

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own Motion, to review and consider modifications to the Commission’s service outage reporting requirements.)
)
)
)
)

Application No. C-5564/PI-250

COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Comments in response to the Order Opening Investigation, Seeking Comment and Scheduling Workshop entered by the Nebraska Public Service Commission (the “Commission”) in this matter on April 3, 2024 (the “C-5564 Order”).

I. Commission Authority Regarding Telecommunications Service Outages

As noted in the C-5564 Order, Nebraska telecommunications carriers are subject to regulation by the Commission.² Further, the Legislature has directed that the Commission shall regulate the quality of telecommunications service provided by telecommunications companies.³

During the 2024 legislative session, the Legislature passed, and on April 15, 2024, the Governor signed LB1031 into law. Section 13(2) of LB1031 provides:

(2) A communications service provider that is required to file reports with the Federal Communications Commission regarding a 911 service outage pursuant to 47 C.F.R. 4.9(h) shall also file copies of such reports with the Public Service Commission. The reports filed with the Public Service Commission shall follow

¹ Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Great Plains Communications, LLC, 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, Sodtown Communications, Inc., and Three River Telco.

² C-5564 Order at 1.

³ Neb. Rev. Stat. § 86-123(1).

the same timelines and provide the same information as outlined in 47 C.F.R. 4.9 and 4.11.

Section 13(4) of LB1031 also provides that “[t]he Public Service Commission may adopt and promulgate rules and regulations to carry out this section.” LB1031 will become effective on July 18, 2024, and will provide new reporting requirements regarding 911 service outages.

RIC respectfully submits that in connection with the Commission’s revisions to its existing Service Outage Reporting Requirements, the requirements of Section 13 of LB1031 need to be taken into consideration by the Commission.

II. RIC’s Suggested Changes to the Proposed Revisions to Service Outage Policy

RIC suggests that the Commission should give favorable consideration to the following recommended changes to the proposed revisions to the Commission’s Proposed Service Outage Policy (the “Proposed Policy”) which is Attachment A to the *C-5564 Order*.

Paragraph 1: RIC suggests that the terms “service interruptions” and “interruptions” that appear in this paragraph be changed to “service outages” and “outages.”⁴ These changes would conform the language of the Proposed Policy to that used in LB1031, Section 13 quoted above. It should be noted that Section 13 of LB1031 as originally introduced in LB1256 defined “outage” as: “Outage means a significant degradation in the ability of an end user to establish and maintain a channel of communications service as a result of failure or degradation in the performance of a communications service provider’s network.” However, as finally passed, Section 13 was amended to remove this definition which was replaced with the following definition of “outage”: “Outage has the same meaning as described in 47 C.F.R. 4.5(e).”⁵

⁴ These changes in terminology should be universally made throughout the Proposed Policy.

⁵ This reference to 47 C.F.R. 4.5(e) may be an inadvertent error in Section 13 of LB1031 because “outage” is actually defined in 47 C.F.R. 4.5(a) “as a significant degradation in the ability of an

Paragraph 2: In addition to replacing the occurrences of the word “interruption” with the word “outage” as recommended above, in the third line of this paragraph following “three (3)” RIC recommends insertion of the word “business.”⁶ This addition would address and resolve issues that would arise if the three *calendar* day provision remains and an outage began on either Wednesday or Thursday in which cases the initial interim report would be due on Saturday or Sunday, respectively (three calendar days following the beginning of the outage). Saturday and Sunday are days of the week on which a telecommunications carrier will ordinarily not have administrative personnel on duty to prepare and submit such reports.

Paragraph 3: Replace the occurrence of the word “interruption” with the word “outage.”

Paragraph 5: RIC suggests that the terms “significant degradation” as used in paragraph 5(a) be defined in order to add certainty regarding a service condition that would constitute a “significant degradation” and thus trigger the reporting requirement. A suggested definition of “significant degradation” might be: “For the purposes of these Reporting Requirements, “significant degradation” shall mean an end user calling party’s inability to communicate with the called party or the called party’s inability to communicate with the end user calling party.” Further in this paragraph 5(a) RIC suggests that the number of affected working lines be changed from “one hundred or more of the company’s working lines” to “five hundred (500) working lines in any NXX per central office” as is provided in section 5(b) of the current Outage Policy.

end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider’s network.” Section 4.5(e) actually describes the circumstances in which an outage occurs that potentially affects a 911 special facility.

⁶ It should be noted that the proposed change in paragraph 3 of the Proposed Policy measures the reporting requirement based upon business days and not calendar days.

Regarding paragraph 5(d), RIC suggests that this sub-paragraph should end following the words “fire houses.” The words “civic centers, financial institutions, or large-scale shopping centers” should be omitted as unnecessarily broadening the scope of this sub-paragraph and because such terms are not defined in the Proposed Policy and are not self-defining. For example, do “financial institutions” include branch offices as well as the main bank facility of commercial banks, and do “financial institutions” include savings and loan companies, credit unions, brokerage businesses and the like? Further, what is a “large-scale shopping center”? For a village of 500 population the local Dollar General store may be viewed as a shopping center while in the City of Lincoln, Gateway Shopping Center would likely be regarded as a “large-scale shopping center.”

RIC also recommends insertion of the following sentence as a new paragraph 5(e) of the Proposed Policy:

A service interruption shall not include a service outage or service degradation involving broadband only customers.

Last unnumbered paragraph: This paragraph is unrelated to the preceding portions of paragraph 5, all of which identify occurrences that are proposed to be classified as “service interruptions” (which terms RIC recommends be changed to “service outages”). RIC suggests that this paragraph be numbered “6” and be titled “Planned Service Outages.” RIC further recommends that the existing paragraph be deleted in its entirety and be replaced by the following paragraph:

Service outages do not include planned and scheduled outages affecting (a) local distribution facilities for five hundred (500) or fewer voice customers, for a duration of (i) thirty (30) minutes or less occurring at any time of the day or (ii) one hundred twenty (120) minutes or less if scheduled between midnight and 5:00 a.m. local time, or (b) toll services for a duration of sixty (60) minutes or less and scheduled within a maintenance window of midnight to 5:00 a.m. local time, or (c) 911 trunks for a duration of thirty (30) minutes or less and scheduled within a maintenance window of midnight to 5:00 a.m. local time. In the event that the

planned and scheduled outage for 911 trunks will be longer than the foregoing duration or will occur other than between midnight and 5:00 a.m. local time, notice shall be provided to affected public safety answering points, local law enforcement and local emergency responders at least twenty-four (24) hours in advance of the planned and scheduled outage.

RIC respectfully submits that the revisions to the Planned Service Outages paragraph would better serve the interests of consumers, public safety answering points and telecommunications carriers.

Based upon the foregoing comments, RIC does not believe that the six questions listed on page 2 of the *C-5564 Order* require further responses.

V. CONCLUSION

The Nebraska Rural Independent Companies appreciate the opportunity to provide these Comments in response to the *C-5564 Order*. RIC looks forward to further participation in this proceeding.

Dated: June 14, 2024.

Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Great Plains Communications, LLC., 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, Sodtown Communications, Inc. and Three River Telco (the "Rural Independent Companies")

By: Paul M. Schudel

Paul M. Schudel, NE Bar No. 13723

pschudel@woodsaitken.com

WOODS AITKEN LLP

301 South 13th Street, Suite 500

Lincoln, Nebraska 68508

Telephone (402) 437-8500

Facsimile (402) 437-8558

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of June 2024, an electronic copy of the foregoing pleading was served on the Nebraska Public Service Commission via email at psc.telecom@nebraska.gov.



Paul M. Schudel