

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public )  
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. )

Application No. NUSF-139

**PRE-FILED REBUTTAL TESTIMONY OF DAN DAVIS**

My name is Dan Davis. I am employed with Consortia Consulting. My business address is 233 South 13<sup>th</sup> 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”.

Pre-filed direct testimonies addressing the Staff Proposal for the provision of NUSF High Cost Program support for the 2025 funding year were filed by the Commission Staff, RIC, the Rural Telecommunications Coalition of Nebraska (“RTCN”), the Nebraska Rural Broadband Association (“NRBA”) and Northeast Nebraska Telephone Company (“NNTC”). In this Rebuttal Testimony I will provide RIC’s responses to these testimonies.

It should be noted that no price cap carrier submitted pre-filed direct testimony regarding the Staff Proposal. Further, none of the other carriers or carrier group that have previously participated in this proceeding submitted pre-filed direct testimony. While it is difficult to determine the conclusions that should be drawn from this non-participation, RIC believes that, at a minimum, the Commission should reasonably conclude that neither the price cap carriers nor the other parties formerly participating in this proceeding seek to influence the Commission’s final design of NUSF High Cost Program support for the 2025 funding year.

Before providing observations concerning the pre-filed testimonies of the rate-of-return carriers' witnesses, I will respond to the pre-filed direct testimony of NUSF Director Cullen Robbins. Mr. Robbins provides an accurate general description of the Staff Proposal in his testimony. RIC is encouraged by Mr. Robbins' statement that Staff desires "to move towards a mechanism . . . where determinations of support are data-driven and more easily understood and predictable." RIC endorses and enthusiastically supports the following principles stated by Mr. Robbins: (1) that determinations of High Cost Program support distributions should be "data-driven"; (2) that calculations of support distributions should be more understandable and should be made available to all interested parties for review and comment prior to final Commission approval; and (3) that support distributions should be more predictable on a year-to-year basis going forward.

In my pre-filed direct testimony I stated RIC's positions on each of the ten sections comprising the Staff Proposal. On page 2 of Mr. Robbins' testimony, he states that the Staff has provided "a description of how federal support will be imputed." Respectfully, RIC submits that further details are needed before the impacts of the proposed revisions to federal support imputation on High Cost Program support distributions can be fully understood. The most effective and transparent way for the Staff to expand their explanation of the imputation process would be to release an illustrative calculation of the imputation process for review and comment.

Similarly, RIC renews its request for the Staff to release its proposed modeled cost calculations for every NUSF-eligible location after the updated cost data is received from CostQuest and to afford all interested parties an opportunity for review and comment. Further, even though the Staff Proposal only would apply the "rate comparability" metric to price cap carriers, RIC also renews its request for a more detailed explanation of this factor.

RIC appreciates Mr. Robbins' clarifications and corrections relating to the "glide path" proposal as these are helpful to understanding this alternative support calculation for 2025.

A final observation regarding Mr. Robbins' pre-filed direct testimony relates to his statement that the Staff believes "this proposal advances universal service goals by directing NUSF High Cost support using a more modern approach, *moving proactively towards the statutory requirements put in place through LB 1031.*" (emphasis added) RIC agrees with this statement with one notable exception that was referenced on pages 2 and 3 of my pre-filed direct testimony. Section 4 of LB1031 clearly and unequivocally states an exception to the requirement that a location must be 100/20 Mbps capable as a condition to receiving ongoing expense support. The Legislature provided "except that (a) If a broadband serviceable location is subject to a federally enforceable commitment for deployment of infrastructure capable of access to the Internet at speeds of at least one hundred megabits per second for downloading and at least twenty megabits per second for uploading, *the commission shall continue to provide ongoing high-cost support from the fund* so long as the recipient of the ongoing high-cost support is in compliance with the deployment obligations of such federally enforceable commitment and the requirements of the fund." (emphasis added) RIC urges the Commission Staff and the Commission to incorporate this exception into the Staff Proposal.

There is considerable commonality in the positions regarding the Staff Proposal that are set forth in the RIC, RTCN and NRBA witnesses' pre-filed direct testimonies. Each of the three rate-of-return carrier groups supports implementation of the Staff Proposal for funding year 2025 as a transition to permanent revisions to the NUSF High Cost Program. Similarly, each of these groups supports implementation of 100/20 Mbps capability effective January 1, 2025 as a condition to a location's eligibility for ongoing expense support. However, as I stated above,

RIC believes that the Commission is required to implement the Legislature's exception to this condition if a location is subject to a federally enforceable commitment to deploy infrastructure capable of 100/20 Mbps broadband service and the other requirements to qualify for this exception (as quoted above from the statute) are met. Further, engaging CostQuest to update modeled costs for all locations is supported by all three groups.

By far the most controversial element of the Staff Proposal is continued use of the NUSF EARN Form for rate-of-return carriers in the 2025 funding year. The positions regarding this issue range from (a) support of the continued use of the EARN Form by NRBA; (b) to support of continued use of the EARN Form *only in 2025* by RTCN; (c) to a neutral position on the issue by RIC; and (d) to opposition to continued use of the EARN Form by NNTC. Resolution of this issue will, of course, rest with the Commissioners.

Each of the rate-of-return carrier groups is withholding a declaration of its final position regarding imputation of federal USF in the calculation of ongoing expense support until the release of updated cost modelling data and review of calculations made by the Commission Staff regarding the impacts of federal USF imputation on distribution of ongoing expense support among eligible carriers.

A final observation concerning the pre-filed direct testimonies is that the Commission Staff's "glide path" proposal received support from each of the rate-of-return carrier groups.

The RIC member companies appreciate the opportunity to submit this pre-filed rebuttal testimony for consideration by the Commission and its Staff. The RIC member companies look forward to participation in the public hearing in this proceeding scheduled for August 29, 2024.

Dated: August 20, 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")

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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 20th day of August, 2024, a copy of the foregoing pleading was delivered to the Nebraska Public Service Commission at [psc.telecom@nebraska.gov](mailto:psc.telecom@nebraska.gov) and was electronically served on Cullen Robbins, Director of Communications, Shana Knutson, legal counsel for the Commission and on legal counsel for all interested parties that have appeared in this docket.

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