

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public)	Application No. NUSF-139
Service Commission, on its own Motion,)	
to consider appropriate modifications to)	
the high-cost distribution and reporting)	
mechanisms in its Universal Service Fund)	
program in light of federal and state)	
infrastructure grants.)	

DAN DAVIS PRE-FILED TESTIMONY

My name is Dan Davis. I am employed with Consortia Consulting. My business address is 233 South 13th Street, Suite 1500, Lincoln, Nebraska. I am Director of Policy and Analysis at Consortia Consulting. I am testifying on behalf of the thirteen rural local exchange carriers that comprise the Rural Independent Companies or RIC. My testimony will focus on the issues identified in the Commission's August 26, 2025 Progression Order No. 8 entered in this docket, namely, the Framework for transitioning support and obligations to Competitive Carriers and Cost Model updates for 2026 which I will refer to in my testimony as "Progression Order No. 8." As I discuss these issues I will also respond to the Commission's questions posed in Progression Order No. 8 relating to each issue.

Framework for Transitioning Support and Obligations to Competitive Carriers

On July 1, 2025 RIC submitted Comments to the Commission which on pages 2 through 10 addressed the proposed Framework for Transitioning Support and Obligations to Competitive Carriers as set out in the Hearing Officer's June 20, 2025 Order Seeking Comment and Setting Workshop. A copy of RIC's July 1, 2025 Comments has been entered into the record as Exhibit ____.

In its July 1 Comments RIC advocated for two fundamental principles regarding transitioning of NUSF High-Cost Program support and obligations to competitive carriers. First,

High-Cost Support should be provided to only one facilities-based NETC in a given support area. Footnote 2 in Progression Order No. 8 includes a statement that “The Commission will continue its policy of providing NUSF support to only one wireline provider in a given area.” Thus, it is RIC’s understanding that this issue is resolved and that the Commission has approved the policy that only one wireline provider will receive NUSF support in a given geographic area.

The second principle advocated by RIC in its July 1 Comments is that competitive carriers seeking Commission approval to receive High-Cost Support should be subject to the same eligibility and operational requirements as Incumbent LECs that receive High-Cost Support. The Commission endorsed this principle on page 16 of its August 29, 2023 Order opening this docket with the following statement: “The [NUSF funding] mechanism in the Commission’s rules was designed to ensure that the Commission provided support to only one network in a given area at a given time and that the competitive carrier replacing the incumbent carrier was bound to the same service quality and interconnection requirements.”

Additionally, at pages 10-11 of Progression Order No. 8 the Commission proposes that any NETC seeking High-Cost Support would be required to take on COLR obligations including (1) offering reliable voice and broadband services to every location in the support area in compliance with all pertinent statutes, rules and regulations, and orders of the Commission; (2) offering 911 and TRS; (3) offering affordable voice and broadband services at affordable rates in compliance with the Federal Communications Commission’s Broadband Benchmark Rate and this Commission’s Voice Benchmark Rate; and (4) participating in NTAP. RIC endorses and supports each of these service obligations and in particular those requirements listed in footnote 50 of Progression Order No. 8.

I would also note that the Commission's stated requirement to comply with pertinent Commission rules would include NUSF Rule 004.02(D) which lists Supported Services that must be provided by an NETC to all requesting users within a Support Area. Further, Section 86-324.02 of the Nebraska statutes requires the NETC to provide broadband service with minimum service speeds of 100/20 Mbps to locations in the designated Support Area.

RIC also supports the Commission's proposal to utilize the term "Support Area" as defined in NUSF Rule 001.01(V) to describe the area in which NUSF obligations and COLR obligations attach, with the addition of the phrase "containing broadband and voice capable serviceable locations" set out on page 11 of Progression Order No. 8. Further, RIC endorses the Commission's proposal to continue the use of the term "Service Area" as defined in NUSF Rule 001.01(U).

To be clear, Support Area and Service Area are not necessarily the same geographic area. A Support Area should consist of the area containing broadband and voice capable serviceable locations that the Commission has designated to receive NUSF High-Cost Support. A Service Area should consist of the area in which the Commission requires an NETC to provide service.

The Commission asks for comments on its observation "that the 'service area' would generally be the same as the 'deployment project area.'" Section 86-1503(5) defines deployment project area as "a contiguous geographic area consisting of locations serviceable by broadband or telecommunications services determined by the granting agency for a project funded under a broadband deployment program. A deployment project area may consist of geographical areas in more than one local exchange area." Based upon this statutory definition, it seems more likely that a Support Area, as proposed to be defined, rather than a "Service Area" would be the same as the "deployment project area." In other words, the locations designated to receive broadband

deployment support would likely be the locations the Commission would designate to receive NUSF High-Cost Support.

On page 12 of Progression Order No. 8 the Commission proposes to allow a petitioner seeking High-Cost Support to base the petition “on a shapefile of the locations for which NETC designation is sought.” In response to this proposal, RIC would note for the Commission that existing NUSF Rule 004.02(G) sets out the requirements for any petition by an NETC to replace an incumbent carrier receiving High-Cost Support. Section 4 of the Framework for transitioning support that lists the minimum required contents of an application seeking transfer of High-Cost Support substantially conforms to the requirements of Rule 004.02(G). However, in RIC’s July 1 Comments RIC took exception to certain elements of Section 4 of the Framework and continues to stand by those exceptions.

The final issue regarding the Framework for transitioning support relates to the time sequence in which a carrier seeking High-Cost support and adopting COLR obligations should be required to apply for and receive designations as an ETC and a NETC. Consistent with the position of the Commission Staff stated at the July 15 NUSF-139 Workshop, it is RIC’s position that a competitive carrier seeking High-Cost Support should apply for and receive grant of ETC status pursuant to 47 U.S.C. § 214(e) and NETC status in accordance with the requirements of NUSF Rules 004.01 and 004.02 *prior* to the competitive carrier being authorized to receive High-Cost Support and transfer of COLR obligations. It should be noted that the entire discussion in Progression Order No. 8 regarding transitioning High-Cost Support and COLR obligations to competitive carriers is premised upon the competitive carrier holding the status of an ETC and NETC. A competitive carrier’s commitment to obtain ETC and NETC status is insufficient. The Commission should require that ETC and NETC status be granted to a

competitive carrier before High-Cost Support and COLR obligations are transferred to the competitive carrier.

The importance to each consumer of uninterrupted continuity in the provision of telecommunications and broadband services by a COLR serving the consumer's location and the complexities attendant to the process of transferring COLR obligations and High-Cost Support from an incumbent LEC to a competitive carrier outweigh any benefits of transferring these obligations and NUSF support based upon *only a future commitment* by a competitive carrier to request and obtain NETC status. As such, RIC recommends that section 4.b of the Framework be revised by removing the "commitment" language. As revised, section 4.b would read: "A demonstration that the carrier is a Nebraska eligible telecommunications carrier ("NETC") prior to a COLR transition taking place and becoming authorized for ongoing NUSF support."

Only a telecommunications carrier designated as an NETC by the Commission for the express purpose of receiving High-Cost Support is eligible to receive such funding. In order to receive this designation, the competitive carrier must actually provide the supported services described in Rule 004.02(D) to all requesting users within a specified service area at reasonably comparable rates including the Commission-determined benchmark rates for basic local exchange service and broadband access service. Additionally, the competitive carrier must be in compliance with Nebraska statutes and all Commission rules and orders relating to the NUSF as well as any criteria that the Commission deems reasonably necessary to carry out the goals of the NUSF.

Finally, the competitive carrier petitioning the Commission to replace the incumbent LEC must also satisfy the requirements of Section 86-1505(3) of the Nebraska statutes including coordination with the Federal Communications Commission to meet the requirements of 47

U.S.C. § 214(e)(4) and 47 CFR § 54.205 as conditions to transfer of COLR obligations and transfer of High-Cost Support.

Cost Model Determination and Model Updates

Comments filed in this docket on July 1, 2025 by the three rural telecommunications groups and Windstream indicate a consensus supporting continued use of the SBCM, with appropriate updates, for determining costs to serve locations in rural rate-of-return carrier service areas. The Commission acknowledges on page 10 of Progression Order No. 8 that “[t]here was general support for the continued use of the SBCM to determine high-cost support in the rate-of-return carrier areas, with updated inputs.”

RIC urges the Commission to continue its use of the SBCM to determine costs for 2026 and future years’ distributions of High-Cost Support for locations in areas served by rate-of-return carriers, subject to appropriate input updates. RIC opposes the use of the Carrier Agnostic Service Area or CASA model to determine costs for distribution of 2026 and future High-Cost Support for locations in areas served by rate-of-return carriers.

On page 5 of Progression Order No. 8 the Commission reports that it has “entered into an agreement with CostQuest to update the SBCM model and has requested that carriers provide carrier specific cost input data that will be incorporated into the overall model.” The decision to contract with CostQuest to update the cost data utilized in the SBCM confirms that the Commission has concluded that the SBCM, with appropriate updates, should continue to be used to determine costs for distribution of 2026 and subsequent years’ High-Cost Support for locations in areas served by rate-of-return carriers. RIC reaffirms its support for this position of the Commission. Finally, RIC endorses updating the SBCM at two-year or three-year intervals

unless unusual circumstances arise that require more frequent updates such as recent periods of hyperinflation.

This concludes my testimony. If you have questions relating to the subjects that I have addressed, I would be pleased to try to answer those questions.

Dated: September 16, 2025.

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")

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 16th day of September 2025, electronic copies of the foregoing testimony were delivered to the Nebraska Public Service Commission at psc.nusf@nebraska.gov and to the parties of record in this proceeding.

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