

FRIEND, HUDAK & HARRIS, LLP

ATTORNEYS AT LAW

SUITE 1700

THREE RAVINIA DRIVE

ATLANTA, GEORGIA 30346-2117

(770) 399-9500

FACSIMILE (770) 395-0000

EMAIL: fh2@fh2.com

Writer's email: kwoods@fh2.com

April 10, 2015

VIA OVERNIGHT DELIVERY

Mr. Steve Meradith
Nebraska Public Service Commission
1200 N Street, Suite 300
Lincoln, Nebraska 68508

Re: Application No. NUSF-100

Dear Mr. Meradith:

Enclosed are the original and one (1) copy of the Reply Comments of Charter Fiberlink – Nebraska, LLC in connection with the above-referenced proceeding. Please file the comments in your usual fashion and return one (1) file-stamped copy to us in the enclosed self-addressed envelope.

If you have any questions regarding the foregoing, please contact the undersigned.

Sincerely,



Kennard B. Woods
Counsel for Charter Fiberlink – Nebraska, LLC

KBW/jh

Enc.

cc: Charter Fiberlink – Nebraska, LLC
Charles A. Hudak, Esq.

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

| | | |
|--|---|---------------------------|
| In the Matter of the Nebraska Public |) | Application No. NUSF-100 |
| Service Commission, on its Own Motion, |) | PI 193 |
| To Consider Revisions to the |) | |
| Universal Service Fund Contribution |) | REPLY COMMENTS OF CHARTER |
| Methodology |) | FIBERLINK - NEBRASKA, LLC |
| |) | |

Charter Fiberlink - Nebraska, LLC (“Charter”) submits these reply Comments to the Nebraska Public Service Commission (the “Commission”), pursuant to the Commission’s Order Opening Docket and Seeking Comment (“Order Opening Docket”), entered on November 13, 2014. Charter appreciates the opportunity to comment regarding whether the current revenue-based methodology for contributions to the Nebraska Universal Service Fund (the “NUSF”) should be revised.

As discussed in Charter’s Initial Comments, the Federal Communications Commission (the “FCC”) is in the midst of considering reforms to federal Universal Service Fund contribution requirements. In their Initial Comments, Cox and CTIA advocate that the Commission should (a) maintain its current contribution methodology while the FCC completes its review, or (b) hold this docket in abeyance and allow the telecommunications industry sufficient time to review the Joint Board’s recommendations before further proceeding.¹ Charter agrees. Last year the FCC asked the Federal-State Board on Universal Service (the “Joint Board”) to provide recommendations regarding contribution methodology. The Joint Board’s

¹ See Comments of Cox Nebraska Telcom, LLC, pp. 1-4; Comments of CTIA-the Wireless Association in Response to the Commission’s November 13, 2014 Order Opening Docket and Seeking Comment, pp. 2-3.

recommendations should be available soon for review.² When the recommendations are filed, 47 U.S.C. § 254(a)(2) will require the FCC to complete a proceeding to implement the Joint Board’s recommendations within one year. In the meantime, the FCC will be soliciting comments regarding whether the FCC should adopt, reject or modify the recommendation. By reviewing those comments and awaiting completion of the FCC’s review of the Joint Board’s recommendations, the Commission will be able to avail itself of the FCC’s record and to coordinate Nebraska’s reform efforts with the federal proceeding. In addition, the Commission will have an opportunity to review the effects of the Connect America Fund Phase II subsidies on high-cost service areas in Nebraska.³

Charter renews its request that the Commission adhere to its conclusion in the Order Opening Docket to not “consider[] the assessment of broadband services,” and not adopt the recommendations of those commenters advocating the contrary.⁴ The FCC in its recently-released “Open Internet” order exercised forbearance from requiring mandatory universal service contributions associated with broadband Internet access service.⁵ The FCC also made clear that states are bound by its forbearance decisions, concluding 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

² See *Federal-State Joint Board on Universal Service, Universal Service Contribution Methodology, A National Broadband Plan for Our Future*, WC Docket No. 96-45, WC Docket No. 06-122, GN Docket 09-51, Order, FCC 14-116 (rel. Aug. 7, 2014). The FCC asked for the recommendations to be submitted by April 7, 2015. As of April 10, 2015 the recommendations had not yet been posted to the FCC’s website.

³ See Comments of Charter Fiberlink - Nebraska, LLC, filed January 14, 2015, and Reply Comments of Charter Fiberlink - Nebraska, LLC, filed February 9, 2015, in *The Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Universal Service Fund High-Cost Program*, Application No. NUSF-99.

⁴ See Comments of Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink, pp. 2-3;

⁵ *In the Matter of Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, FCC 15-24 (rel. March 12, 2015), para. 58. See *id.*, paras. 486-92.

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.⁶

The FCC’s statements also have a policy aspect: as discussed by Charter in its Initial Comments, an expansion of assessments by the Commission to implicate broadband service could result in significant market disruptions and impairment of broadband deployment.

Accordingly, for the reasons stated, Charter urges the Commission to not change its contribution methodology at this time.

Respectfully submitted this 10th day of April, 2015.

By: 
Charles A. Hudak
Kennard B. Woods
FRIEND, HUDAK & HARRIS, LLP
Three Ravinia Drive, Suite 1700
Atlanta, Georgia 30346
T: 770-399-9500
E. kwoods@fh2.com

Michael R. Moore
VP and Associate General Counsel, Regulatory Affairs
Charter Communications, Inc.
12405 Powerscourt Drive
St. Louis, Missouri 63131
T: 314-543-2414
E: michael.moore@charter.com

ATTORNEYS FOR CHARTER FIBERLINK -
NEBRASKA, LLC

⁶ *Id.*, at para. 432 (footnotes omitted). In addition, the FCC reaffirmed its “longstanding conclusion that broadband Internet access service is jurisdictionally interstate for regulatory purposes.” *Id.* at para. 431.

CERTIFICATE OF SERVICE

The original and one copy of the foregoing Reply Comments of Charter Fiberlink - Nebraska, LLC are being delivered on April 13, 2015 to the Nebraska Public Service Commission, 1200 N Street, Suite 300, Lincoln, Nebraska 68508, and a copy of the same is being e-mailed on the same date to:

Nebraska Public Service Commission
Sue.Vanicek@nebraska.gov
Brandy.Zierott@nebraska.gov
Shana.knutson@nebraska.gov

norm.curtright@centurylink.com
jgettman@gettmanmills.com
deonnebruning@neb.rr.com
bdublinske@fredlaw.com
pschudel@woodsaitken.com
jovercash@woodsaitken.com
tmoorman@woodsaitken.com
matthew.feil@windstream.com
mottermann@mcgrathnorth.com
apollock@remboltlawfirm.com
tkirk@remboltlawfirm.com



Kennard B. Woods