” of potentially qualified consumers for the Broadband Adoption Program is significantly larger than the current number of Lifeline subscribers, thus creating a substantial likelihood that demand for funding from the Broadband Adoption Program will exceed available funding.

- ii. In the alternative, if an NTAP discount is applied, should it be a tiered amount based upon the recurring retail broadband rate? If so, how should the tiered amounts be determined and how would this be administered by the Commission? Would the Commission need to require copies of customer invoices or rate lists from NTAP providers?**

⁸ <http://www.education.ne.gov/NS/NSLP/overview.html>.

The focus of any Commission low-income broadband program should be on entry level adoption, just as the NTAP is focused on basic local exchange telephone service. The ability to access and utilize services which are increasingly provided via the Internet is becoming a critical requirement in society. Nevertheless, the Commission should only consider reimbursement for broadband service that meets the Commission's definition of broadband in those geographic areas where such service is available (and be mindful of federal requirements should the FCC ultimately adopt a broadband low-income program). The Commission should allow broadband services below the 4/1 Mbps standard to be eligible for support in the event that only lower speed broadband services are available in a given geographic area. Since the program is much like a Lifeline Program for broadband, as a general matter RIC questions the advisability of providing a discount to services offering speeds above or below 4/1 Mbps. Finally, the Commission should take into consideration the reasonable level of discount from the retail rate that is minimally likely to prompt an eligible household to adopt broadband service.

iii. If an NTAP discount is applied should there be a minimum recurring amount subscribers should pay for broadband service? If so what is the appropriate amount?

As stated above, price and income elasticities should be considered as well as the amount of funding available and the demand for support.

d. How should broadband speed tiers be taken into account?

Subject to RIC's comments in response to Question 3.c.ii above, the Commission should only consider funding broadband at 4/1 Mbps or at the provider's lowest broadband speed tier above 4/1 Mbps if available in a given area. Given that average monthly broadband usage

continues to increase and is now estimated to be approximately 52 GB per month,⁹ the Commission should also give serious consideration as to whether services that impose data limits well below average usage levels should be eligible for support from the Broadband Adoption Program.

e. How should bundled rates be taken into account?

The Commission should consider implementation of a requirement that an ETC receiving reimbursement for provision of a broadband discount must separately identify the broadband portion of a bundled charge billed to a consumer. This separation of billed amounts should be a prerequisite for eligibility to receive reimbursement for the discount provided to a recipient of Broadband Adoption Program support.

f. Should the Commission use the FCC's definition of "broadband" to determine eligible speed tiers? Given that a number of speed tiers or service offerings may be available should there be other Commission requirements associated with an NTAP broadband discount?

The Commission has already adopted the FCC's definition of "broadband" for NEBP/NUSF-77 purposes and that definition should be applied to the Broadband Adoption Program.

Any broadband speeds greater than 4/1 Mbps should not be eligible for support/discount unless the provider's lowest speed tier offering in an area is in excess of 4/1 Mbps, in which event the discount should only be applied to the lowest speed tier.

4. Are there other programs which are currently being used to increase broadband adoption for low-income consumers? If so, please provide a description of these programs? Are these programs successful? Why or why not?

⁹ See North America Internet Data Usage up 120% In the Last Year, Netflix Still Responsible for 33% of Peak Traffic; available at <http://techcrunch.com/2012/11/07/report-u-s-internet-data-usage-up-120-percent/>.

In the *Lifeline Reform Order*,¹⁰ the FCC initiated the Low-Income Broadband Pilot Program (“Pilot Program”) to examine how the existing federal Lifeline program could be restructured to include broadband as a supported service to increase broadband adoption among Lifeline-eligible consumers.

The Pilot Program, which began in February 2013 and will continue to enroll broadband subscribers through November 1, 2013, is designed to collect, study and develop information concerning the factors and barriers to broadband adoption among low-income consumers. In selecting Pilot Program projects, the FCC gave preference to projects that offered speeds of at least 4/1 Mbps.¹¹ Additionally, the FCC required that any broadband provider participating in the Pilot Program be designated as an ETC.¹² Fourteen projects in 21 states and Puerto Rico were selected, with each Pilot Program project having “different service terms with respect to subsidy amount, end-user charges, access to digital literacy training, equipment type, speed ranges and data usage limits.”¹³ The Pilot Program was initiated as an 18-month program, including a 3-month period for the selected ETCs to implement any necessary administrative functions, a 12-month period of subsidized broadband service offerings to eligible program participant subscribers, and a 3-month period to finalize data collection and analysis.¹⁴ Unless otherwise specified in a project proposal, the FCC required that each Pilot Program project offer 12 months of discounted broadband service.¹⁵ Pilot Program funding is disbursed directly to the selected ETCs and then passed on to participating consumers in the form of discounts to reduce

¹⁰ See *Lifeline Reform Order* at paras. 323-360.

¹¹ *Id.* at para. 325.

¹² *Id.* at para. 327.

¹³ See <http://www.fcc.gov/encyclopedia/low-income-broadband-pilot-program>.

¹⁴ See *Lifeline Reform Order* at para. 325.

¹⁵ *Id.* at para. 337.

the cost of broadband service.¹⁶ Once complete, the FCC will utilize the data collected from the Pilot Program to ascertain which variables have an effect on broadband adoption. The variables include, but are not limited to, the impact of income, age, ethnicity, gender, family size, digital literacy, equipment costs, relevance, length and amount of subsidy, affordability, and robustness of broadband service available.¹⁷

RIC believes that the data that will be gathered from the Pilot Program will be essential to a determination by the Commission whether broadband adoption in Nebraska is only related to providing discounted broadband service rates or whether other variables such as digital literacy, equipment costs and the other factors mentioned in the previous paragraph are prime determinants of broadband adoption. Delaying implementation of the Broadband Adoption Program is not just a matter of the Commission waiting for a “federal solution” to the broadband adoption issue, but is a matter of awaiting access to the data that will be provided from the various projects that have been funded by the FCC in the Pilot Program. This data and the analysis thereof should be of great value to the Commission in its evaluation of whether to proceed with the Broadband Adoption Program in the near term.

As this federal Pilot Program is still in its implementation and testing period, it would be premature to offer a conclusion on whether it is successful in increasing broadband adoption among low-income consumers. The Pilot Program, however, has taken a measured, data-driven approach in examining the factors which may most influence broadband adoption among Lifeline-eligible consumers and the subsidy structure that may result in the most meaningful increases in broadband adoption. RIC suggests that there is likely to be a benefit in utilizing those conclusions to tailor any Nebraska low-income broadband adoption program to achieve the most effective and efficient program possible. Therefore, RIC recommends that the Commission

¹⁶ *Id.*

¹⁷ *Id.* at paras. 323-337.

should suspend implementation of the Broadband Adoption Program until the data from the federal Pilot Program is available and can be thoroughly analyzed and utilized in the design of the Broadband Adoption Program.

In addition, the Broadband Adoption Act of 2013 was introduced in Congress in April.¹⁸ If passed, this legislation directs the FCC to adopt rules which establish support for broadband service under the Universal Service Fund Lifeline Assistance Program. The legislation as proposed would also allow the FCC to determine whether state matching funds may be provided. While admittedly in the early stages, such legislation may give the FCC the authority to transition its Pilot Program into a long-term subsidy program for broadband service and may allow states to leverage federal broadband subsidies to stretch state broadband adoption program funding further to reach more eligible households. There are likely to be benefits for Nebraska to avoid getting too far in front of the federal initiative as any federal matching funds will likely require similar program criteria and structure and a state may be required to substantially modify any pre-existing program to meet federal program criteria in order to receive federal matching funds.

5. As broadband services are becoming more widely available are rates for broadband services decreasing? Are broadband services becoming more affordable? Why or why not?

RIC is not aware of publicly available data sources to determine whether rates for broadband are decreasing. What is known, however, is that the median monthly data consumption for fixed services in North America has been increasing. For example, during the

¹⁸ See <http://www.govtrack.us/congress/bills/113/hr1685/text>.

second half of 2012, the median monthly data consumption was 16.8 GB per consumer.¹⁹ According to the most recent FCC speed testing data released in February 2013, the median weighted consumption of volunteers participating in the Measuring Broadband America (“MBA”) program for all fixed terrestrial technologies was 32.3 GB per month.²⁰ Another report indicated that the average household now uses about 52 GB per month.²¹ While the average usage has increased substantially, assuming that the average monthly retail rate for broadband service remained steady, the result would be that the cost per month on a usage basis (per GB) continues to decline.

6. Are there any other states that have implemented a broadband component to their low-income program? If so, please provide details as to how these programs have been implemented?

RIC reviewed the websites of each of the fifty states’ public utilities or public service commissions and the pertinent low-income assistance programs for each state to ascertain whether any state currently administers a program in which eligible low-income consumers can receive a monthly subsidy for subscribing to broadband service. RIC found no evidence that any other state or state universal service funding program supports broadband adoption through a monthly discount offered to low-income, Lifeline-eligible subscribers. Thus, if the Commission

¹⁹ SANDVINE INTELLIGENT BROADBAND NETWORKS, GLOBAL INTERNET PHENOMENA REPORT 2H 2012, 6 (2012), at http://www.sandvine.com/downloads/documents/Phenomena_2H_2012/Sandvine_Global_Internet_Phenomena_Report_2H_2012.pdf.

²⁰ See Chart 20 in MEASURING BROADBAND AMERICA FEBRUARY 2013 REPORT, 48 (calculated as a weighted average of median cable, DSL, and fiber data consumption using underlying chart data), at <http://data.fcc.gov/download/measuring-broadband-america/2013/chart20-feb-2013.xls>.

²¹ See North America Internet Data Usage up 120% In the Last Year, Netflix Still Responsible for 33% of Peak Traffic; available at <http://techcrunch.com/2012/11/07/report-u-s-internet-data-usage-up-120-percent/>.

is to proceed with the Broadband Adoption Program, it will be doing so absent any direction from the FCC and any similar activity in other states.

7. Are there any other suggestions or proposals the Commission should consider to increase broadband adoption?

The Commission has adopted NTAP rules governing the provision of NTAP support for basic local exchange service.²² Similarly, unless the Broadband Adoption Program is identified as only a temporary pilot program by the Commission, the Commission should adopt rules that will govern the operation of the Broadband Adoption Program. Examples of existing NTAP rules that address issues of equal significance to the operation of the Broadband Adoption Program are: Rule 006.02F, which guides ETCs as to when and for what reason an NTAP recipient may be disconnected for non-pay and other acceptable bases; Rule 006.04A, which identifies those programs for which an applicant for NTAP support must be qualified in order to receive NTAP support; and Rule 006.08, which sets forth advertising requirements applicable to providers that offer NTAP services.

Further, as discussed in RIC's comments in response to Question 4 above, RIC believes that there would be significant benefit for the Commission to delay approval and implementation of the Broadband Adoption Program until the FCC has gathered data from its Pilot Program and made determinations as to whether a Federal broadband adoption program should be implemented. In offering this suggestion, RIC is mindful that among the observations made by the Commission in the *P.O. #8 Order* is the statement that "it may be appropriate to establish its [the Commission's] own statewide initiative rather than wait for the FCC to act." RIC submits that in light of the totality of the issues surrounding implementation of the Broadband Adoption Program, the Commission should reconsider the foregoing statement and instead await the

²² See Nebraska Universal Service Fund Rules and Regulations, Title 291, Chap. 10, Sec. 006.

availability of the data that will be provided by the FCC from the Pilot Program and incorporate analysis of such data into the Commission's deliberations relating to this docket.

III.

CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Comments in response to the questions posed by the Commission, and look forward to providing reply comments for consideration by the Commission.

Dated: September 30, 2013.



Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telephone Co., Inc., and Three River Telco (the "Rural Independent Companies")

By: Paul M. Schudel
Paul M. Schudel, NE Bar No. 13723
pschudel@woodsaitken.com
James A. Overcash, NE Bar No. 18627
jovercash@woodsaitken.com
WOODS & AITKEN LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508
Telephone (402) 437-8500
Facsimile (402) 437-8558