

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**

POST-HEARING REPLY COMMENTS OF WINDSTREAM

Windstream Nebraska, Inc. and its affiliates (“Windstream”)¹ hereby respectfully file these comments as permitted by the Order Granting Motion for Extension of Time and Allowing for Reply Comments (the “Order”) issued by the Nebraska Public Service Commission (“Commission”) on September 18, 2017, and state as follows:

I. The Case for a Connections-Based Surcharge Does Not Rely on the Continuation of Telecommunications Trends

Most of the parties in this case favor a connections-based methodology to provide a stable source of Nebraska Universal Service Fund (“NUSF”) funding consistent with the statutory mandate that universal service mechanisms be “specific, predictable, and sufficient.”² Foremost among the support in the record for this methodology is the fact that connections don’t have volatile fluctuations.³ Those who oppose a connections-based methodology have not refuted this fact. Instead, Charter

¹ McLeodUSA Telecommunications Services, LLC, PAETEC Communications, Inc., Windstream Communications, Inc., Windstream IT-Comm, LLC, Windstream KDL, Inc., Windstream Norlight, Inc., Windstream NTI, Inc., Windstream of the Midwest, Inc., Windstream Systems of the Midwest, Inc., Business Telecom, LLC, DeltaCom, LLC, and EarthLink Business, LLC.

² Neb. Rev. Stat. § 86-323(5).

³ Direct Testimony of William F. Kreutz filed on March 24, 2017 at 7.

RECEIVED

SEP 26 2017

Nebraska
Public Service Commission

attempts to create a diversion by inventing, and then attacking, purported assumptions underlying a connections-based methodology. According to Charter, this methodology assumes “that revenues will decline forever.”⁴ Whether or not revenues will continue to decline, they are irrelevant to the potential stability offered by a connections-based methodology.

Charter also erroneously asserts that a connections-based methodology assumes “that wireless subscriptions will grow independently of population” and that the “perceived merits of a connections-based approach are almost entirely dependent upon the continued growth in wireless connections.”⁵ This is a mischaracterization of the parties’ support for a connections-based methodology. As noted above, the objective is stability, which by definition does not require or even imply growth of connections in general, much less connections of a certain type. Contrary to Charter’s assertions, the fundamental assumption underlying a connections-based methodology is the principle that connections, regardless of technology or revenue trends, are essential for telecommunications.

II. Further Process is Needed to Evaluate the Specific Methodology to be Adopted

Deciding to proceed with a connections-based methodology is the first step toward implementation. The next step is to examine in more detail existing connections-based methodologies, such as the Form 477 and the Telecommunications Relay System (“TRS”) approaches, to develop a methodology that works in the context

⁴ Post Hearing Comments by Charter Fiberlink-Nebraska, LLC and Time Warner Cable Information Services (Nebraska), LLC filed on September 15, 2017 (“Charter Post-Hearing Comments”) at 6.

⁵ *Id.* (emphasis omitted).

of the NUSF. The goal need not be to adopt either one of these methodologies on a wholesale basis as the Commission's solution, but rather to draw from the logical definitions employed by these or other methodologies an appropriate definition of assessable access lines for the NUSF.

On a preliminary basis, Windstream favors TRS due to its uniform per-access line charge and its cap on assessable business lines. In that regard, Windstream disagrees with the implication in Charter's comments that the 477 and TRS methodologies are somehow flawed if they don't reflect the same number of access lines.⁶ Given the respective methodologies' differing definitions of access lines, particularly the 100-line cap on business lines for TRS, differing results are not surprising.⁷

III. Summary

In the wake of declining NUSF surcharge remittances due to declining intrastate revenues, it was prudent for the Commission to examine an alternative funding methodology. However, it is not necessary to establish that intrastate revenues will continue to decline in order to support a change in methodology. Similarly, it is not necessary to show that connections will increase in order to support the adoption of a connections-based methodology. Instead, the appropriate inquiry is whether a connections-based methodology would yield a stable fund. There is ample support in the record that it would. Accordingly, the Commission should confirm its intention to

⁶ See Charter Post-Hearing Comments at 4.

⁷ See August 30, 2017 Transcript at 103:2-15 (Kreutz).

adopt a connections-based methodology and proceed to develop the best connections-based approach for funding the NUSF.

Respectfully submitted,



Jon Bruning, #20351
Katherine J. Spohn, #22979

BRUNING LAW GROUP, LLC
1201 Lincoln Mall, Suite 100
Lincoln, NE 68508
Telephone: (402) 261-3475
jon@bruninglawgroup.com
katie@bruninglawgroup.com

ATTORNEYS FOR WINDSTREAM

Certificate of Service

The undersigned hereby certifies that on this 26th day of September 2017, an electronic copy of the foregoing was emailed to the following:

Nebraska Public Service

Shana Knutson shana.knutson@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 ("RIC")

Paul Schudel pschudel@woodsaitken.com

Thomas Moorman tmoorman@woodsaitken.com

Rural Telecommunications Coalition of Nebraska ("RTCN")

Andy Pollock apollock@remboltlawfirm.com

Troy Kirk tkirk@remboltlawfirm.com

Charter Fiberlink – Nebraska L.L.C.

Kennard Woods kwoods@fh2.com

Michael Moore michael.moore@charter.com

Russ Westerhold rwesterhold@FraserStryker.com

Cox Nebraska Telecom, LLC

Deonne Bruning deonnebruning@neb.rr.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

Benjamin Aron baron@ctia.org

Matt DeTura mdetura@ctia.org

Loel Brooks lbrooks@brookspanlaw.com

Frontier Communications

Scott Bohler scott.bohler@ftr.com

Level 3 Communications

Pamela Hollick pamela.hollick@level3.com

A handwritten signature in black ink, appearing to read "Jon Bruning", with a stylized flourish at the end.

Jon Bruning