

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



**REPLY COMMENTS OF COX NEBRASKA TELCOM, LLC**

Cox Nebraska Telcom, LLC (“Cox”) hereby files these Reply Comments for the Nebraska Public Service Commission’s (“Commission”) consideration in the above-captioned docket, NUSF-100. These comments are being filed pursuant to the Commission Order entered in Application NUSF-100 on November 13, 2014.

Cox previously filed comments herein on February 13, 2015 advocating the Commission better align and harmonize the Nebraska Universal Service Fund (“NUSF”) contribution methodology with the Federal Universal Service Fund (“FUSF”). And to achieve that objective, Cox encouraged the Commission to maintain the current NUSF structure and stay this proceeding while the Federal Communications Commission (“FCC”) investigates this same subject. However, realizing the Commission may prefer to proceed independently of the FCC’s investigation, Cox offers the following recommendations.

First, the FUSF Joint Board’s recommendations on this subject have not yet been released, perhaps because of a need for the Joint Board to consider aspects of the FCC’s Open Internet Order<sup>1</sup> Given the timing, the Commission should provide parties with the opportunity to review the Joint Board’s recommendations and file additional comments

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<sup>1</sup> *In the Matter of Protecting and Promoting the Open Internet*; GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling and Order, Rel. March 12, 2015

herein, as there will very likely be information in the recommendations that would be of value and use to this proceeding. The recommendations may provide insight for the Commission on how it can shape NUSF contribution reform to better align with the FCC's efforts. Reasonable measures should be taken that allow the Commission to sync its changes with the FUSF to the greatest extent possible. And allowing interested parties to file comments related to the Joint Board's recommendations could prove to be advantageous and would not unduly slow the progress of this docket.

Second, several parties discussed in their NUSF-100 comments the concept of the NUSF surcharge applying to broadband connections; with some advocating for the assessment and others suggesting it occur if it is found to be lawful.<sup>2</sup> In its recent Open Internet Order, the FCC addressed this topic and directly stated "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."<sup>3</sup> The FCC went on to state "...we announce our firm intention to exercise our preemption authority to preclude states from imposing obligations on broadband service that are inconsistent with the carefully tailored regulatory scheme we adopt in this Order."<sup>4</sup> Accordingly, the

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<sup>2</sup> 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.

<sup>3</sup> *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

<sup>4</sup> *Id* at para 433.

proposal suggested by some commenting parties that the Commission assess the NUSF surcharge on broadband connections must be rejected, at least until the FCC has concluded its review of the funding of universal service programs and decides the federal framework going forward and the appropriate role, if any, of broadband contributions to State programs.<sup>5</sup>

Finally, Cox agrees that changes to the contribution methodology may be necessary; however, to make an informed decision the Commission must review how much funding the NUSF needs. It is imperative the Commission examine what impact the receipt of CAF funds have on the demand for NUSF support. And it is critical the Commission examine whether NUSF funds have been used for their intended purposes. Cox noted the importance of this in its NUSF-99 comments and in its prior NUSF-100 comments. The NUSF high-cost fund has been in existence for well over a decade and there should be no doubt how funds have been spent, for what purposes and in what locations. Yet, the transparency and accountability of high-cost distributions needs improvement. Reviewing how NUSF high-cost support has been used and will be used going-forward will not only aid in the creation of the contribution mechanism, but in justifying the NUSF's continued existence.

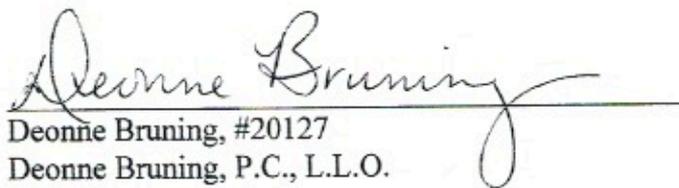
In closing, Cox reiterates its appreciation for the Commission opening this docket and accepting input on this subject. Cox urges the Commission to take its recommendations into consideration and allow interested parties to file additional comments after receiving the Joint Board's recommendations on this subject.

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<sup>5</sup> The Commission has stated it is not considering the assessment of broadband services in this proceeding and this should continue to be the case particularly in light of the FCC's action

Respectfully submitted this 13<sup>th</sup> day of April, 2015.

ATTORNEY FOR COX NEBRASKA TELCOM, LLC

A handwritten signature in cursive script that reads "Deonne Bruning". The signature is written in black ink and is positioned above a horizontal line.

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## Certificate of Service

The undersigned hereby certifies that on this 13<sup>th</sup> day of April, 2015 an original and one copy of Cox Nebraska Telcom's Reply Comments in Application NUSF-100 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:

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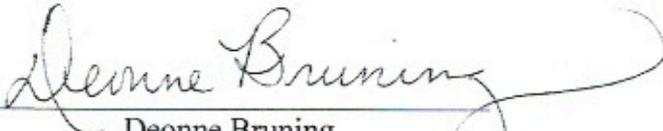
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