

SEP 19 2017

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Nebraska

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 Nebraska Public Service Commission

COMMENTS OF CTIA
IN RESPONSE TO THE COMMISSION'S AUGUST 30, 2017
USF CONTRIBUTION HEARING

CTIA – The Wireless Association® (“CTIA”)<sup>1</sup> files these comments in response to the Nebraska Public Service Commission’s (“Commission’s”) August 30, 2017 hearing (the “Hearing”) on the proper contribution methodology for the Nebraska Universal Service Fund (“NUSF”).<sup>2</sup>

I. INTRODUCTION AND SUMMARY

CTIA thanks the Commission for acknowledging the need for additional comment in response to certain witnesses favoring per-connection assessment that offered improper oral rebuttal testimony at the Hearing. CTIA’s position on the NUSF contribution methodology has been well-established through multiple rounds of comments and pre-filed and oral testimony in this proceeding, and there remains no valid reason for the Commission to modify that

1 CTIA - The Wireless Association® (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st-century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry, and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984.

2 See generally Nebraska Public Service Commission, on Its Own Motion, to Consider Revisions to the Universal Service Fund Contribution Methodology, Procedural Order, Order Continuing Hearing, App. Nos. NUSF-100/PI-193 (June 23, 2017) (announcing the Aug. 30, 2017 hearing).

methodology.<sup>3</sup> None of the information or testimony adduced in this proceeding, including the inappropriate oral rebuttal testimony, would justify abandoning the Commission’s current revenue-based assessment methodology for the NUSF in favor of a connections-based approach. Therefore, NUSF contributions should continue to be collected based on intrastate telecommunications revenue.

## II. THERE IS NO REASON TO CHANGE THE NUSF CONTRIBUTION MECHANISM NOW

The evidence in this proceeding, including the written testimony filed in April 2017 and the oral testimony adduced during the August 30 hearing, does not support action to change the NUSF contribution methodology.<sup>4</sup> The allegations of a reduced funding base made at the Hearing indicate only that collections have declined from their prior levels, and do not support an inference that future collections will decline to a level that will challenge the sustainability of the fund, or even whether future collections will continue to decline at all. Thus, any calls for modifying the NUSF contribution methodology are asking the Commission to modify the bedrock of this important program on a speculative basis. Furthermore, arguments based on allegations that future collections will not meet funding obligations may be misplaced in this

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<sup>3</sup> See, e.g., Reply Testimony of Don Price on Behalf of CTIA – The Wireless Association, App. Nos. NUSF-100/PI-193 (filed Apr. 21, 2017) (“Price Reply”); Direct Testimony of Don Price on Behalf of CTIA – The Wireless Association®, App. Nos. NUSF-100/PI-193 (filed Mar. 24, 2017); Reply Comments of CTIA in Response to the Commission’s July 12, 2016 Order Soliciting Legal Briefs, App. Nos. NUSF-100/PI-193 (filed Aug. 25, 2016); Comments of CTIA in Response to the Commission’s July 12, 2016 Order Soliciting Briefs, App. No. NUSF-100/PI-193 (filed Aug. 3, 2016); cf. Comments of CTIA in Response to the Commission’s September 27, 2016 Order Seeking Comment, App. No. NUSF-7 (filed Oct. 28, 2016).

<sup>4</sup> See, e.g., Reply Testimony of Al Lubeck, App. Nos. NUSF-100/PI-193, at 1 (filed Apr. 21, 2017) (noting the “number of issues that must be addressed” before any methodology alterations can be contemplated, much less adopted); Rebuttal Testimony of Robert Logsdon on Behalf of Cox Nebraska Telecom, LLC, App. Nos. NUSF-100/PI-193, at 4 (filed Apr. 21, 2017) (“more information must be provided before a connections-based methodology is ripe”); see generally Price Reply.

docket, because the Commission has indicated that issues relative to “the size of the NUSF and the magnitude of the contributions necessary to fulfill the NUSF’s obligations” will be determined in another docket.<sup>5</sup> Accordingly, there is no reason for the Commission to take action on this issue now – and good reasons for the Commission to wait.

### **III. A PER-CONNECTION CONTRIBUTION MECHANISM WILL NOT REDUCE THE AGGREGATE BURDEN ON CONSUMERS**

The lack of a necessity to switch is not the only reason to retain a revenue-based collection. Switching to a connections-based methodology will not reduce the total NUSF burden that Nebraska consumers bear as a whole. Indeed, proposals in this proceeding to increase the size of the NUSF would only make that burden heavier.<sup>6</sup> Whether the NUSF is collected based on revenues or connections, Nebraska consumers will pay the same amount collectively. Therefore, the proposed new mechanism would create new problems without reducing the aggregate burden on Nebraskans, which remain among the highest in the nation.<sup>7</sup>

### **IV. A PER-CONNECTION CONTRIBUTION MECHANISM WOULD BE REGRESSIVE, HARMING LOW-VOLUME AND LOW-INCOME NEBRASKANS**

The current revenue-based NUSF contribution mechanism spreads the burden of the NUSF across consumers relative to their usage. By contrast, a connections-based system would impose identical unitary contribution burdens on all consumers, regardless of their usage or

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<sup>5</sup> *In the Matter of the Nebraska Public Service Commission, on Its Own Motion, to Consider Revisions to the Universal Service Fund Contribution Methodology*, Order: Opinion and Findings, App. Nos. NUSF-100/PI-193, at 1 (July 5, 2017).

<sup>6</sup> *See, e.g.*, Price Reply at 33 (noting the cost to Nebraska ratepayers would be an unjustified additional \$27 million per year under the proposed increase); *see also* Direct Testimony of Don Price on Behalf of CTIA – the Wireless Association®, App. Nos. NUSF-100/PI-193, at 13 (filed Mar. 24, 2017).

<sup>7</sup> *See, e.g.*, Comments of CTIA in Response to the Commission’s April 5, 2016 Order Seeking Further Comments, App. Nos. NUSF-100/PI-193, at 5, fn. 5 (June 6, 2016).

ability to pay. Such an approach would thus transform the NUSF into a regressive subsidy, effecting a transfer of wealth from the economically disadvantaged to the comparatively better-off by forcing users with low-cost service plans to pay a greater relative percentage into the NUSF. Such a shift is harmful and unjustifiable. Increasing the cost of service for parties with lesser means runs directly contrary to the entire rationale for the NUSF's creation.

#### V. IMPLEMENTING A PER-CONNECTION MECHANISM WOULD REQUIRE EXTENSIVE CHANGES TO CARRIERS' BILLING SYSTEMS

The record before the Commission makes clear that implementing a per-connection contribution mechanism would take considerable time, expense, and effort to implement. For example, Frontier's witness observed that "[i]mplementation of the proposals in carriers' billing systems would be difficult and perhaps unachievable in a practical sense."<sup>8</sup> Similarly, Level 3's witness noted that their back-office changes would be substantial, not only to billing systems but also to sales, reporting, and required communications systems.<sup>9</sup> Other testimony made clear that the costs of changing the contribution mechanism would be quite substantial, both on companies and consumers.<sup>10</sup> Although one witness representing a small carrier at the Hearing asserted that a small carrier's billing vendor had indicated that implementing a per-connection surcharge "should not be costly or difficult,"<sup>11</sup> the record in this proceeding belies this assertion. Moreover, the cost of changing a small billing system for a carrier serving relatively few

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<sup>8</sup> *In the Matter of the Nebraska Public Service Commission, on Its Own Motion, to Consider Revisions to the Universal Service Fund Contribution Methodology*, Transcript: Proceedings had before the Nebraska Public Service Commission at Lincoln, Nebraska on August 30, 2017, App. Nos. NUSF-100/PI-193, at 67 (Testimony of Scott Bohler).

<sup>9</sup> *Id.* at 41-42 (Testimony of Pamela Hollick).

<sup>10</sup> *See generally id.*

<sup>11</sup> *Id.* at 80 (Testimony of Ken Pfister).

customers in no way supports a conclusion that such changes would not be an enormous burden relative to billing systems serving millions, such as those in use by most wireless carriers.

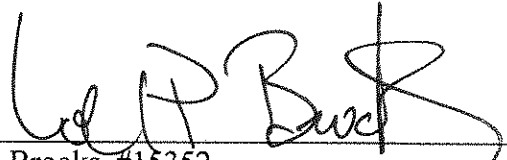
These costs present yet another set of necessary and sufficient grounds for the Commission to reject calls to change the NUSF contribution mechanism.<sup>12</sup>

## VI. CONCLUSION

The record in this proceeding continues to demonstrate that the Commission would best serve the people of Nebraska by leaving the current NUSF contribution mechanism in place.

Respectfully submitted,

By

  
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September 19, 2017

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<sup>12</sup> Should the Commission change the NUSF contribution methodology, it must ascertain how much time is needed for carriers to implement such changes and ensure that any implementation timeline affords adequate time to carriers.

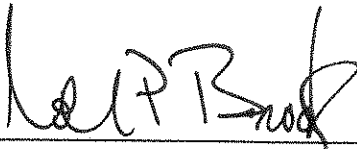
**CERTIFICATE OF SERVICE**

I certify that on the 19<sup>th</sup> day of September 2017, one original, five copies and an electronic copy of the foregoing Post-Hearing Comments on behalf of CTIA – the Wireless Association, in Application No. NUSF-100/PI-193, were delivered to:

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19<sup>th</sup> day of September, 2017, an electronic copy of the foregoing Post-Hearing Comments on behalf of CTIA – the Wireless Association, in Application No. NUSF-100/PI-193, was delivered to:

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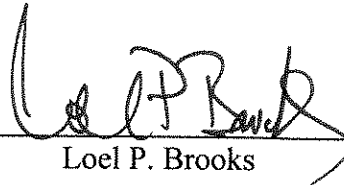
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