

**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 ) )

**REPLY COMMENTS OF  
CITIZENS TELECOMMUNICATIONS COMPANY OF NEBRASKA  
D/B/A FRONTIER COMMUNICATIONS OF NEBRASKA**

On November 13, 2014, the Nebraska Public Service Commission (the "Commission") opened the above-captioned proceeding to consider revisions to the contribution mechanism of the Nebraska Universal Service Fund ("NUSF"). On April 5, 2016, the Commission issued an *Order Seeking Further Comments* (the "April Order") in this docket. Several parties filed Comments on June 6, 2016. Citizens Telecommunications Company of Nebraska, Inc. d/b/a Frontier Communications of Nebraska ("Frontier") files the following Reply Comments in response to those June 6 filings.

**Scheduling of Commission investigation and action**

Several parties have urged the Commission to schedule their investigation and actions in this docket to address the "sizing" of the need for the NUSF fund first<sup>1</sup>, and then after that effort is concluded, to move on to addressing contribution reform so as to generate the required revenue to satisfy that NUSF need. The concern seems to be that if the Commission first

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<sup>1</sup> Qwest Corporation dba CenturyLink QC and United Telephone of the West dba CenturyLink Comments, page 6; Rural Independent Companies Comments, page 10; Windstream Nebraska, Inc. Comments, page 3.

reconfigures the assessment methodology, it may turn out that the new methodology and surcharge are insufficient when the Commission completes the “fund sizing” portion of its investigation. There may be merit in that approach. However, Frontier would offer two points regarding that concern.

First, as several parties have noted, the current revenue-based assessment methodology can no longer be relied upon to fully fund the current configuration of the NUSF<sup>2</sup>. Revenues coming into the NUSF are declining, year over year. It is not clear whether there is sufficient time for the Commission to complete the involved process of both sizing the NUSF and creating a new assessment methodology before the NUSF suffers a critical funding shortage.

Second, if the Commission proceeds first with the creation of a new connection-based assessment methodology and sets the surcharge amount based on the current NUSF funding need, and then discovers later after its “fund sizing” investigation that additional funding is needed for the NUSF, one obvious solution would be to simply increase the amount of the surcharge. This would not necessarily require any change in the underlying assessment methodology, but simply a change to the surcharge amount that is assessed per connection.

Several parties have expressed a desire that the Commission allow more opportunity for input by impacted stakeholders, via such avenues as additional briefing and workshops<sup>3</sup>. The changes the Commission is contemplating are significant, and will have significant impacts and costs for both NUSF contributors and recipients, as well as customers. Frontier believes this process would be well served by providing for additional venues such as workshops to allow a full airing of the implications of any potential Commission action.

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<sup>2</sup> Qwest Corporation dba CenturyLink QC and United Telephone of the West dba CenturyLink Comments, page 1; NE Colorado Cellular, Inc. dba Viaero Wireless Comments, page 1; Rural Independent Companies Comments, page 1.

<sup>3</sup> Cox Nebraska Telecom, LLC and Charter Fiberlink Nebraska, LLC Comments, page 4; Qwest Corporation dba CenturyLink QC and United Telephone of the West dba CenturyLink Comments, page 2; Rural Independent Companies Comments, page 3; Windstream Nebraska, Inc. Comments, page 3.

### **Structure of connection-based approach**

In developing any new assessment methodology, Frontier would urge the Commission to keep the framework simple and transparent. On the other hand, some parties have suggested that a connection-based assessment approach like the Commission is considering should be implemented with various adjustments and factors. The result of these proposals would be increased complexity for carriers to administrate, as well as certain connections being assessed more than others. In some cases, the impetus for disparate treatment seems to be a desire for business customers to pay more than residential customers. In other cases, it seems the complex adjustment proposals are offered as a defense against potential jurisdictional challenges.

Frontier continues to urge the Commission to develop a simple, direct funding approach without introducing complicating adjustments. Assessing business and residential customers on a completely different basis adds administrative burdens and introduces an opportunity for gaming and other unintended implications.

Frontier does not believe that the Commission should adopt any proposal that would assess different amounts, based on the technology used to provide the connection. For example, RIC suggests that wireless connections be assessed at roughly 2/3 of the assessment charged to traditional ILEC connections, and that VoIP connections be charged are roughly 1/3 of the assessment charged to traditional ILEC connections<sup>4</sup>. ILECs face enough competitive challenges without having the Commission hanging additional handicaps around their necks. This type of assessment discrimination would have the odd effect of making ILEC customers bear the heaviest burden in supporting statewide universal service.

It is not clear that a per-connection assessment methodology would result in any legal disputes to the Commission's jurisdiction, despite the concerns raised by some commenters. A significant number of other states have existing state universal service funds that use a single

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<sup>4</sup> Rural Independent Companies Comments, page 14.

per-connection surcharge to all service types (wireline, wireless, VoIP, etc)<sup>5</sup>. These programs have not been disrupted by jurisdictional disputes about intrastate versus interstate authority. With appropriate care in crafting a new methodology, the Commission should be able to avoid overstepping any jurisdictional boundaries.

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Respectfully submitted,

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d/b/a Frontier Communications of Nebraska

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<sup>5</sup> For example, a recent National Regulatory Research Institute paper identified the following states: Arizona, Idaho, Kentucky, Maryland, Minnesota, Mississippi, Montana, New Hampshire, North Carolina, North Dakota, Ohio, Rhode Island, South Dakota, Vermont, West Virginia.

See <http://nrri.org/wp-content/uploads/2016/04/2015-Feb-Sherry-Lichtenberg-State-Universal-Service-Funds.pdf>