

**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 Windstream Nebraska, Inc.**

Windstream Nebraska, Inc. (“Windstream”) submits these reply comments in response to the comments other parties made on June 6, 2016, pursuant to the Nebraska Public Service Commission (“Commission”) “Order Seeking Further Comments” entered on April 5, 2016.

**I. Introduction.**

In its June 6 comments, Windstream recommended the Commission: (1) modify the Strategic Plan to ensure that cost considerations and existing broadband deployments are properly taken into account; (2) delay any modifications to the contribution methodology until after the Commission determines the overall size of the Nebraska Universal Service Fund (“NUSF” or the “Fund”); (3) propose a schedule for addressing the issues; and (4) schedule a series of workshops.

A number of other commenters agreed with several of Windstream’s points, and a majority of commenters distinctly support the following: determine the size the Fund before reforming the contribution methodology; if ubiquitous broadband remains a goal, address the funding implications of such; ultimately, move to a connections based assessment methodology;

host interactive workshops to address the many complex issues raised by the Order Seeking Further Comments; wait for the Joint Board recommendation and FCC action before reforming the contribution methodology.

Windstream reiterates in these reply comments two of these points in particular, because of their importance: (a) the size of the Fund should be determined before the Commission renders a final decision on the proper assessment methodology and (b) the Commission should conduct a series of workshops to address the issues described below.

As stated in Windstream's June 6 comments, the size of the Fund today is in a state of uncertainty, mainly due to the Commission's reconsideration of various aspects of the high cost portion of the Fund – by far the largest part of the Fund. Although the Commission issued an order on July 12 setting high cost fund distributions for 2016, the Commission left open to future progression orders the scope of the NUSF-99 and NUSF-50 programs after 2016. Even if those high cost program issues are resolved with finality soon, the size of the Fund will also be heavily influenced by the Strategic Plan the Commission will ultimately adopt. And, as Windstream emphasized in its June 6 comments, the only way for the Commission to evaluate consumer impacts from any change in the assessment methodology is to first know the size of the Fund. Windstream therefore agrees with the commenters who have urged the Commission to address the size of the Fund first and then evaluate the consumer impacts of a change in contribution methodology from there.

In a comprehensive Fund examination like the one this Commission has now teed up, the Commission faces a formidable task. Windstream and a number of other commenters believe

that such an undertaking will be too complex to solve through a series of comment filings and a hearing. Windstream therefore stresses in these reply comments its agreement with commenters like CenturyLink, Cox, and Charter on the need for the Commission to host a series of workshops to focus on the issues mentioned below, in a logical and orderly sequence, on a schedule which accommodates the participation of subject matter experts and, where useful and practical, to discuss research and other data. The Commission's aim here should be to make the right decisions in setting the future course of the Fund, and workshops will facilitate the process to that end.

## **II. Size of the Fund.**

Windstream recommended the Commission establish the size of the Fund before finalizing contribution reform, as this approach would enable the Commission to assess customer impacts resulting from any contribution changes. CenturyLink's comments also advocated sizing the Fund before the Commission makes a final decision on contribution methodology. Specifically, CenturyLink asserted:

CenturyLink supports the Commission's decision to take a measured and methodical approach to changes, but is concerned about the Commission's decision to reform the contribution methodology prior to sizing the fund. While CenturyLink understands the immediate concerns of ensuring the continued stability of the NUSF, and contribution methodology reform is vital to that interest, determining the appropriate size of the fund is also fundamental to contribution reform. The Commission may find that it has to rethink contribution methodology reform if it is determined that the appropriate size of the fund cannot be achieved using the adopted methodology and surcharges. CenturyLink suggests that the Commission

consider determining the appropriate size of the fund first, and then undertake contribution methodology reform.<sup>1</sup>

In sum, CenturyLink agrees with Windstream that contribution reform should not outpace a determination of the inputs to Fund sizing, for what seems to be the same reason Windstream offered. The Rural Independent Companies (“RIC”) also stated that “the next logical step in the Commission’s consideration of contribution reform should be the sizing of the NUSF.”<sup>2</sup>

The largest component of the Fund, the high cost programs, became clearer for the short term when the Commission issued an order on July 12 resolving – only for calendar 2016 – the high cost distributions which the Commission reconsidered in totality eight months earlier. The scope of the high cost programs beyond 2016 remains uncertain, and, as Windstream stated in its June 6 comments, the high cost issues are so important to the overall size of the Fund that they should be addressed with finality before a final contribution method decision is made. Making final decisions regarding contribution methodology without knowing the target at which the Commission is aiming – i.e., the size of the Fund – is impractical if the Commission is going to consider, as it should, practical ramifications such as customer and market impacts. The last thing the Commission wants to do is require iterative changes and adjustments to contribution reform after any initial change is implemented.

---

<sup>1</sup> CenturyLink Comments at p. 6.

<sup>2</sup> Rural Independent Companies Comments at p. 9 – 10.

### **III. The Commission Should Hold Workshops.**

Not only have commenters Windstream, CenturyLink, Cox and Charter advocated for the Commission to hold workshops, but a number of the questions and issues raised by other commenters lend themselves to further explanation at workshops. For instance, many commenters suggested the Commission wait on the Joint Board recommendation and/or FCC action. RIC expressed concern with the circumstances under which Nebraska's use of an assessment methodology different from the federal methodology might be unlawful. While another Commission order issued July 12 invited parties to file briefs on the RIC-identified legal issues, an open debate in a workshop of those and related legal/policy issues will give the Commissioners a chance to fully understand the concerns of the carriers and public regarding those issues and properly analyze the practical ramifications of its choices. Further, the elements of the Strategic Plan and its impact on the overall size of the Fund should be explored in great detail. To do that, one or more workshops could be devoted just to addressing the elements of the Strategic Plan and the costs that will factor into the equation – this would also permit inputs and outputs of the cost model to be better understood by all. A number of commenters have also provided input on the definitions the Commission suggested and some have proposed factor/scaling adjustments to different types or classes of service within a connections-based methodology. The details of these proposals could be addressed in a separate workshop. Several commenters addressed the most efficient and effective way for carriers to report contribution bases, collections and returns – and these matters too could be the subject of a separate workshop.

In short, given the breadth and complexity of the matters raised in the Order Seeking Further Comments, workshops seem to be the best way for the Commission to walk through the issues, document the debate and concerns, calendar next steps, and, ultimately, make sound decisions. While Windstream respectfully makes the above suggestions as a way to organize the discussion into manageable groupings of workshop issues, Windstream looks forward to addressing with the Commission and the parties other ways to marshal the process through workshops to a decision making phase.

**IV. Conclusion.**

The Commission should address the size of the Fund before getting too far down the path on deciding contribution reform, and a series of workshops, such as Windstream suggests above, is the most efficient way to vet the key issues on Fund size and contribution methodology. If there are to be changes to the Fund, the Commission should do the best it can to gather all of the relevant information it can in an efficient way and make the best decisions it can make the first time.

Respectfully submitted this 15<sup>th</sup> day of  
July, 2016.

/s/ Matthew Feil  
Matthew Feil  
Senior Counsel  
Windstream  
2300 Lucien Way  
Suite 200

Maitland, FL 32751  
(407) 835-0302  
[matthew.feil@windstream.com](mailto:matthew.feil@windstream.com)

Certificate of Service

The undersigned hereby certifies that on this 15th day of July 2016, an electronic copy of the foregoing was emailed to the following:

Nebraska Public Service Commission:

[Sue.vanicek@nebraska.gov](mailto:Sue.vanicek@nebraska.gov)  
[Brandy.zierott@nebraska.gov](mailto:Brandy.zierott@nebraska.gov)  
[Psc.nusf-filings@nebraska.gov](mailto:Psc.nusf-filings@nebraska.gov)

CTIA:

[bdublinske@fredlaw.com](mailto:bdublinske@fredlaw.com)

Century Link:

[Jgettman@gettmanmills.com](mailto:Jgettman@gettmanmills.com)  
[norm.curtright@centurylink.com](mailto:norm.curtright@centurylink.com)

Rural Telecom Coalition:

[apollock@remboltlawfirm.com](mailto:apollock@remboltlawfirm.com)  
[tkirk@remboltlawfirm.com](mailto:tkirk@remboltlawfirm.com)

Association of Teleservices Int'l:

[mottermann@mcgrathnorth.com](mailto:mottermann@mcgrathnorth.com)  
[nniemann@mcgrathnorth.com](mailto:nniemann@mcgrathnorth.com)

Rural Independent Co.'s:

[pschudel@woodsaitken.com](mailto:pschudel@woodsaitken.com)  
[jovercash@woodsaitken.com](mailto:jovercash@woodsaitken.com)  
[tmoorman@woodsaitken.com](mailto:tmoorman@woodsaitken.com)

Cox:

[Deonnebruning@neb.rr.com](mailto:Deonnebruning@neb.rr.com)

Charter:

[kwoods@fh2.com](mailto:kwoods@fh2.com)  
[Michael.moore@charter.com](mailto:Michael.moore@charter.com)

/s/ Matthew Feil