

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology

Application No. NUSF-100/PI-193

**COMMENTS OF QWEST CORPORATION d/b/a CENTURYLINK QC
AND UNITED TELEPHONE COMPANY OF THE WEST d/b/a CENTURYLINK**

The Nebraska Public Service Commission (“Commission”) opened NUSF-100 on November 13, 2014 to consider revisions to the Nebraska Universal Service Fund (“NUSF”) contribution methodology. Contributions into the fund continue to decline and changes are needed to ensure the continued stability and viability of the fund. Parties filed initial and reply comments on February 13, 2015 and April 13, 2015 respectively. On April 5, 2016, the Commission issued an Order Seeking Further Comments on a number of issues. Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (collectively, “CenturyLink”) respectfully submit these comments for the Commission’s consideration of this important topic.

The Commission proposes to transition NUSF contributions away from the current revenues based methodology to a connections based methodology. The Commission continues to be a leader in universal service issues and will be plowing new ground with this change. However, difficult and time consuming issues deserve extended discussion. Therefore the Commission should proceed cautiously and with measured steps. A change of this magnitude will not be easy, will require much discussion between industry and staff, and will need an extended implementation timeline for the customer education and billing system changes that will be necessary. CenturyLink believes a connections based

methodology is the best option for ensuring the continued stability of the NUSF; however, no single contributions methodology is a panacea for all the goals established in the request for comments.

I. Strategic Plan

The Commission first identifies several goals that the NUSF should achieve and requests comments on those goals. CenturyLink agrees that it is important for the Commission to determine the purpose and objectives of the NUSF in order to develop a comprehensive strategic plan. Well articulated long-term goals are necessary for the Commission to ensure that the funding is being used appropriately and for its intended use. However, the determination of the goals of the NUSF, as well as the development of a new contribution methodology, is too important to leave to a simple comment-reply cycle. CenturyLink encourages the Commission to consider holding workshops where each of the proposed goals can be discussed and the Commission can take feedback from interested parties. Preliminarily, CenturyLink provides the following responses to the Commission's request for comments on its proposed goals for the NUSF.

A. Ubiquitous Broadband

The Commission notes that "an important goal of reform will be to support the deployment of ubiquitous broadband availability throughout Nebraska."¹ CenturyLink agrees that broadband is vital to Nebraska's economic well being and expanding broadband throughout the state is a worthy goal. However, CenturyLink cautions the Commission that ensuring ubiquitous broadband in the state will come at a significant cost and will take an extended period of time to accomplish. The Federal Communications Commission ("FCC"), as part of the Connect America Fund ("CAF") plan,² determined

¹ *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology*, Application No. NUSF-100/PI-193, Order Seeking Further Comments issued April 5, 2016, page 5 ("Contributions Order").

² *See In the Matter of the Connect America Fund, et al.*, WC Docket No. 10-90, et al., Report and Order and Further Notice of Proposed Rulemaking, para. 167-168 (November 18, 2011).

that it is simply too expensive to deploy wireline broadband service to some remote areas of the country, and those areas of the country will likely receive broadband service through satellite. Indeed, in Nebraska, the FCC identified many areas as too costly to build given the budget adopted for CAF. Nationally, Nebraska has the second highest percentage of locations above the CAF II cost ceiling, behind only Wyoming. Nebraska's percentage of locations above the cost ceiling (2.39%) is nearly six times the national average of 0.41%.³

CenturyLink recommends that the Commission keep an open mind regarding its proposed goal of ubiquitous broadband. While ideally every Nebraska customer should be able to receive broadband service at sufficient speeds and at an affordable rate, the economics of deploying broadband to remote areas where the population density is very low may bankrupt the fund. For example, even if the average location cost exceeds the price cap CAF II cost ceiling by just \$3.90 at \$202.50, and the NUSF used the same floor as the FCC at \$52.50, the NUSF would provide support in the amount of \$150.00 per month per location for 20,399 locations just for the price cap carriers, which calculates to more than \$36 million in annual NUSF support, more than double the current funding to the price cap carriers. Since it is unrealistic to think that the average extra high cost Nebraska location is barely above the FCC's ceiling, it is likely that the support necessary for ubiquitous broadband is considerably higher. While these remote locations are likely the most costly areas to enable broadband capability there will be additional unserved or underserved locations within high cost census blocks in Nebraska. For example, there are more locations in CAF II eligible census blocks than were funded by the FCC CAF II program. In addition, there are unserved locations within census blocks that are partially served by competitors that were left unsupported by CAF II. Just as the FCC, Nebraska must realistically balance its goals of ubiquitous broadband capability with its ability to fund.

³ <https://www.fcc.gov/general/connect-america-cost-model-illustrative-results>, View Connect America Cost Model Final Results: Offer by Carrier and by State, Report 3. The .41% is calculated by dividing the extremely high cost locations in column G by the total locations in column C of Report 3 (rows 154 to 204).

B. Preserve and Advance Affordable Voice Service

The Commission states that it must “ensure that robust voice services continue to be offered to consumers at affordable rates.”⁴ CenturyLink agrees and notes that support of ubiquitous broadband will likely mean lower voice service levels as efforts to deploy broadband take priority over maintaining the current existing voice network. While technology is changing and more people are subscribing to broadband service, Nebraskans that do not want or cannot afford broadband service should not be left without any service options. Support from the NUSF helps carriers offset the high cost of operating and maintaining the existing voice network in rural areas of the state; therefore, the tension between maintaining voice service while deploying more robust broadband networks must be addressed as the Commission decides whether and to what extent to support ubiquitous broadband service. CenturyLink recommends that voice service obligations should be eased significantly or eliminated entirely as NUSF support is transitioned to supporting broadband rather than voice service.

C. Deployment of Fiber-Based Network Everywhere

The Commission wishes to encourage wireline carriers to extend or replace facilities with fiber. CenturyLink agrees that fiber provides benefits to the user in terms of speed and available network capacity. CenturyLink also sees benefits in terms of lower maintenance costs as new fiber is extended deeper into the network. As a result, CenturyLink deploys fiber for the vast majority of new cable deployments. However, there have been significant advancements in the ability of copper to provide higher and higher speeds in the last mile connection to the end user. The Commission should balance the goal of reaching more customers with significantly higher speeds that meet or exceed customer needs with any dictate that unnecessarily increases costs and limits the number of Nebraskans that could benefit given the level of available funding. In addition, there are instances, especially for repairs and extensions of existing network, where replacing existing copper cable with fiber is not feasible. For

⁴ Contributions Order, page 5.

example, if a section of an extremely long copper loop (which is common in many rural areas of Nebraska) needs replacement, it may not be cost effective to replace the entire loop with fiber. Rather, it may be more cost effective for the carrier to replace just that bad portion of the copper cable with new copper cable.

As with the Commission's goal of ubiquitous broadband, there is a significant cost associated with deploying fiber everywhere. The Commission must balance this goal with the need to avoid overburdening the consumer, who is ultimately paying the surcharge that is supporting the build out goals.

D. Accountability

The Commission states that "specific reporting and certification procedures are necessary to allow the Commission to determine whether it is achieving program goals and to ensure that NUSF support is being used for the intended purpose in the designated areas."⁵ While CenturyLink does not believe that any entity receiving NUSF support has used that funding for purposes other than for which it was intended, as stewards of the NUSF it is important that the Commission can determine progress toward its goals and can report to the state's policy makers. While supporting some minimal reporting, CenturyLink is concerned about crossing the line between absolutely necessary reporting and the diminishing returns received from requiring very detailed data that creates heavy regulatory burdens on carriers.

E. Stability of the Program

Stability of the NUSF is of prime importance. Investments in infrastructure are long-lived and, particularly when made in areas that are uneconomic to serve, support must be sufficient and stable to create the environment to maximize the benefits of the funding. The inability to stabilize the NUSF will

⁵ Contribution Order, page 5.

impair the deployment of broadband to rural customers as well as the maintenance of the existing voice network.

F. Timeframe for Implementation

The Commission notes that a change of this magnitude will take some time to implement and that it plans to “articulate immediate and far-ranging milestones to get where we need to be.”⁶ CenturyLink supports the Commission’s decision to take a measured and methodical approach to the changes, but is concerned about the Commission’s decision to reform the contribution methodology prior to sizing the fund. While CenturyLink understands the immediate concerns of ensuring the continued stability of the NUSF, and contribution methodology reform is vital to that interest, determining the appropriate size of the fund is also fundamental to contribution reform. The Commission may find that it has to rethink contribution methodology reform if it is determined that the appropriate size of the fund cannot be achieved using the adopted methodology and surcharges. CenturyLink suggests that the Commission consider determining the appropriate size of the fund first, and then undertake contribution methodology reform. As with determining the strategic goals of the fund, CenturyLink recommends the Commission hold workshops with interested parties as it works through the numerous issues that are integral to properly sizing the fund.

II. Definitions

The Commission provides definitions for two terms, which will help the Commission with the reformation of the contribution methodology. First, the Commission provides the following definition of connection:

Connection. A wired line or wireless channel used to provide end users with access to any assessable service.

It appears the Commission is using the same definition for connection that the FCC used in its 2012 Contributions Further Notice of Proposed Rulemaking. CenturyLink has some concerns regarding the

⁶ Contribution Order, page 6.

use of this definition. For example, the proposed definition does not indicate when a connection is subject to the NUSF. Will it only be used for connections that are in use by paying customers? Will a connection be defined as a billing address located in Nebraska? Or will it be when service is provided in Nebraska? In the case of the latter situation, a mobile connection, such as a cellular phone or a nomadic VoIP service, may be in Nebraska for only part of a month. How will the Commission determine if that connection is subject to the NUSF? In its request for comments, the Commission notes that it determines assessable revenues for wireless carriers under the Mobile Telecommunications Sourcing Rule⁷ as the primary place of use. CenturyLink believes this determination can continue to work for the Commission under a connections based methodology.

The next term the Commission seeks to define is assessable service:

Assessable service. A service which requires a network connection that is identified through the use of an inter-network routing number as the means to provide the telecommunications.

The Commission also asks whether the use of working telephone numbers is consistent with the proposed definition. CenturyLink believes that service should be considered assessable when that service is capable of touching the public switched telephone network ("PSTN"). Right now, the PSTN routes most traffic by telephone number, so using working telephone numbers would be an acceptable way of determining an assessable service. However, as technology moves towards internet protocol, using telephone numbers to define a connection or assessable service may not cover all potential connections or services. In addition, special access currently touches the PSTN and is subject to the NUSF surcharge, but does not have a telephone number. In order to have special access customers continue to pay into the NUSF, the Commission may have to consider retaining the current revenues based methodology for these customers.

⁷ *Neb. Rev. Stat. 77-2703.04*

CenturyLink notes that the Commission did not include a definition for broadband service in its request for comments. As the Commission desires to use NUSF support for the deployment of broadband throughout the state, the Commission should define the minimum upload and download speeds that would constitute broadband service. CenturyLink suggests the Commission use 10 Mbps download and 1 Mbps upload as the definition of broadband at this time.

III. Adjustments

Currently a small business customer with one line will pay more in NUSF surcharges than a residential customer by virtue of the fact the rate business customers pay is higher. Therefore, to assure that residential customers are not disproportionately burdened and business customers continue to pay their fair share of the NUSF costs, the NUSF surcharge should be adjusted or scaled depending on the type or class of service that is being provided.

There are a number of methods the Commission can use to determine the appropriate surcharge for each class of service. For example, the Commission could review the current rates for each type of service and develop an average rate. The Commission can then compare the average rate for each type of service and calculate a surcharge. If the average rate for residential service is \$20 and the average rate for single line business service is \$30, then the surcharge for single line business service should be 1.5 times the surcharge for residential service. The Commission should exercise some caution, though, to ensure large business customers and subscribers of very large connections with multiple telephone numbers do not end up with significantly increased NUSF surcharges. For these customers the Commission should cap the total charge or cap the number of connections subject to the surcharge, similar to the cap that is in place on the number of lines subject to the TRS or 911 surcharges currently. As noted earlier, a different assessment methodology may be needed for special access customers.

IV. Data

Moving to a connections based methodology greatly complicates the Commission's process for auditing and confirming the accuracy of the NUSF remittances. Under the current revenues based methodology, the auditing of the NUSF remittances is relatively straight forward, as the carrier's general ledger provided the information needed. However, a connections based methodology is more problematic, as the number of connections will change on a daily basis. Any reporting done by the carrier, and audited by a third party, will by default be a snapshot of connections in place on that day.

The FCC's 477 report is a good starting point for verifying the accuracy of the NUSF remittances; however this report is only filed twice a year. The Commission may need to implement other reporting to help determine the number of assessable connections each month. CenturyLink recommends the Commission thoroughly research and determine the data that will be needed to verify the accuracy of NUSF remittances under a connections based methodology. Requiring too much granular information will overwhelm the Commission with unneeded data and unnecessarily burden the carriers.

V. Transition

CenturyLink does not recommend that the Commission transition to a connections based methodology for NUSF contributions by first adopting a hybrid approach. Transitioning to a connections based methodology in a two step process will necessitate two programming changes to billing systems and delay the final transition to a contributions based methodology.

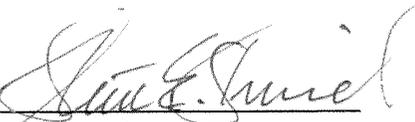
VI. Summary

Developing a new contributions methodology for the NUSF is a significant undertaking. The pressure to stabilize the NUSF is great, and the Commission must ensure that the changes it proposes are the right ones for Nebraska. The Commission must balance the need to provide broadband service at sufficient speeds and reasonable prices to Nebraska consumers with the significant cost associated

with the broadband build out. CenturyLink is committed to working with the Commission as it works through the enormous task of reworking the contributions methodology for the NUSF.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6th day of June, 2016, a true and correct copy of the foregoing was to the following:

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