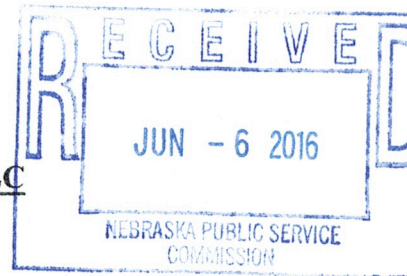


BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public) Application No. NUSF-100 / PI-193
Service Commission, on its own motion,)
to consider revisions to the universal)
service fund contribution methodology.)

JOINT COMMENTS OF COX NEBRASKA TELCOM, LLC
AND CHARTER FIBERLINK – NEBRASKA, LLC



I. INTRODUCTION

Cox Nebraska Telcom, LLC and Charter Fiberlink – Nebraska, LLC, (hereinafter referred to as “Joint Commenters”) hereby file these comments for the Nebraska Public Service Commission’s (“Commission”) consideration in the above-captioned docket, NUSF-100, PI-193. These comments are being filed pursuant to the Commission Order entered herein on April 5, 2016 (“April Order”).

II. THE COMMISSION SHOULD NOT CHANGE THE CONTRIBUTION METHODOLOGY UNTIL THE FCC ACTS

The Joint Commenters previously filed comments in NUSF-100 encouraging the Commission to retain the present contribution methodology while the Federal Communications Commission (“FCC”) investigates the same subject. A year has elapsed, but the Joint Commenters continue to maintain it would be prudent to await the FCC’s decision. Due to the many complexities the Commission will encounter in implementing a connections-based or hybrid approach, the Joint Commenters encourage the Commission to wait to change its methodology until the FCC acts and provides guidance. To proceed prior to the FCC may cause the Commission’s contribution methodology to be temporary or interim in nature, with subsequent modifications necessary. As the Commission itself recognized in the April Order, implementation of a

new contribution methodology will necessitate changes to carrier billing and collection systems. As these changes may be significant, multiple system revisions should be avoided.

The FCC has preempted states from imposing any new state USF contributions on broadband at this time.¹ And the Commission has stated it is not considering the assessment of broadband services, which is appropriate in light of the FCC's Open Internet Order. But some parties in prior rounds of NUSF-100 comments have proposed for broadband to become a new assessment source.² Therefore, until the FCC concludes its review and decides whether broadband should contribute to state funds, any new methodology including broadband assessment would be temporary and inconsistent with federal law.³ Once the FCC deliberates and establishes final rules for broadband assessment, this Commission may seek subsequent rounds of comments on this issue at that time to build a full and complete record. Accordingly, the Joint Commenters urge the Commission to avoid moving forward under such uncertainty. Proceeding while the FCC has not determined the issues would be an inefficient use of both Commission and companies' time and resources.

¹ *In the Matter of Protecting and Promoting the Open Internet*; GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling and Order, para. 432. Rel. March 12, 2015 ("Open Internet Order").

² Assoc. of Teleservices Int'l, Inc. at 4; Comments of Qwest Corp. d/b/a Century Link QC at 2-3; Rural Independent Companies ("RIC") at 8 and Rural Telecommunications Coalition of Nebraska ("RTCN") at 4.

³ *Open Internet Order* at ¶432. ("We also make clear that the states are bound by our forbearance decisions today. Under section 10(e), '[a] State commission may not continue to apply or enforce any provision' from which the Commission has granted forbearance. With respect to universal service, we conclude that the imposition of state-level contributions on broadband providers that do not presently contribute would be inconsistent with our decision at the present time to forbear from mandatory federal USF contributions, and therefore we preempt any state from imposing any new state USF contributions on broadband—at least until the Commission rules on whether to provide for such contributions. We recognize that section 254 expressly contemplates that states will take action to preserve and advance universal service, but . . . our actions in this regard will benefit from further deliberation.").

In addition, waiting for federal direction would significantly ease the burden for national carriers who collect the Nebraska Universal Service Fund (“NUSF”) surcharge from their customers, rather than having Nebraska operate on an independent, stand-alone basis. An NUSF that is complimentary to the federal fund would be easiest for carriers to implement and administer, and thus would be the most cost efficient for customers. The Commission indicated in its April Order and in a separate docket, NUSF-99, that it wants to coordinate the NUSF with the federal universal service fund (“FUSF”). The Joint Commenters fully concur with that goal, and state such an objective is as applicable to the contribution methodology as it is to the distribution of support.

III. COORDINATION WITH THE FUSF IS CRITICAL TO MAINTAINING A FAIR, EQUITABLE AND DEFENSIBLE NUSF

As indicated above, the Joint Commenters agree with the Commission’s express intent to coordinate with the federal fund in the strategic plan. Support received from the Connect America Fund (“CAF”), inter-carrier compensation reform, adoption of federal price floor benchmarks, a remote area fund, etc. are all factors that should be taken into consideration as the NUSF is updated and revised to meet current needs and objectives. These are not matters that should wait to be addressed in the subsequent, parallel docket that is described in the April Order. Rather these are relevant considerations the Commission should explicitly incorporate into its strategic plan as it proceeds with modifying the contribution methodology. The Joint Commenters believe the Commission can, and should proceed with incorporating these matters into this proceeding.

IV. IF THE COMMISSION PROCEEDS TO CHANGE THE METHODOLOGY, A PUBLIC WORKSHOP SHOULD BE HELD

The Joint Commenters understand the Commission's reluctance to wait for the FCC to act and recognize the Commission's position that a change in the methodology is necessary to continue achieving the goals and objectives of the NUSF. Accordingly, if the Commission proceeds independently of the FCC, the Joint Commenters recommend that the Commission hold a workshop where interested parties can discuss the implementation of a connections-based or hybrid methodology. The intricate details of implementing such a massive change, which the Joint Commenters believe would be the first of its kind in the country, will be tedious if left for analysis and execution by way of written comments. The most robust and constructive input will be derived from a workshop setting where ideas can be presented, considered and evaluated openly by all interested stakeholders. For example, a discussion about caps on multi-line businesses and high capacity circuits could be addressed in a workshop. Any revised methodology should not provide opportunities for regulatory arbitrage or lead to unfair outcomes for any customer class. A discussion could also be had on whether definitions utilized in the context of Form 477 filings can be applied to aspects of contribution reform. Definitions could be discussed in a workshop, with interested parties hopefully coming to agreement on basic terminology.

V. IMPROVING THE TRANSPARENCY OF THE NUSF IS ESSENTIAL

Finally, the Joint Commenters reiterate the position taken previously in their NUSF-100 comments that the Commission must ensure high-cost support is being used solely for its intended purposes. As such, the Joint Commenters strongly support the inclusion by the Commission of an accountability goal in its strategic plan. It should be

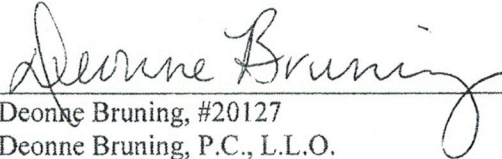
widely understood and known how the public's money is being spent and in what locations. An improved openness that is developed as a part of the contribution methodology reform will aid in justifying to the public the NUSF's continued existence, particularly at a time when the amount customers are required to remit could change dramatically by virtue of the implementation of a new contribution methodology.

VI. CONCLUSION

In closing, the Joint Commenters encourage the Commission to wait on the FCC before proceeding. But if the Commission chooses to move forward, a public workshop should be held where interested parties can gather to discuss the intricate details of implementing a new methodology. The Joint Commenters also encourage the Commission to coordinate and harmonize with the FUSF, and to improve the transparency of the NUSF so it is widely understood how and where high-cost support is being used.

Respectfully submitted this 6th day of June, 2016.

ATTORNEY FOR COX NEBRASKA TELCOM,
LLC



Deonne Bruning, #20127
Deonne Bruning, P.C., L.L.O.
2901 Bonacum Drive
Lincoln, NE 68502
(402) 421-6405
deonnebruning@neb.rr.com

and

ATTORNEY FOR CHARTER FIBERLINK –
NEBRASKA, LLC



Kennard B Woods
Charles A. Hudak
Friend, Hudak & Harris, LLP
Three Ravinia Drive, Suite 1700
Atlanta, Georgia 30346
(770) 399-9500
kwoods@fh2.com

Certificate of Service

The undersigned hereby certifies that on this 6th day of June, 2016 an original and five (5) copies of the Joint Comments filed by Cox Nebraska Telcom, LLC and Charter Fiberlink – Nebraska, LLC in Application NUSF-100, PI-193 were hand-delivered to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln NE and a copy of the same was e-mailed to:

Nebraska Public Service Commission

psc.nusf-filings@nebraska.gov

Sue Vanicek sue.vanicek@nebraska.gov

Brandy Zierott brandy.zierott@nebraska.gov

Association of Teleservices International, Inc.

Matthew Ottemann mottemann@mcgrathnorth.com

Rural Independent Companies

Paul Schudel pschudel@woodaitken.com

James Overcash jovercash@woodsaitken.com

Rural Telecommunications Coalition of Nebraska

Andy Pollock apollock@remboltlawfirm.com

Troy Kirk tkirk@remboltlawfirm.com

Windstream Communications

Matthew Feil matthew.feil@windstream.com

Steve Meradith stephen.meradith@windstream.com

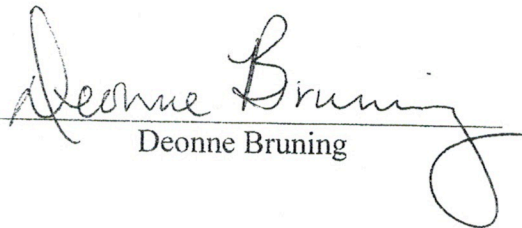
Qwest Corporation d/b/a Century Link QC

Jill Vinjamuri Gettman jgettman@gettmanmills.com

Norm Curtright norm.curtright@centurylink.com

CTIA – The Wireless Association

Bret Dublinske bdublinske@fredlaw.com


Deonne Bruning