

In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology.

RECEIVED

MAR 24 2017

**Nebraska
Public Service Commission**

Q. Please state your name, employer, business address and telephone number.

Q. On whose behalf are you testifying?

Q. What is your current position?

A. I am the Director of Policy Analysis and Advocacy at Consortia.

Q. What are your duties and responsibilities at Consortia?

1

A. I am responsible for providing regulatory analysis and support primarily in the areas of federal and state universal service. I also provide support on interconnection issues, business development, data security, and regulatory compliance and reporting.

Q. What is your professional experience?

A. I have worked in the telecommunications industry for 32 years, the last 16 years of which have been at Consortia. Prior to my position with Consortia, I was employed by Aliant Communications (later merged with ALLTEL).

Q. What is your educational background?

A. I have a Master's degree in Finance and a Bachelor's degree in Business from the University of Nebraska.

Q. Have you previously testified before the Nebraska Public Service Commission?

A. Yes. I have testified on behalf of rural local exchange carriers in state universal service dockets, broadband adoption, wireless compensation and interconnection issues, local number portability, eligible telecommunications carrier ("ETC") designations, ETC Rules, and various other regulatory issues.

Q. Which subjects relating to the Commission's February 22, 2017 Order and Order Seeking Further Comments and Setting Hearing (the "February Order") will you address in this testimony?

A. In the February Order the Commission presented a series of topics on which it invited interested parties to provide comments in the form of pre-filed testimony. I will provide responses on behalf of RIC to the Commission's requests for comments that are set forth in Section II of my testimony.

II. SUBJECTS ON WHICH THE COMMISSION REQUESTED COMMENTS IN THE FORM OF PRE-FILED TESTIMONY

The Commission believes that a flat end-user surcharge on intrastate calling capability can be implemented that will meet federal and state requirements. Do you agree? Why or why not? (February Order p. 18)

Q. Do you agree with the foregoing statement by the Commission? Please indicate the reasons for your answer.

A. I do agree with this statement. The connection that is subject to the surcharge is defined as a wired line or wireless channel used to provide end users with access to any assessable service. This connection allows the capability to make a local or intrastate toll call or, as the Commission states on page 21 of the February Order, an “assessable service” is “[a] service which allows a connection to other networks through inter-network routing as a means to provide telecommunications.” As such, the connection for an assessable service is within the Commission’s intrastate jurisdictional authority since the proposed connections-based surcharge would be assessed on a connection that provides the user with access to an assessable intrastate service.

Q. Explain why the Commission should treat an interconnected Voice over Internet Protocol or “VoIP” connection as a Substitute for Local Exchange Telephone Service (switched access lines).

A. The FCC has recognized the substitutability of these services, stating:

Interconnected VoIP services “allow customers to make real-time voice calls to, and receive calls from, the PSTN, and increasingly appear to be viewed by consumers as substitutes for traditional voice telephone services.”²

² *In the Matter of Connect America Fund A National Broadband Plan for Our Future Establishing Just & Reasonable Rates for Local Exch. Carriers High-Cost Universal Serv. Support Developing an Unified Intercarrier Compensation Regime Federal-State Joint Board on*

Thus, it is not only logical, but further would be competitively neutral for fixed VoIP to be assessed a connections-based surcharge equivalent to LEC-provided service connections.

This is also consistent with the fact that subscriptions for Local Exchange Service (switched access lines) and Interconnected VoIP Subscriptions (equivalent to connections) are both reported under the “Fixed Voice Subscription” segment of the FCC’s Form 477.³

Do you agree or disagree with the proposition that use of a connections-only mechanism will “eliminate the need for the Commission to collect data from carriers that it does not already collect and audit”? (February Order p. 20)

Q. In your opinion, will the Commission need to collect any data, other than publicly available data, from carriers to implement the Commission’s proposed connections-based assessment mechanism?

A. I do not believe that special data requests to carriers will be needed. In the implementation of a connections-based NUSF contribution mechanism, the Commission should take all reasonable actions to minimize reporting burdens and to minimize requests for proprietary and confidential customer information. The FCC publishes aggregated state-by-state connections information and, if this reporting continues on a periodic basis, then it may be unnecessary for the Commission to seek additional connections data. However, as a backstop and in the event that the FCC does not continue to report this information timely or completely discontinues the reporting of connections, it would seem prudent for the Commission to seek

Universal Service, Lifeline & Link-Up Universal Service Reform -- Mobility Fund, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (the “Transformation Order”), ¶63 (2011).

³ See <https://transition.fcc.gov/form477/477inst.pdf> at section 5.5.

access to available FCC Form 477 information and to follow the procedures established by the FCC in order to ensure that data possessed by the FCC can be obtained by the Commission.⁴

Since providers of voice and broadband services report the number of their connections for voice and broadband services to the FCC on Form 477, requesting this data from the FCC would assist in minimizing the reporting requirements for an NUSF connections-based mechanism. The Commission would no longer need to require, and carriers would no longer need to provide monthly intrastate revenue data used in calculating carriers' NUSF assessment amount. For example, today carriers report monthly revenue for the following:

- Fixed Local Exchange Service,
- Fixed Local Private Line Service
- Other Fixed Local Service Revenue
- Mobile Monthly Activation and Usage Charges
- Prepaid Toll Calling Service
- Alt. Access and Directory Toll Service
- Intrastate Switched Toll Service
- Toll Private-Line Service
- Other Toll Service Revenue

If the Commission assesses providers of fixed residential and business service and mobile voice service based on connections data as reported on FCC Form 477, the Commission should not need to collect further data that it does not currently possess. The Commission, however, should

⁴ On October 13, 2016 the FCC released a Public Notice that describes revised procedures for state public utility commission to access non-public FCC Form 477 data for their respective state. *See*, DA 16-1177 issued in WC Docket No. 11-10 (Oct. 13, 2016).

recognize the time period lag associated with reporting of Form 477 data and the release of the data by the FCC.

Q: What data is reported on the FCC Form 477 that would be useful for the Commission to have in implementing its NUSF contribution reform measures?

A. Local exchange carriers report the number of local exchange service lines in service to their end user customers by census tract identified by the end user customer's service address. Interconnected VoIP service providers report the number of interconnected VoIP service subscriptions sold to their end user customers by census tract identified by the customers' registered location. Providers of mobile telephony (mobile voice) service report the number of voice units with unique phone numbers and are assigned by states based on a method that best reflects the subscriber's location (billing address, place of primary use or area code).

Q: You mentioned above the concept of FCC reporting and "if this continues on a periodic basis that coincides with the Commission's efforts to adjust Nebraska-specific connections." Can you explain what is meant by this reference?

A. As the Commission is likely aware, there is a time lag associated with the reporting of Form 477 data. Twice each year, the FCC collects information about wired and wireless local telephone services, interconnected VoIP services and broadband connections to end-user locations throughout the United States. Providers of wired or fixed wireless local exchange telephone service, providers of interconnected VoIP service, facilities-based providers of mobile voice service, and facilities-based providers of broadband connections to end-user are required to report this information on the FCC's Form 477 which reports June 30 data by September 1, and December 31 data by the following March 1 (for this year, the March 1 date was extended by the FCC to March 24 due to technical issues relating to receipt of data filings). Thus, the

connections data is ninety (90) days old by the time it is reported to the FCC. The additional delay in the FCC's actual release of the data for Commission access is not based upon a fixed calendar date.

From a practical perspective, these types of implementation issues perhaps should be addressed by the Commission to determine the frequency of updates to the Nebraska-specific connections information that is desired for NUSF contribution purposes, and to take reasonable steps to assure that the most up-to-date connection information will be available for the Commission's use. In doing this, the NUSF connections-based contribution mechanism will reflect most current practically available intrastate assessable service connections, which, in turn, would be an input into the per-connection surcharges to be assessed.

Please comment on the Commission's proposed definition of "wireless channel" in the last paragraph on p. 20 of the February Order.

Q. In your view is the Commission's proposed definition of "wireless channel" appropriate for use with regard to the connections-based assessment mechanism?

A. Since the Commission's primary data source for assessing fixed residential voice and mobile voice connections will be FCC Form 477, RIC agrees with the Commission's conclusion set forth on page 20 of the February Order that its proposed definition of wireless channel should be consistent with the FCC Form 477 definition.

RIC also agrees with the Commission that the term "wireless channel" as utilized in the FCC's Form 477 instructions is generally descriptive language and relies on the general and common understanding of "wireless channel" to mean a wireless pathway or frequency used to transmit information. If a wireless connection capable of transmitting voice service is reported to the FCC for Form 477 purposes, likewise, the Commission appropriately proposes that it would fall under the definition of "connection" and therefore, would be subject to the NUSF

connections-based assessment mechanism if a service that falls within the Commission's definition of "assessable service" is provided by means of the wireless channel.

Are the Commission's definitions of "connection" and "assessable service" on pp. 20-21 of the February Order acceptable?

Q. What is RIC's position with regard to the proposed definitions of "connection" and "assessable service" advanced by the Commission?

A. RIC agrees with the Commission's proposal to define a "connection" which is as follows: "A wired line or wireless channel used to provide end users with access to any assessable service." As the Commission is aware, this definition follows RIC's previous comments and recommendations regarding this definition. RIC agrees with the Commission that, for purposes of the February Order, inter-network routing numbers should be limited to working telephone numbers.

The Commission further clarified that under its proposal that the assessment would continue to be on the end users. However this issue is ultimately resolved, RIC submits that the Commission should state explicitly in any decision that it expects remittances from providers that synch up with the connections information reported on Form 477. This requirement will facilitate the Commission's ability to audit or review remittances to determine whether remittances are consistent with reported connections data.

Q. In his testimony at page 17, Mr. Pfister states that you will provide an example illustrating how the Commission's proposed surcharge rate design for Business Fixed Voice customers could have discriminatory impacts. Please provide your example.

A. Due to the fact that the proposed rate design provides for a fixed surcharge amount to be applied to a variable range of monthly retail voice service charges to business customers, discriminatory treatment of customers within and between the prescribed rate bands will occur.

For example, as set forth in Table 2 of the February Order, if business fixed voice user Able, Inc. has monthly billed voice services revenue of \$499 it would be assessed a fixed surcharge of \$21.77 for the month in question which equates to a 4.36% assessment rate. However, if business fixed voice user Baker, Inc. has monthly billed voice services revenue of \$501 it would be assessed a fixed surcharge of \$46.65 which equates to a 9.31% assessment rate. Based upon this billed revenue difference of \$2.00 for these two hypothetical customers, Baker would pay an additional surcharge amount of \$24.88 which is more than 200% greater than Able's surcharge amount.

How should the Commission take into account existing broadband networks or those funded through recent grants? (February Order, p. 23)

Q. What is RIC's position in response to the foregoing question?

A. Just as is the case today, RIC submits that the Commission should treat broadband networks funded through the use of grant dollars differently from those not funded through grant dollars. RIC sees no need to alter this treatment based on the NUSF contribution reforms being undertaken by the Commission.

With regard to the existing rate-of-return carriers' networks that were placed in service without the use of grant dollars, RIC believes the Commission should continue to treat such networks as they are currently. These existing networks should continue to earn a return on investment and should be compensated for the expenses as identified on the current NUSF-EARN form.

The accounting for networks built using grant dollars must conform to 47 C.F.R. § 32.2000(a)(2) and therefore the disbursements received (*i.e.*, the grant dollars) should not be reflected on the carrier's NUSF EARN Form, do not become part of a recipient's rate base, are not subject to depreciation, and are not included on the recipient's financial statements.

At the same time, under programs where a carrier is required to match a portion of the grant funding, the matching portion must be accounted for on the NUSF EARN Form. Therefore, if for example 75% of a project was funded with a grant and the carrier provided the remaining 25% in matching funds, the accounting entry would reflect 25% of the cost of the project. In this way, the amount of the grant will not specifically have an effect on a company's NUSF EARN Form; however the dollar amount of the match will be included on the carrier's accounts and will be included on a carrier's NUSF EARN Form.

Q. Mr. Pfister states in his testimony that consumers use RIC members' networks to access the Internet using their wireless smartphone and other wireless smart devices. Please explain the basis for this statement.

A. When a consumer uses his or her smart wireless phone and/or other smart devices such as an iPhone, Android, iPad, or Galaxy Tab from home, a place of business, or a public space such as the local coffee shop, there is a high probability that the consumer will utilize the fixed, wired broadband network (DSL or fiber optic line) to access the Internet. Generally, this is made possible through the use of Wi-Fi technology. Wi-Fi enabled devices, such as those mentioned above, are connected to the Internet via a wireless router, which is basically a device that transmits and receives wireless signals between an Internet connection and the Wi-Fi enabled device. Thus, the wireless devices are not tied to a fixed location within a property. Another advantage of using Wi-Fi is that a wired broadband connection generally comes with no data caps and is not billed on a usage sensitive basis, so users need not be concerned with regard to charges for download or upload use. This has been very important to wireless customers since the customers can use their devices and obtain online access without using their data allowances. Wireless carriers also promote the usage of Wi-Fi which removes usage burdens from their

wireless network and thus allows wireless carriers to better serve their customers who do not have access through Wi-Fi provided by a wireline broadband service. Wireless carriers generally recommend to their customers to connect to Wi-Fi networks they know and trust whenever such networks are available.⁵

Although more traffic was offloaded from cellular networks on to Wi-Fi than remained on cellular network in 2016, consumers' use of wireless devices via Wi-Fi is forecasted to increase even more in the future.⁶ Thus, wireless users use of RIC member companies' wired broadband networks is likely to continue to increase in the future.

Q. Does this conclude your testimony?

A Yes, it does.

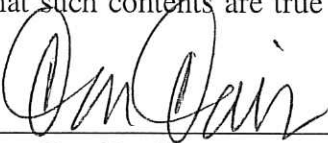
⁵ See <https://www.verizonwireless.com/support/wi-fi-faqs/> .

⁶ See <http://www.cisco.com/c/en/us/solutions/collateral/service-provider/visual-networking-index-vni/mobile-white-paper-cl1-520862.html> .

VERIFICATION

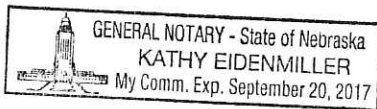
STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

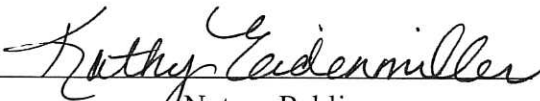
Dan Davis, being first duly sworn on oath, states he has read the foregoing Testimony, is familiar with the contents thereof, and that such contents are true and correct to the best of his information and belief.



Dan Davis

Subscribed and sworn to before me, a Notary Public in and for such State and County, this
24th day of March, 2017.





Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 24th day of March, 2017, an electronic copy of the foregoing Pre-Filed Testimony was delivered via electronic mail to:

Nebraska Public Service Commission

Sue.Vanicek@nebraska.gov

Brandy.Zierott@nebraska.gov

psc.nusf-filings@nebraska.gov

All Other Commenting Parties

Paul M. Schudel (by KE)

Paul M. Schudel