

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its Own Motion, To Administer the Universal Service Fund High-Cost Program.))))

Application No. NUSF-99



REPLY COMMENTS OF COX NEBRASKA TELCOM, LLC

Cox Nebraska Telcom, LLC (“Cox”) hereby files these Reply Comments for the Nebraska Public Service Commission’s (“Commission”) consideration in the above-captioned docket, NUSF-99. These comments are being filed pursuant to the Commission Orders entered in NUSF-99 on October 15, 2014 and October 29, 2014, and the Hearing Officer Order entered December 2, 2014.

Cox filed initial comments in this docket January 13, 2015 supporting an alignment of the NUSF (“Nebraska Universal Service Fund”) with federal CAF (“Connect America Fund”) principles. Specifically, Cox offered the following points; Cox supported the general CAF principle that universal service support be eliminated in areas where an unsubsidized competitor offers comparable service and the NUSF not be used to fund overbuilds, Cox supported the principle carriers should not receive NUSF support where CAF money has been awarded unless a carrier demonstrates the CAF support does not adequately support the area and Cox urged the Commission to align its audit requirements with the CAF to show funds are being used for their intended purposes. Cox was pleased to see several other parties supported these same overarching principles.

Like Cox, other parties noted the merit in better aligning the NUSF policies with the federal CAF. Comments filed by Charter Fiberlink – Nebraska (“Charter”), CTIA – The Wireless Association (“CTIA”), the Rural Independent Companies (“RIC”) and

Sprint all indicated some level of support for making changes to the current NUSF structure.

In fact, comments filed by Cox, Charter, CTIA and Sprint were strikingly similar. Each noted NUSF funding should be eliminated in areas where an unsubsidized provider is operating.¹ Similarly, funds should not be distributed to overbuild or fund networks in areas where an unsubsidized, facilities-based competitor is present. Not only has the unsubsidized company invested in the market without support, the support the competitor receives comes from customers of the unsubsidized company. Such a situation obliterates a competitively neutral, level playing field. The existence of an unsubsidized competitor offering comparable service in an area demonstrates support is not needed. This principle is consistent with federal policy.

There was also widespread agreement that carriers must demonstrate a specific and identifiable need for NUSF support beyond CAF funding, and that NUSF funding should not be duplicative of federal support.² The RIC suggested the Commission consider whether acceptance of CAF II support for a particular area impacts the availability of NUSF support in such area, and that generally speaking, it would seem rational for the Commission to consider focusing NUSF support to areas in Nebraska that are not eligible for CAF support.³ Cox believes NUSF support should not be distributed where CAF money has been awarded unless an explicit demonstration has been provided showing that the CAF funds alone will not support the needs of the area.

Like Cox, others noted the need for the Commission to align its audit requirements with the CAF by requiring explicit documentation demonstrating funds are

¹ Charter at 12; CTIA at 4; Sprint at 2

² Charter at 12; CTIA at 3-4; Sprint at 2.

³ RIC at 3 and 5.

being used for their intended purposes.⁴ The RIC stated “...whatever process the Commission may adopt should provide for accountability by the recipient to confirm that High Cost Program support grants are used for the intended purposes by the Commission”.⁵ The FCC in its recent CAF order stressed the importance of accountability and oversight.⁶ The Commission should acknowledge the same important principle and require explicit documentation that shows funds are being used appropriately and for their intended purpose.

Not surprisingly, the comments filed by the price cap carriers generally opposed aligning the NUSF and CAF policies. Citizens indicated the Commission does not need to move forward with changes.⁷ Cox concurs with the price cap carriers on the point that customers should be the focus of the NUSF, but Cox disagrees that maintaining the status quo is in customers’ best interests. In fact, customers will benefit most by the positions taken by Cox and the other parties.

Cox agrees with Sprint that in the absence of change, carriers may have a disincentive to seek CAF funding since it comes with explicit obligations, and carriers may avoid the more stringent requirements associated with the CAF knowing they can instead collect NUSF money with less requirements.⁸

It is critical the NUSF be used only where necessary and for intended purposes. To ignore these objectives will limit the NUSF’s future ability to meet legitimate needs by distributing funds where they aren’t necessary or are being misappropriated. Misuse of the NUSF obviously harms customers statewide, as they are paying the NUSF

⁴ Charter at 12.

⁵ RIC at 6.

⁶ See *Connect America Fund*; WC Docket Nos. 10-90, et al., Report and Order, para. 124-128, Adopted Dec. 11, 2014.

⁷ Citizens at 2-3.

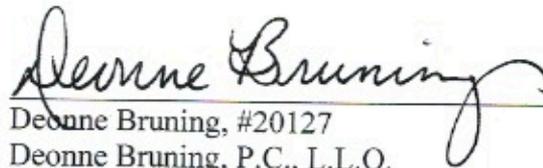
⁸ Sprint Comments at 2.

surcharge. NUSF remittances have steadily decreased over time and it is more important than ever that these scarce dollars be targeted to locations that are in genuine need of support. Reforms are necessary to achieve improved funding efficiency and to curtail waste.

In conclusion, Cox reiterates the points provided in its initial comments and is pleased several other commenters provided similar input. It is not only proper, but necessary for the Commission to proceed with actions that will harmonize the NUSF with federal policies and procedures.

Respectfully submitted this 9th day of February, 2015.

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Certificate of Service

The undersigned hereby certifies that on this 9th day of February, 2015 an original and one copy of Cox Nebraska Telcom's Reply Comments in NUSF-99 were hand-delivered to the Nebraska Public Service Commission, 1200 N Street, Suite 300, Lincoln NE and a copy of the same was e-mailed to:

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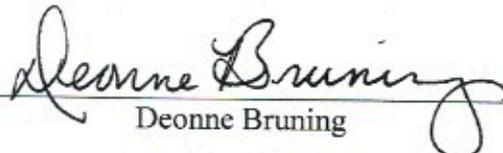
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