

NOV 29 2021

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska
Public Service Commission, on its
own Motion, to make adjustments
to its high-cost distribution
mechanism and to make revisions
to its reporting requirements.

) Application No. NUSF-108
) Progression Order No. 7
)
)
)
)

Nebraska
Public Service Commission

COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES

The Nebraska Rural Independent Companies ("RIC")¹ submit these Comments in response to the Order Seeking Comment entered by the Nebraska Public Service Commission (the "Commission") on October 19, 2021 (the "*PO7 Order*"). In these Comments RIC provides its responses to the questions presented by the Commission in the *PO7 Order*. Moreover, due to the importance of properly accounting for state and federal universal service fund ("USF") support as well as other state and federal broadband deployment funding, as more fully discussed below, RIC suggests that a workshop be scheduled and conducted by the Commission during which technical accounting principles as well as relevant policy considerations regarding the issues presented in the *PO7 Order* can be fully discussed among the Commissioners, the Commission Staff and all interested parties. RIC appreciates the opportunity to provide these Comments and looks forward to continuing participation in this docket.

RESPONSES TO SPECIFIC COMMISSION REQUESTS FOR COMMENTS

1. What is the accounting treatment for federal loan forgiveness, such as loan forgiveness through the federal Paycheck Protection Program (PPP) and/or the COVID-19 Economic Injury Disaster Loan (EIDL) advance as provided by the Small Business

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

Association (SBA)? Please also describe how any loan forgiveness amounts should be accounted for within the EARN form. On what basis is the accounting treatment determined? Please provide any references to specific sections of the CFR that may be used in that determination.

RIC Response: General guidance for the answer to the first part of this request that inquires as to the proper accounting treatment for federal loan forgiveness is best provided by reference to the analysis released by the American Institute of Certified Public Accountants (“AICPA”) in TQA 3200.18. A copy of TQA 3200.18 is attached to these Comments as Exhibit A. Rather than summarizing the information contained therein, RIC respectfully refers the Commission to the contents of Exhibit A.

Moving on to the second part of this request for comments, assuming that repayment of the PPP or EIDL loan is forgiven, it appears that International Accounting Standard 20 (“IAS 20”), Accounting for Government Grants and Disclosure of Government Assistance (please refer to Exhibit A for a discussion of IAS 20), would treat the forgiven loan as a government grant. Given that an earnings offset may be presented as a credit in the income statement under a general heading as “other income,” recording such as Miscellaneous Revenue on the EARN form is appropriate.

RIC also suggests that reference to past Commission precedent may be relevant to this request for comments, which includes a 2013 order addressing the proper recording of NUSF-77 support (in the form of Nebraska Broadband Pilot Project (“NEBP”) grant support) on the EARN form. The Commission found that:

NEBP grant recipients should exclude NEBP grant support awarded in 2012 and 2013 as plant investment on the NUSF-EARN Form and companies should not report grant support received on Line 26 on the NUSF-EARN Form. Companies should include their match investment in the NUSF-EARN Form as plant

investment where appropriate.”²

The foregoing finding may provide the Commission with some guidance relating to the inquiries set forth in this request for comments.³

2. What accounting rule should be applied to determine if a federal or state funding source that provides support for deployment of broadband is considered construction support? Would 47 CFR § 32.2000, subsection (a)(2) be applicable to funds carriers

² See, *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Application No. NUSF-77, Progression Order No. 7, Order at 15 (Jan. 15, 2013).

³ RIC notes that in a statement immediately following this quoted language the Commission wrote: “The Commission plans to more fully investigate this issue and other issues related to the NUSF-EARN Form filing requirements at a later date.” Although the Commission entered an order on December 17, 2019 to consider certain modifications to the EARN Form and on February 23, 2021 entered a subsequent Order stating its findings concerning possible modifications to the EARN Form, none of those findings related to the proper accounting for NUSF broadband deployment support (“BDS”) on the EARN Form. See, *In the Matter of the Nebraska Public Service Commission, on its own Motion, to make adjustments to its high-cost distribution mechanism and make revisions to its reporting requirements*, Application No. NUSF-108, Progression Order No. 5, Order (Feb. 23, 2021).

RIC had previously requested the Commission to address open issues regarding accounting for NUSF support in the EARN Form in the following contexts: (1) Comments filed in response to Application No. NUSF-108, Progression Order No. 3, Dan Davis testimony, Tr. 92:9-16 (Aug. 15, 2018) (recommending a public workshop to address “proper accounting treatment of NUSF CapEx support . . .”); (2) RIC’s Post-Hearing Comments in Application No. NUSF-108, Progression Order No. 3 at 6 (Sept. 17, 2018) (reiterating that “‘technical issues’ for the ‘proper accounting for NUSF CapEx support are more effectively addressed in a workshop setting rather than in a hearing or written comments.”); (3) RIC’s Comments and Affidavit of Daniel J. Wiesen, CPA in Application No. NUSF-108, Progression Order No. 4 at 10-11 (Dec. 18, 2018) (the “*December 18, 2018 RIC Comments*”); and RIC’s Comments in Application No. NUSF-108, Progression Order No. 4 at 10-11 (Mar. 7, 2019).

In the Commission’s Findings and Conclusions entered in Application No. NUSF-108, Progression Order No. 3 at 42 (Nov. 19, 2018), the Commission stated: “The Commission agrees with the commenters who have suggested modifications need to be made to overcome outdated accounting practices and include a more holistic picture of broadband investments.” However, it was not until the entry of the *PO7 Order* that these accounting issues were raised by the Commission. As a result of the above-described background which demonstrates that the Commission has deferred provision to carriers of definitive guidance on the approved accounting and EARN form treatment of BDS and other state and federal support for broadband deployment, RIC respectfully submits that any findings or conclusions by the Commission in connection with the *PO 7 Order* should *only* be applied prospectively.

receive for broadband deployment through programs such as Nebraska Universal Service Fund (NUSF) BDS, NUSF Reverse Auction Support, Nebraska Broadband Bridge Program (NBBP), and other deployment specific funding sources? Please explain and provide any references to specific sections of the CFR that may be used in the determination.

RIC Response: RIC recognizes that 47 CFR § 32.2000 discusses the accounting treatment to be applied to money contributed to a carrier for construction of telecommunications plant. 47 CFR § 32.200(a)(2) reads as follows:

§ 32.2000 Instructions for telecommunications plant accounts.

(a) Purpose of telecommunications plant accounts. . .

(2) The telecommunications plant accounts shall not include the cost or other value of telecommunications plant contributed to the company. Contributions in the form of money or its equivalent toward the construction of telecommunications plant shall be credited to the accounts charged with the cost of such construction. Amounts of non-recurring reimbursements based on the cost of plant or equipment furnished in rendering service to a customer shall be credited to the accounts charged with the cost of the plant or equipment. Amounts received for construction which are ultimately to be repaid wholly or in part, shall be credited to Account 4300, Other long-term liabilities and deferred credits; when final determination has been made as to the amount to be returned, any unrefunded amounts shall be credited to the accounts charged with the cost of such construction. Amounts received for the construction of plant, the ownership of which rests with or will revert to others, shall be credited to the accounts charged with the cost of such construction.

The *December 18, 2018 RIC Comments* were accompanied by the Affidavit of Daniel J. Wiesen, CPA, a copy of which is attached hereto as Exhibit B. In paragraphs 3 through 5 thereof Mr. Wiesen references § 32.2000 and opines that “any reimbursements received by carriers to provide service to their customers should be credited against the cost of construction.” (paragraph 3) Mr. Wiesen continued to observe that if the Commission “reimburses the carriers for a portion or all of the project costs, the reimbursement would, under subsection (2) quoted above and in my professional opinion, be accounted as ‘[a]mounts of non-recurring reimbursements based on the cost of plant or equipment furnished in rendering service to a

customer’ and thus would appropriately ‘be credited to the accounts charged with the cost of the plant or equipment.’” (paragraph 4) In turn, Mr. Wiesen concluded his Affidavit by observing that “the [Commission] reimbursement should reduce the amount of ‘the accounts charged with the cost of the plant or equipment’ by the level of Commission reimbursement.” (paragraph 5)

No matter the accounting treatment of BDS, a carrier’s BDS eligibility is unaffected.⁴

Thus, RIC again requests that the Commission sponsor industry workshops to address the various accounting issues that may arise in the EARN Form process. Specifically, RIC reiterates its recommendations made in 2018 (see footnote 3 above) that the Commission should hold at least one workshop to provide a forum for an informal and perhaps more robust discussion of the technical accounting issues relevant to the *PO7 Order*. The workshop format should be a useful approach to development of a consensus as to the proper resolution of these issues.

3. If a funding source other than FUSF is accounted as revenue, which line on the EARN form should it be reported as revenue? When accounting for funding as revenue on the EARN form, should an attestation be included to explain the accounting and use of the funds?

RIC Response: Assuming that the “funding source” in question is properly categorized to be accounted for as revenue, if the source is state-based such as NUSF Reverse Auction broadband build out funding, it may be appropriate to reflect this funding on Line 26.4 “Other State USF”. If, however, the funding source is a federal broadband build out support program

⁴ RIC notes that, whether the treatment of BDS under Section 32.2000(a)(2) is an offset to plant investment or whether BDS is booked as revenue, a carrier’s BDS eligibility is unaffected. BDS support for a ROR carrier is fixed based on the State Broadband Cost Model (“SBCM”) and the investment level that SBCM establishes for an eligible Census Block. While the treatment of BDS support as revenue may incrementally increase a ROR carrier’s return component (as well as such carrier’s depreciation expense), the revenue increase merely reduces the difference between the carrier’s authorized return level and the carrier’s actual return level as calculated on the EARN Form. Ultimately, the EARN Form process regarding the treatment of overearnings is the backstop for limiting the amount of ongoing support a carrier receives.

that differs from “Federal USF” categories listed in Lines 25.1 through 25.5, it may be necessary to add a Line 25.6 to the EARN Form perhaps titled “Other Federal Broadband Build Out Support”.⁵ If the funding sources, whether state or federal, are not appropriately categorized as USF support, it may be appropriate to record the funding in EARN Form Line 27 as “Miscellaneous” revenue.

RIC believes that it would be reasonable for a carrier to include an attestation with its EARN Form filing explaining the accounting and use of broadband build out funds received for the prior 12-month period. However, RIC respectfully submits that the wording and purposes of the attestation are matters that would appropriately be addressed during the workshop that RIC suggests.

4. What accounting treatment would be most appropriate to ensure investments made to plant with use of NUSF BDS funds are accounted for properly on the NUSF-EARN Form? Should BDS and/or other grants be included in the rate base and allowed to earn a rate of return for purposes of calculating ongoing NUSF support? If yes, should they earn the same rate of return or different?

RIC Response: RIC refers the Commission to its responses to requests for comments 1 through 3 above as its responses to this request for comments. RIC reiterates its suggestion that a workshop be scheduled and conducted by the Commission to discuss possible answers to the questions presented in this request for comments.

5. What test is used to determine the accounting treatment of various sources of grant funds? Is the treatment determined based on the cost review, invoice review, payment structure (i.e., grant payment received all at once, or in equal installments), or some other method? Please explain and provide any references to specific sections of the CFR that may be used in the determination.

- a. How would this apply to CARES Act funds provided by the Nebraska Department of Economic Development?**
- b. How would this apply to BDS, reconnect, or other programs?**

⁵ However, if this “Other Federal Broadband Build Out Support” is to be netted against plant accounts (that is, not booked as revenue), then the Commission would need to change the formula for calculating Line 30 Total Revenues to subtract any amount reflected in new line item 26.5.

RIC Response: Regarding the initial inquiries in this request for comments, RIC's comments in response to request 2 above are responsive. 47 CFR § 32.2000(a)(2) and the discussion of the positions stated in the Wiesen Affidavit (Exhibit B attached hereto) provide the basis for the accounting treatment of grant funds.

RIC expects that CARES Act funds provided to telecommunications carriers as well as funding from ReConnect or other grant programs would receive consistent accounting treatment.

6. On what basis have carriers opted to apply one accounting treatment for these funding sources over another?

RIC Response: Notwithstanding the absence of definitive regulatory guidance, RIC members, in conjunction with their accounting advisors, have in the past made good faith efforts to properly account for funding received from state and federal sources for broadband build out. As stated above, RIC would welcome the opportunity to participate in a Commission-ordered workshop to fully discuss the issues presented by the *PO7 Order* so that consensus can be reached on the proper accounting treatment of various broadband build out funding sources on a going forward basis.

CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Comments in response to the *PO7 Order* and look forward to continuing participation in this docket.

Dated: November 29, 2021

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

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EXHIBITS A and B
(See Attachments)

Q&A Section 3200

Long-Term Debt

.18 Borrower Accounting for a Forgivable Loan Received Under the Small Business Administration Paycheck Protection Program

Inquiry — How should a nongovernmental entity¹ account for a forgivable loan received under the Small Business Administration Paycheck Protection Program (PPP)?²

Reply — Given the unique nature of the PPP, questions have arisen relating to how a borrower under the program should account for the arrangement. Although the legal form of the PPP loan is debt, some believe that the loan is, in substance, a government grant. Staff of the Office of the Chief Accountant of the SEC have indicated they would not object to an SEC registrant accounting for a PPP loan under FASB *Accounting Standards Codification* (ASC) 470, *Debt*, or as a government grant by analogy to International Accounting Standard (IAS) 20, *Accounting for Government Grants and Disclosure of Government Assistance*, provided certain conditions are met.

Regardless of whether a nongovernmental entity expects to repay the PPP loan or believes it represents, in substance, a grant that is expected to be forgiven, it may account for the loan as a financial liability in accordance with FASB ASC 470 and accrue interest in accordance with the interest method under FASB ASC 835-30. An entity would not impute additional interest at a market rate (even though the stated interest rate may be below market) because transactions where interest rates are prescribed by governmental agencies (for example, government guaranteed obligations) are excluded from the scope of the FASB ASC 835-30 guidance on imputing interest. For purposes of derecognition of the liability, FASB ASC 470-50-15-4 refers to guidance in FASB ASC 405-20. Based on the guidance in FASB ASC 405-20-40-1, the proceeds from the loan would remain recorded as a liability until either (1) the loan is, in part or wholly, forgiven and the debtor has been “legally released” or (2) the debtor pays off the loan to the creditor. Once the loan is, in part or wholly, forgiven and legal release is received, a nongovernmental entity would reduce the liability by the amount forgiven and record a gain on extinguishment.

If a nongovernmental entity that is not a not-for-profit entity (NFP) (that is, it is a business entity) expects to meet the PPP’s eligibility criteria and concludes that the PPP loan represents,

¹ References to nongovernmental entities include business entities and not-for-profit entities.

² Please refer to the [Small Business Administration website](#) for information regarding the Paycheck Protection Program.



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in substance, a grant that is expected to be forgiven, it may analogize to IAS 20 to account for the PPP loan. IAS 20 outlines a model for the accounting for different forms of government assistance, including forgivable loans. Under this model, government assistance is not recognized until there is reasonable assurance (similar to the “probable” threshold in U.S. generally accepted accounting principles³) that (1) any conditions attached to the assistance will be met and (2) the assistance will be received. Once there is reasonable assurance that the conditions will be met, the earnings impact of government grants is recorded “on a systematic basis over the periods in which the entity recognizes as expenses the related costs for which the grants are intended to compensate.”⁴ Specifically, a business entity would record the cash inflow from the PPP loan as a deferred income liability. Subsequent to initial recognition, a business entity would reduce the liability, with the offset through earnings (presented as either [1] a credit in the income statement, either separately or under a general heading such as “other income,” or [2] a reduction of the related expenses), as it recognizes the related cost to which the loan relates, for example, compensation expense.

If a nongovernmental entity that is not an NFP (that is, it is a business entity) expects to meet the PPP’s eligibility criteria and concludes that the PPP loan represents, in substance, a grant that is expected to be forgiven, the AICPA staff observes it can also analogize⁵ to the following guidance: (1) FASB ASC 958-605 or (2) FASB ASC 450-30.

If an NFP chooses not to follow FASB ASC 470 and it expects to meet the PPP’s eligibility criteria and concludes that the PPP loan represents, in substance, a grant that is expected to be forgiven, it should account for such PPP loans in accordance with FASB ASC 958-605 as a conditional contribution.

The following table summarizes the key concepts of these models.

Accounting Topic

Overview

FASB ASC 958-605 FASB ASC 958-605 addresses the accounting for contributions by NFPs. Although the scope of FASB ASC 958-605 excludes contributions made by governmental entities to business (for-profit) entities, the FASB staff has acknowledged that entities scoped out of that guidance are not precluded from applying it by analogy when appropriate.⁶

Under this model, the timing of recognition for a contribution received depends on whether the contribution is conditional or not. If conditional, the contribution is not recognized until the conditions are substantially met or explicitly waived. Specifically, a nongovernmental entity would

³ The FASB ASC Master Glossary defines *probable* as “[t]he future event or events are likely to occur.”

⁴ Paragraph 12 of IAS 20.

⁵ FASB ASC 105-10-05-2 explains that, in the absence of explicit guidance, entities should first analogize to other areas of authoritative generally accepted accounting principles before considering other nonauthoritative sources.

⁶ The issue of business entities analogizing to the guidance in FASB ASC 958-605 was discussed by FASB staff at the Private Company Council meeting on April 17, 2020, as well as by the FASB Not-for-Profit Advisory Committee during its meetings on September 13–14, 2018, and April 7, 2020.

initially record the cash inflow from the PPP loan as a refundable advance. The nongovernmental entity would then reduce the refundable advance and recognize the contribution once the conditions of release have been substantially met or explicitly waived.

FASB ASC 450-30 FASB ASC 450-30 outlines a model for gain contingency recognition. Under this model, the earnings impact of a gain contingency is recognized when all the contingencies related to receipt of the assistance have been met and the gain is realized or realizable. As applied to forgivable loans received under the PPP, a business entity would initially record the cash inflow from the PPP loan as a liability. The proceeds from the loan would remain recorded as a liability until the grant proceeds are realized or realizable, at which time the earnings impact would be recognized.

Nongovernmental entities with material PPP loans should adequately disclose their accounting policy for such loans and the related impact to the financial statements.

[Issue Date: June 2020.]

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-108
Public Service Commission, on its)	Progression Order No. 4
own Motion, to make adjustments)	
to its high-cost distribution)	
mechanism and to make revisions)	
to its reporting requirements.)	

AFFIDAVIT OF DANIEL J. WIESEN

My name is Daniel J. Wiesen. I make this affidavit in support of the Comments submitted by the Rural Independent Companies in connection with Progression Order No. 4 in the above-captioned docket. I consent to this Affidavit being made an exhibit to such Comments. I am over the age of 21, I have personal knowledge of the matters set forth below, I am competent to make this Affidavit, and I declare under penalty of perjury that the following is true and correct.

1. I am a partner in the accounting firm of Erickson & Brooks, Certified Public Accountants (the "Firm"). I received a Bachelor of Science degree in Accounting from Midland Lutheran College in 1980 and began my accounting career with the Firm in 1980, becoming a partner in the Firm in 2002. I am a member of the American Institute of Public Accountants and the Nebraska Society of Certified Public Accountants. I am the Firm's designated partner in the provision of professional services to the telecommunications industry.
2. Among the clients of my accounting firm are a number of rural local exchange carriers located in the State of Nebraska. In connection with the provision of accounting services to these clients, I routinely have occasion to provide advice and to perform accounting functions based upon regulatory accounting rules,

including but not limited to those found in Part 32 of the Federal Communications Commission ("FCC") Rules.

3. According to my review of the Part 32 Rules, the FCC indicates very clearly that any reimbursements received by carriers to provide service to their customers should be credited against the cost of the construction. Part 32 reads in pertinent part as follows:

§32.2000 Instructions for telecommunications plant accounts.

Purpose of telecommunications plant accounts.

(1) The telecommunications plant accounts (2001 to 2007 inclusive) are designed to show the investment in the company's tangible and intangible telecommunications plant which ordinarily has a service life of more than one year, including such plant whether used by the company or others in providing telecommunications service.

(2) The telecommunications plant accounts shall not include the cost or other value of telecommunications plant contributed to the company. Contributions in the form of money or its equivalent toward the construction of telecommunications plant shall be credited to the accounts charged with the cost of such construction. Amounts of non-recurring reimbursements based on the cost of plant or equipment furnished in rendering service to a customer shall be credited to the accounts charged with the cost of the plant or equipment.


4. If the Nebraska Public Service Commission ("Commission") requires the carriers to provide documentation of the construction projects for prior approval, and then reimburses the carriers for a portion or all of the project costs, the reimbursement would, under subsection (2) quoted above and in my professional opinion, be accounted as "[a]mounts of non-recurring reimbursements based on the cost of plant or equipment furnished in rendering service to a customer" and thus would

appropriately "be credited to the accounts charged with the cost of the plant or equipment."

5. Thus, should the Commission partially or fully reimburse a carrier after that carrier's plant construction expense is incurred, the reimbursement should reduce the amount of "the accounts charged with the cost of the plant or equipment" by the level of Commission reimbursement."

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 17, 2018



Daniel J. Wiesen

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of November 2021, an electronic copy and one paper copy of the foregoing pleading were delivered to:

Nebraska Public Service Commission

Cullen.Robbins@nebraska.gov

Brandy.Zierott@nebraska.gov

Also, electronic copies of the foregoing pleading were electronically delivered to the other parties to this docket.



Paul M. Schudel