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Nebraska Public Service Commission

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

DIRECT TESTIMONY OF KEN PFISTER ON BEHALF OF THE NEBRASKA RURAL INDEPENDENT COMPANIES

I. INTRODUCTION - WITNESS BACKGROUND.

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

A. My name is Ken Pfister. I am employed with Great Plains Communications, Inc. ("Great Plains"). My business address is 1600 Great Plains Centre, P.O. Box 500, Blair, Nebraska 68008. My business telephone number is (402) 426-6413.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of the Nebraska Rural Independent Companies ("RIC").[1] My employer, Great Plains, is one of seventeen members of RIC. All of the members are rural incumbent local exchange carriers and providers of local exchange, exchange access and broadband services.

Q. What is your current position?

A. I am Vice President-Strategic Policy for Great Plains, responsible for the Company's regulatory activities in the state and federal jurisdictions.

Q. Do you hold a position with RIC, and if so, what are your duties?

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[1] Arlington Telephone Company, The Blair Telephone Company, Clarks Telecommunications Co., Consolidated Telco, Inc., Consolidated Telcom, Inc., Consolidated Telephone Company, Curtis Telephone Co., Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K. & M. Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company and Three River Telco.

A. RIC has no formal positions. In the past and currently I serve as the person designated to chair meetings of RIC's oversight group (or what we call the "Steering Committee") as well as member meetings. As such, I help to facilitate discussions of regulatory policies at the state and federal levels, and from time to time I have presented testimony on behalf of RIC.

Q. What is your professional experience?

A. I have worked in various capacities in the telecommunications industry for 30 years. The past 16 years I have worked at Great Plains as a member of its Executive Team. I have been extensively involved in rural telecommunications policy issues at the state and federal levels. Prior to joining Great Plains, I worked for AT&T from 1987 to 1998 in a variety of positions, with an exit position of Assistant Vice President-State Government Affairs for the State of Ohio. I also provided telecommunications consulting services from 1998 to 2000 as President of Telec Consulting Resources in Omaha.

Q. What is your educational background?

A. I have a Master's degree from Michigan State University and a Bachelor's degree from the University of Wisconsin-Madison, both in Journalism. I have also completed graduate programs including the Columbia University Graduate School of Business Marketing Management and the Kellogg School of Business Executive Development at Northwestern University.

Q. Is your pre-filed testimony in response to the Commission's February 22, 2017 "Order and Order Seeking Further Comments and Setting Hearing" (the "February Order") issued in this proceeding?

A. Yes.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide comments on behalf of RIC primarily focused on policy issues relating to the framework for a connection-based Nebraska Universal Service Fund ("NUSF") contributions mechanism as outlined by the Commission in the February Order, as well as to suggest possible modifications to that framework that RIC advocates for adoption in this proceeding.

Q. What do you mean by "framework"?

A. I referenced the concept of "framework" because the points raised in my testimony are further augmented by RIC's two other witnesses – Dan Davis and Edit Kranner – who will be addressing specific aspects of the issues presented in the February Order on which the Commission requested comments.

Q. Is there an overarching position that RIC's testimony advances?

A. Yes. As RIC has indicated in the past, RIC is supportive of efforts to stabilize the NUSF by establishing predictable and sustainable remittances through the adoption and implementation of a connections-based contribution mechanism for the NUSF. RIC believes that the Commission has advanced this objective considerably through its February Order.

Q. How is your testimony organized?

A. RIC's testimonies, including mine, are generally organized in accordance with the order of the questions presented for comment by the Commission in the February Order. The question posed by the Commission is set forth and the responsive testimony presented on behalf of RIC follows. After working through the questions that are asked, as invited by the Commission on page 26 of the February Order, I will address additional issues that RIC believes should be part of the Commission's deliberations as it moves forward with adoption of the NUSF contribution reform decision. Specifically, these issues are: (1) Options regarding the use of a phase in for the implementation of the reformed contributions mechanism; (2) general policy framework for accountability reporting by recipients of NUSF support; and (3) consideration of necessary revisions to the current process and procedures for the distribution of NUSF support.

Q. Before beginning your responses to the Commission's questions, are there any general observations that you deem important in order to provide the factual basis as to how RIC has approached NUSF contribution reform?

A. Yes, as a general matter it is my understanding that the Nebraska Legislature has, among other universal service objectives, determined that all Nebraskans are to have reasonably comparable access to voice and advanced services, now referred to as broadband Internet access service, or "BIAS." To accomplish this, the NUSF High Cost Program is a primary program intended to accomplish these objectives. In concert with the federal Universal Service Fund ("USF") program, the Federal Communications Commission (the "FCC") and the Commission are to work together in what has been termed as the "Federal/State Partnership" regarding universal service.

Q. Do you have any additional general observations about the future of the NUSF High Cost Program and the need for contributions reform?

A. Yes, I have several additional observations, each of which amply supports the continuation of the current NUSF High Cost Program, and together unquestionably demonstrate the need for Commission action in response to the February Order:

1. RIC's testimonies are based on the fact that the current revenues-based NUSF contribution mechanism is unstable and thus lacks predictability. The Commission orders issued in this docket as well as in earlier companion proceedings demonstrate this fact.

2. While voice continues to be an essential universal service offering that all Nebraskans use, BIAS and the associated data services are the "growth" services and demand drivers for network capabilities and deployment. Data released by the FCC confirms that total fixed and mobile Internet connections increased from 262.6 million in December 2012 to 355.2 million in December 2015, an increase of over 35% over this three (3) year period. For that same period the FCC reports that fixed Internet connections increased from 92.5 million to 102.2 million, an increase of 10.5%. In addition, based upon data provided by what I believe to be a representative sample of the RIC companies, fixed BIAS subscriptions among these companies have increased by approximately 11% over the last three years.

3. Consumers and other service providers use the RIC companies' and other companies' networks to enable voice and data communications to be sent and received. Consumers use these networks to place and receive calls. Further, mobile telephone users also utilize these networks for the provision of Wi-Fi services that allow such users to receive data through their mobile devices, and in my experience, to do so without incurring usage charges. Mr. Davis will provide further testimony on this subject.

4. Companies that offer voice services via broadband connections to RIC and other companies' end users (sometimes called "over-the-top" providers) use the broadband networks for their offerings that also allow calls to be made and received by Nebraska consumers. Likewise, mobile/wireless carriers, fixed providers and wholesale carriers also use these underlying networks to allow their respective customers/end users to make and receive calls. So, too, those

companies that market or provide on-line services via the Internet benefit from the ability of the RIC companies' and other companies' end users to access and use broadband-capable networks, thus allowing these companies to sell and market products and services and to generate the revenues associated with those services. Both the Commission's and the FCC's universal service policies recognize the criticality of the underlying fiber-based networks for all services and the need for ongoing support of that network in high-cost areas such as rural Nebraska.

5. The costs to provide and operate the networks required to offer voice and broadband are inversely proportional to the population density of the area served, and rural Nebraska has some of the least densely populated areas in the nation. Thus, it costs more per potential subscriber to serve less densely populated areas than it does to serve more densely populated areas. This principle was established and accepted by the Commission over ten years ago in the dockets that established the parameters of the permanent NUSF High Cost Program. (I note that on page 26 of the February Order, the Commission refers to the NUSF High Cost Program with the new title "Fixed Broadband Program." For clarity purposes, I will continue to refer to this Program as the "High Cost Program" in this testimony.) In this regard and as properly noted by the Commission, rural network deployment should be fiber-based in order to provide scalable broadband to as many customers as possible over the long run, a result that can only happen through long-term USF funding. Alternatively, funding of non-scalable networks may result in NUSF support being used to construct networks that may not be economically expanded to meet future consumer needs.

6. As a general business matter and building upon the prior observation, in order for companies to justify investments in rural networks, sustainable and predictable revenue flows – from end-user customers, from other carriers that utilize the RIC companies' networks and from both state and federal USF programs – are necessary in order to create reasonable opportunities for returns on those state-of-the-art, technologically-advanced networks in rural areas, and to recover the cost of operating and maintaining such networks. Without the availability of advanced networks, customers for all services – landline, wireline, Voice over Internet Protocol ("VoIP") and broadband – will be disadvantaged, and state and federal universal service policies will go unfulfilled.

7. Because NUSF High Cost Program funds are limited, the policies and procedures governing the NUSF High Cost Program (as well as the other NUSF programs mentioned in the February Order) must provide for accountability regarding the use of NUSF support for the deployment and operation of networks that are scalable. This scalability, in turn, will allow such carriers to meet increasing consumer demand for broadband services at rates that are reasonably affordable and via networks that are future-proof for decades to come.

8. As noted above, the FCC and this Commission have been advancing and have consistently endorsed the "Federal/State Partnership" on universal service. Such efforts must continue with the implementation of NUSF contribution reform. Thus, this Commission's efforts should continue to complement the FCC's programs associated with federal USF policies, and RIC believes this policy objective can be advanced through the February Order. The meshing of federal

and state USF programs cannot continue without reform of the state contributions mechanism.

Q. What are RIC's views with respect to the importance of the foregoing points?

A. While we are discussing the issue of NUSF contribution reform in this docket, that reform should not be divorced from the fundamental reasons that the NUSF High Cost Program is necessary, as well as the fact that the NUSF High Cost Program support has become an integral element of the overall universal service goals pertaining to consumers located in all parts of Nebraska. The RIC companies, and indeed all Nebraska rural incumbent local exchange carriers, provide services in rural, high-cost-to-serve areas, and RIC submits that the Commission's NUSF policies and programs should support and foster the existing and evolving obligations of Nebraska carriers to the rural consumers that they serve. At the same time, the challenges (and, indeed, the obligations under state and federal law) that carriers must meet in deploying, maintaining and operating their networks in lower-density, higher cost-to-serve areas must also be recognized in any NUSF changes the Commission envisions, including those related to NUSF contribution reform. The underlying factual points noted above, in RIC's view, lay the foundation for why a sustainable and predictable NUSF High Cost Program is necessary and appropriate, and the February Order's NUSF contribution reform proposal materially advances the accomplishment of that objective.

II. COMMISSION REQUESTED COMMENTS IN THE FORM OF PRE-FILED TESTIMONY CONTAINED IN THE FEBRUARY ORDER

Q-II.1 What is RICs' reaction to the Commission belief as stated on page 18 of the February Order that a flat end-user surcharge on intrastate calling capability can be implemented that will meet federal and state requirements?

A. RIC again recognizes the sound judgment and leadership that the Commission exercised in developing this proposed flat rate surcharge framework. As a policy and practical matter, flat rate surcharges are straight-forward for consumers to understand and can be more readily explained to all parties when considering connections-based NUSF assessments. Migration away from a revenues-based NUSF contribution mechanism also removes from the equation the concept of "use" of services, and more appropriately recognizes connectivity to and use of broadband-capable networks via various connections of a customer's choosing. In the revenues-based NUSF contribution regime, the more a service is used, the higher the NUSF surcharge contribution has been, based upon application of the Commission-prescribed assessment of 6.95 percent on intrastate revenues. In the connection-based environment, however, the assessment will *not* be based on whether or how much the connection is used month to month, but rather will be based on the customer's ability to use the connection to make or receive intrastate calls. This ability, in turn, is the underlying jurisdictional basis for the Commission's assessment of an NUSF surcharge on the connection. Thus, a flat-rate per connection is a rational consequence of the connections-based NUSF contribution reform that the Commission is properly advancing in the February Order.

Q-II.2 **Does the contribution reform proposal advanced by the Commission "rely on or burden" the Federal USF support mechanism as referenced on page 18 of the February Order?**

A. I do not believe the proposal would burden the Federal USF support mechanism. As an initial matter, the FCC has repeatedly called upon states to supplement federal USF support with state funding, and I am aware that various states do so. For example, the

FCC reaffirmed its position in the rate-of-return carriers' reform order issued in March 2016, stating:

> Finally, we note that the promotion of universal service remains a federal-state partnership. We expect and encourage states to maintain their own universal service funds, or to establish them if they have not done so. The expansion of the existing ICLS mechanism to support broadband-only loops and the voluntary path to model-based support should not be viewed as eliminating the role of the states in advancing universal service; far from it. The deployment and maintenance of a modern voice and broadband-capable network in rural and high-cost areas across this nation is a massive undertaking, and the continued efforts of the states to help advance that objective is necessary to advance our shared goals.[2]

In my opinion, the FCC would not encourage states to continue or to implement their own universal service funds if it believed those funds, if properly implemented as has been and will continue to be the case in Nebraska, created a burden on the federal USF. Additionally, I will respond to the question posed by the Commission based on the plain meaning of the terms "reliance" (or relying on) and "burden." With these definitions in mind, I believe the answer to the Commission's question – will the NUSF rely on or burden the federal USF? – is no. Specifically, the term "relying" is defined as "to be dependent" (https://www.merriam-webster.com/dictionary/relying) and "burden" is defined as "the bearing of a load" (https://www.merriam-webster.com/dictionary/burden). Because the Commission is relying on a different contribution baseline – connections capable of being used to access an "assessable service" (*i.e.*, intrastate voice and intrastate telecommunications services that require the use of a connection) versus that used in the federal USF (which involves interstate revenues) – no NUSF assessment will

[2] Developing a Unified Intercarrier Compensation Regime, FCC 16-33, para. 184 (March 2016) (footnote omitted).

be dependent on interstate revenues and no NUSF assessment will be required to be borne by (and thus possibly create a burden upon) the federal USF mechanism.

With that said, later in my testimony in response to Q.II-5, RIC proposes a new rate design methodology for a connections-based assessment mechanism that treats mobile services differently from that proposed by the Commission. RIC believes this rate design would provide an additional basis to establish the conclusion that application of the connections-based assessment mechanism to mobile services does not burden the federal USF.

Q-II.3 Does RIC concur with the Commission's suggestion on page 18 of the February Order that the contribution reform mechanism proposed by the Commission is competitively neutral, stable and easy to administer?

1. Is the Commission's NUSF contribution proposal competitively neutral?

A. RIC has some reservations about the competitive neutrality of the Commission's proposal. At least with respect to assessment of *non-business* services – mobile voice and fixed voice – RIC believes that the mechanism as proposed by the Commission should be able to be implemented in a competitively neutral manner. However, RIC has significant concerns regarding the level of surcharges proposed for assessment on business customers, and believes that the proposed treatment of businesses may run afoul of competitive neutrality standards. To constructively address those concerns yet achieve the Commission's goal of a pure connections-based assessment mechanism, on pages 14-17 below in this testimony RIC proposes a rate design with a standard level of contribution per residential and per business connection that we believe more readily meets the "competitively neutral" standard – *i.e.,* it treats all users and the carriers they use in a manner that is equitable and generally comparable.

In addition, another area of the Commission's proposal that does not appear to be competitively neutral is the elimination of NUSF surcharge assessment on certain telecommunications services – for example, intrastate toll service – that are currently being assessed for NUSF purposes and, in RIC's view, should also be included in a new proposal.

2. Is the Commission's connections-based NUSF proposal more stable?

A. Yes. The Commission is well aware of and has acknowledged that the current revenues-based NUSF contribution mechanism is not stable, and is yielding increasingly diminished remittances. The Commission noted, for example, on page 2 of its December 20 Order in its NUSF-108 docket and in Attachment A to that Order that it projected an overall reduction in NUSF remittances of 16.26% in 2017 as compared to 2016. Additionally, the Commission indicated on page 1 and in the first footnote in that same Order that remittances will continue to decline in 2018, as compared to 2017, at an estimated 20% rate. Conversely, and as also demonstrated by Ms. Kranner's testimony, total connections in the State have been stable in the past, and are likely to either continue to be stable or to increase modestly in the future.

At the same time, RIC recognizes that as more consumers move solely to a broadband connection, the total number of voice connections could decline somewhat over time. Of course, this potential issue will be addressed if the FCC withdraws its current prohibition on state commission assessment of BIAS for state USF purposes. RIC has previously urged the FCC to allow states to assess BIAS, and hopes that the FCC will take such action in the near future. But absent such action, available data supports the conclusion that use of connections as the NUSF assessment mechanism will be far more stable than the current revenues-based assessment mechanism.

3. Is the Commission's NUSF contribution proposal "easy to administer"?

A. While it is an untested assessment methodology, RIC believes that the connections-based NUSF contribution mechanism will be reasonably easy to administer. With that said, RIC recognizes that the real world implementation will prove whether this belief is true (as is the case with any new program's implementation that involves some measure of predictive judgment). Nonetheless, the use of state-specific FCC Form 477 data regarding connections that are subject to assessment of an NUSF surcharge should provide a readily available source of verifiable information that complements the data collected to fulfill their respective FCC reporting obligations. And, since the data is already assembled by carriers in response to the FCC filing obligations, there should be little to no additional data reporting burden.

At the same time, because FCC Form 477 does not contain or report business connections separated by the size of the business account nor does it require wireless carriers to report business mobile users, RIC believes that there is a more administratively efficient method to capture these types of connections for NUSF contribution purposes, as outlined in RIC's revised rate design discussed below.

Q-II.4 Does RIC concur with the Commission's statement on page 18 of the February Order that the contribution reform mechanism proposed by the Commission is adaptable to future contribution decisions that the FCC may make?

A. Yes, in general RIC believes that the structure of the assessment mechanism proposed by the Commission – one based on connections to the network – would be adaptable to future contribution reform that the FCC may make. Again, RIC believes the Commission proposal should be modified in certain aspects, as will be described below.

If the FCC grants state commissions the right to assess state USF surcharges on BIAS, then BIAS would become another "assessable service" under the Commission's definition contained in the February Order, and an additional set of connections would then be available for assessment. Such a development would presumably facilitate reduction of the per voice connection surcharge due to the expanded universe of assessable connections, while still maintaining a stable NUSF in order to support the programs that the Commission has established. This should be a win-win for the Commission and Nebraska consumers by allowing assessment of BIAS in a manner that is complementary to any assessment structure established by the FCC.

Q-II.5 Do you have any comments in response to the Commission's inquiry at pages 19 to 20 of the February Order whether a connections-based contribution mechanism should be established for both business and residential service?

1. Do the RIC Companies favor a flat rate per connection surcharge on both business and residential service?

A. While RIC has previously suggested consideration of a "hybrid" connections/revenues contribution mechanism that would continue the existing revenues-based mechanism for businesses, RIC has, based on the structure proposed in the February Order, re-evaluated its recommendation. Although during a possible "phase in" of the connections-based contribution mechanism as outlined below, the Commission may continue the revenues-based contribution mechanism for a brief interim period, RIC supports a "pure" connections-based NUSF assessment mechanism provided that business connections are assessed on the basis of a flat rate per-business connection.

As demonstrated by Ms. Kranner's analysis of the projected number of future business connections, the foregoing structure will support NUSF remittance stability. Further, the data needed for implementation of this structure is available in the FCC's Form 477 reports. Thus, as Mr. Davis indicates, use of a flat-rate per-business connection will avoid the inequities that exist both within and between the revenue bands of the Commission's assessment proposal regarding business connections. Finally, use of a flat-rate per-business connection will be more easily administered by the telecommunications carriers that will be required to collect such surcharges and to remit surcharge collections to the Commission.

Specifically, as outlined in Attachment One to my testimony, RIC believes that a flat rate surcharge of $5 per business connection, when administered in combination with the other rate elements set forth in this Attachment will produce substantially sufficient NUSF assessments in 2018 to meet the NUSF program budget set forth in Table 4 of the February Order. Further, based upon Ms. Kranner's projections regarding the total number of connections in 2018, when FCC Form 477 data relating to 2018 becomes available for use in 2019, the level of NUSF collections resulting therefrom should be sufficient to meet the budgeted needs for NUSF programs.

Coupled with this rate design for business connections, residential customers with fixed wireline connections (both traditional voice and interconnected VoIP) would be assessed a surcharge of $1.75 per month per connection based upon the capability of the consumer using the connection to make local intrastate voice calls (an "assessable service") and these customers would also be assessed a $0.75 per month per connection surcharge based upon the capability of the consumer to make intrastate long distance voice calls (an additional "assessable service") through the use of the connection. Thus, for a residential user of a fixed wireline voice connection, the total monthly NUSF per connection surcharge would be $2.50 (50% of the surcharge level for business users).

As explained by Mr. Davis in his testimony, the FCC has acknowledged that VoIP is, at least from the consumer's perspective, a substitute for traditional telephone local service. This substitutability is confirmed by Ms. Kranner's analysis of the historical and projected numbers of traditional wireline and VoIP connections that illustrate the substitutability of these two types of connections. Therefore, use of the same $2.50 per connection NUSF connection surcharge is entirely appropriate.

2. How is RIC's connections-based rate design proposal balanced between classes of users?

A: While we recognize that the business rate of $5.00 per connection is double the residential rate, the $5.00 rate per business connection reflects the traditional rate design concept that businesses are heavier users of the voice network, and particularly of intrastate toll services, thus justifying the progressive nature of the business surcharge rate.

Finally, for wireless voice services, and in recognition of the directive of Nebraska statutes and Commission rules that all providers of telecommunications services shall make an equitable and non-discriminatory contribution to the NUSF, RIC's proposed rate design utilizes, as a beginning point, the $2.50 per-connection per-month assessment rate used for fixed wireline voice connections. However, this rate would be reduced by the FCC wireless interstate safe harbor percentage (37.1%) and thus wireless connections would be assessed at 62.9% per intrastate connection or $1.57 per reported wireless connection. This treatment of wireless connections reflects the extent of FCC Form 477 reporting (which does not require wireless carriers to separately report business and consumer connections), and avoids the complications that would arise from addressing in another manner multi-line wireless end user accounts as reflected on line 2.03 of Attachment A to the February Order. This wireless assessment method also provides further confirmation that the proposed NUSF connections-based mechanism avoids any burden on the federal USF mechanisms by limiting the NUSF assessment to only the intrastate safe harbor usage percentage of the wireless voice connection.

In summary, RIC believes this "pure" connections-based rate design advances the policy objectives of the Commission – stability, competitive neutrality and ease of administration. I urge the Commission to favorably consider and adopt this proposal.

Q-II.6 **What response does RIC have to the Commission questioning on pages 21-22 of the February Order whether the rate design proposed for the connections-based mechanism in Table 2 sets forth a surcharge that is "equitable and nondiscriminatory"?**

A. RIC is concerned that a rate design establishing specified "revenue bands" and associated flat surcharge amounts that are applicable to a business connection user whose monthly billed revenue falls anywhere within the revenue band is inequitable, and thus could be discriminatory to some customers. RIC witness Mr. Davis provides a specific example of how use of a banded surcharge for businesses results in a discriminatory impact on business customers. Use of a "true" per business connection assessment rate of $5.00 per month avoids this inequity. As larger business users require more connections than smaller business users, the larger users will be assessed a greater number of $5.00 per connection surcharges than the smaller business user. Again, and as noted above, the number of connections is known by the telecommunications carrier with the obligation to collect and remit the NUSF surcharge to the Commission each month, and importantly, the Commission knows the aggregate number of business connections from the publicly available FCC Form 477 data. Further, the FCC has provided a mechanism for the Commission to obtain provider-specific connection data upon compliance with certain procedures that assure the confidentiality of such data.

Q-II.7 How should the Commission close the gap between the proposed Fixed Broadband Program funding level shown on Table 4, on page 26 of the February Order, and the cost of a fiber-based ubiquitous broadband network in Nebraska as set forth on pages 22-23 of the February Order?

A. The RIC companies concur with the Commission that closing the gap to achieve a ubiquitous fiber-based broadband network in Nebraska is an ambitious yet necessary goal to meet the state and federal statutory requirements of comparable and affordable access to voice and advanced services (now meaning BIAS). Closing this gap can be achieved, over a period of years, through consistent and stable universal service funding on the state and federal levels. The reality of limitations on universal service funding necessitate the adoption and implementation of policies by the Commission and the FCC that assist carriers in achieving consistent progress toward broadband deployment in high-cost areas, while holding those carriers specifically accountable for demonstrating such progress.

On a related matter, an existing impediment toward making greater progress toward ubiquitous broadband is, as noted above, the FCC's current restriction on a state commission's ability to assess BIAS for state USF purposes. Thus, a large number of broadband connections may not be assessed by the Commission for NUSF contribution purposes. As a result, the difference between the costs of a ubiquitous fiber-based network as established by the State Broadband Cost Model ("SBCM") and the combined universal service support provided from federal USF funding and from the proposed 2018

NUSF High Cost Program budget (proposed to be $54 million) still leaves an annual funding gap estimated by Ms. Kranner in her testimony to be in excess of $150 million. To place this gap in perspective, as Ms. Kranner demonstrates in her testimony, RIC notes that based upon the SBCM results, even assuming a $54 million annual budget for the Fixed Broadband Program (February Order, page 26, Table 4), *approximately thirteen thousand Nebraska locations* (meaning households or businesses) will not be provided with access to BIAS in the foreseeable future. This result is contrary to the policy of Nebraska that all consumers in all areas of the State shall be provided access to advanced information services.

Again, we understand that bridging this gap is a long-range objective that can only be accomplished through long-term, consistent and predictable universal service support. RIC also recognizes that it is not politically acceptable, nor is it consistent with the universal service principle of affordability, for NUSF end-user surcharges to be increased to the level that would be required to support implementation of a ubiquitous broadband network across the State in a shorter period of time. At the same time, RIC believes that should the Commission be authorized in the future to assess broadband connections, additional NUSF assessment revenues for disbursement to build out the higher-cost-to-serve rural areas of Nebraska would be available. Therefore, RIC believes that the Commission's goal of extending fiber-based broadband to all areas of Nebraska should remain an aspirational objective, tempered by the financial realities of funding for such networks on a fair and reasonable basis.

Q-II.8 How should the high-cost fund size be determined in light of funding that has already been made available through the federal universal service fund program (February Order, p. 23)?

A. As Ms. Kranner explains in her testimony, NUSF High Cost Program distributions would be net of federal USF support provided or offered to Nebraska companies either via the FCC model or legacy support programs, and should generally be based on the state SBCM for all of the reasons she states. The use of the SBCM here in Nebraska is, in RIC's view, particularly reasonable since the general framework of this model has been vetted over time at the FCC through the price cap and rate-of-return Connect America Fund models. Its use in Nebraska brings a level of consistency between the FCC and Commission USF programs. To the extent that the real-world facts of deploying rural broadband raises issues that SBCM did not contemplate, RIC anticipates that such issues can be addressed on a company-specific basis with the Commission.

Q-II.9 **In response to the Commission's question on page 23 of the February Order, should the Commission take other federal universal service programs into account, such as potential funding through the FCC's Remote Areas Fund?**

A. Yes. Just as I noted in response to Q-II.8, federal USF for high cost broadband network deployment should be accounted for in determination of a company's NUSF distribution. This would include federal model support offered to price cap carriers but not accepted.

Q-II.10 **In response to the Commission's question on page 23 of the February Order, how should the Commission balance the size of the fund with other considerations such as the burden on ratepayers?**

A. It is rational that funding for future NUSF programs should be achieved through a surcharge on connections that provide end users with access to any assessable service. Similar to the Commission, RIC is sensitive to the need to avoid possible "rate shock" for ratepayers when making modifications to the NUSF contribution mechanism. Moreover, all changes to customer surcharges need to spread in a competitively neutral manner among providers, regardless of the technology or combination of technologies that the provider uses in delivering services to customers on its network. This latter point is necessary to avoid creating an artificial incentive for end users to move from one provider to another based on a regulatory surcharge changes rather than the provider's competitive ability to meet the service needs of the end user. In this regard, the NUSF contribution rate design proposed by RIC accomplishes these objectives by proposing reasonable changes in the NUSF surcharge across all connections, treating residential and business customer classes in a manner consistent with traditional rate design policies and frameworks, and dealing with competing providers of local calling and access to long-distance voice services – wireline fixed (both traditional and VoIP) and wireless voice providers – in a rationally equivalent manner.

Q-II.11 What comments does RIC have on the proposed NUSF program budgets set forth in Table 4 on page 26 of the February Order?

A. Recognizing the practical constraints on the NUSF funding that can be achieved and the several programs that the NUSF supports, RIC agrees that funding levels for the various NUSF programs need to reflect the importance of each of these programs in fulfilling the objectives of universal service within the State of Nebraska. Nonetheless, policy makers cannot and should not lose sight of the fact that in order to achieve universal service, networks must be deployed that provide the services that are required. With that said, the practical reality is that to achieve a rational rate design for the NUSF surcharge arising from a connections-based NUSF contribution reform, RIC believes the initial proposed funding level for the NUSF High Cost Program is reasonable when considering all contributing factors – the impact on customers, cost of deploying and operating networks in rural areas, other funding sources including federal USF, and the recognition that achieving universally available broadband across Nebraska is a longer-term objective. I would add, however, that as the Commission gains experience in operating under the new

NUSF High Cost Program contributions regime, it may find it appropriate and accomplishable to increase the program budget to a level enabling the state to achieve ubiquitous access to broadband more quickly.

As for the budgets proposed for other NUSF programs, the February Order does not contain specific information on which I am able to offer informed testimony. I would observe, though, that the budget for the Mobile Program would be 2.5 times larger than the existing program, and the proposed Broadband Lifeline budget of $3 million is an entirely new line item for potential NUSF support. I believe the proposed federal broadband lifeline program has only recently been introduced by the FCC. Thus, the Commission may wish to wait to proceed with this program and to coordinate with the ultimate design of any FCC broadband lifeline program. We would expect to provide more input regarding this program in the future, assuming the Commission opens a docket on the matter.

Q-II.12 Does RIC support the Commission's proposal outlined at page 25 of the February Order to increase the administrative budget from $1 million to $1.5 million?

A. As a general matter, the RIC companies understand the importance of the Commission's role in properly administering and overseeing the NUSF programs. We do not have sufficient facts to determine if the increase administrative funding amounts are all necessary in order, as the Commission states, "to timely review and process support payments" and to support "a testing program to ensure network reliability and integrity." However, we are confident that the Commission has a firm understanding of its necessary personnel and other expenses in implementing the various programs contemplated in the order. Further, the actual costs of administering these programs will ultimately be known based upon experience that will be gained following their being instituted.

Q-II.13 **Does RIC have any additional comments as noted on page 24 of the February Order regarding the use of the SBCM, the annual funding need of $163 million (net of Federal USF of $92.6 million), total NUSF funding of $80 million, and the Commission proposes a rate design to produce $71 million, and the balancing of the NUSF stated goals with consumer surcharge levels?**

A. Subject to Section III of my testimony below, no, not at this time.

III. ADDITIONAL SUBJECTS FOR DISCUSSION

Q-III.1 **Does RIC have any additional areas or subjects that it believes should be addressed in this proceeding for resolution of the issues raised in the February Order?**

A. Yes. As indicated on page 26 of the February Order, the Commission stated that interested parties were "invited to provide additional positions and testimony on the matters relevant to issues raised in this Progression Order but that were not specifically covered in question format." RIC believes its additional subject areas comply with this directive.

Q-III.2 **What is your first additional area?**

A. RIC recommends that the Commission consider implementing the revised NUSF contribution mechanism on a phased in basis, perhaps over a period of two years. I particularly believe a phase in of some sort may be wise if a more complicated contributions methodology is ultimately decided upon, and if there is significant uncertainty about the methodology generating expected collections to meet all revised NUSF program budget needs.

Q-III.3 **Why would a phase in of the new contribution mechanism be appropriate?**

A. As a general matter, a phase in advances the concept of "gradualism" and provides an opportunity for the Commission to ensure that its new connections-based system does not have any unintended or unplanned problems. With this is mind, RIC believes that a phase in of the new connections-based NUSF proposal could achieve several public policy objectives:

- First, a phase in should help avoid any end user or carrier dislocations that may arise based on the new connections-based NUSF contribution system. Put another way, the new mechanism will achieve its goals only if it is implemented in a manner that generates the funds that are expected. A phase in over two years should help ameliorate any such remittance issues if they occur.
- Second, a phase in will allow time for the Commission action to become "final" and, thereafter, to determine whether any judicial or other legal challenges are made to the decision that adopts a NUSF connections-based contribution mechanism.
- Third, a phase in will allow time for the FCC to potentially act on federal USF contribution reform and, if the FCC does act, additional time for the Commission to make any modifications to its NUSF contribution regime that might be necessary in light of FCC action. This would be especially important were the FCC to finally permit states to assess broadband connections.
- Finally, since NUSF High Cost Program support is an essential component of carriers' ability to deploy and maintain voice and broadband services in rural areas with reasonable confidence that recovery of the costs of doing so will be in place, a phase in could very well help avoid disruptions to the deployment obligations and cost recovery needs should there be shortfalls

in available distributions due to unexpectedly low collections through the new mechanism.

Q-III.4 Do you have a recommendation as to how a phase in of a connections-based contributions methodology could be accomplished?

A. Yes, I do. One way this could be done is by phasing in the connections-based mechanism over a two-year period. In Year One, 50% of the per connection amounts set forth in Attachment One to this testimony would be assessed, and at the same time the revenues-based mechanism percentage surcharge would be reduced by 50% or such lesser percentage reduction as would be computed to account for the continuing deterioration of total revenues-based remittances. Then in Year Two, per connection amounts set forth in Attachment One (or in whatever rate design is ultimately approved by the Commission) would be entirely phased in and the revenues-based surcharge would be discontinued.

Q-III.5 Are you aware of any previous times that the Commission has used a phase in framework when addressing new regulatory requirements?

A. Yes. The Commission has used this approach in other situations to the benefit of the carriers and ultimately to the benefit of Nebraska ends users. Specifically, when the NUSF High Cost Program was initially implemented in 1998, large local exchange carriers were provided a three-year phase in and small local exchange carriers were provided a four-year phase in.

Q-III.6 Is there a second additional area on which you wish to offer testimony?

A. Yes. RIC believes that the Commission should establish the policy framework for a sustainable NUSF accountability program.

Q-III.7 What parameters does RIC believe the Commission should establish for this accountability framework?

A. As a general matter, RIC believes that all NUSF recipients must be held accountable for the proper use of the NUSF dollars they receive, demonstrating that the funding is used for purposes that the Commission seeks and that the overall objectives of the Commission are being met.

Q-III.8 Is there a third additional area on which you wish to offer testimony?

A. Yes. RIC believes that in the near future the Commission should direct its attention to a review of the existing NUSF High Cost Program distribution methodologies.

I recognize that reform of the current High Cost Program distribution methodology is receiving the Commission's attention is Docket NUSF-108 and that interested parties have provided comments in that docket regarding proposed changes to the current distribution system. However, RIC re-emphasizes to the Commission that the policies and methodology governing NUSF High Cost Programs support distributions are of great importance. For example, if a rural rate-of-return carrier finds itself in the position of earning above the Commission's authorized rate of return due to imputation of Federal USF support into the NUSF EARN calculations, will that carrier's distribution of NUSF High Cost Program support be available for use as broadband grant funding, as is being contemplated for price cap carriers in NUSF-108? While RIC awaits the Commission's further issuance of orders in that docket, RIC also anticipates that additional distribution issues will require scrutiny.

Q. Does this conclude your testimony?

A. Yes, it does.

VERIFICATION

STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

Ken Pfister, 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.

Ken Pfister

Ken Pfister

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

GENERAL NOTARY - State of Nebraska
KATHY EIDENMILLER
My Comm. Exp. September 20, 2017

Kathy Eidenmiller

Notary Public

ATTACHMENT ONE

RIC ALTERNATIVE CONNECTIONS-BASED MECHANISM PROPOSED RATE DESIGN

FCC 477 Report Reference Line	477 Report Data Element	Connection count December 31, 2015	Surcharge per Connection per Month	NUSF Assessment Amount in $$
1	Mobile telephony	1,886,000	1.57 (Note 1)	35,532,240
4	Wireline switched access lines and interconnected VoIP subscriptions	744,000 (Consisting of Line 7 (Consumer) + Line 10 (Business))		
7	Consumer-grade service	363,000 (Consisting of Lines 16 + 25)		
10	Business and Government grade service	382,000 (Consisting of Lines 19 + 28)		
16	Local exchange switched access lines (consumer)	242,000	2.50 (Note 2)	7,260,000
--	Remove NTAP connections	(13,508)	2.50	(405,240)
19	Local exchange switched access lines (business)	263,000	5.00 (Note 4)	15,780,000
25	Interconnected VoIP (consumer)	121,000	2.50 (Notes 2 and 3)	3,630,000
28	Interconnected VoIP (business)	119,000	5.00 (Notes 3 and 4)	7,140,000
			Total (Note 5)	$68,937,000

Assumptions:

- Note 1: This surcharge rate is calculated at 62.9% of the baseline surcharge rate per local exchange switched access line of $2.50. This percentage is the inverse of the FCC's Safe Harbor for interstate revenues for cellular service revenues that currently is 37.1%.

- Note 2: Currently pursuant to the revenues-based assessment mechanism a consumer will pay an NUSF surcharge for basic local service of $1.39/month (based upon local service benchmark rate of $19.95/month x 6.95% surcharge) plus the 6.95% surcharge applied to other intrastate voice services. Based upon a reasonable assumption of an additional \$7.50/month intrastate assessable revenue (i.e. consisting of intrastate toll charges, vertical services charges, etc.), a consumer would pay an additional \$0.52/month NUSF surcharge resulting in current monthly consumer surcharge of \$1.91 (local consumer connections are assessed as 100% intrastate service).

The proposed consumer surcharge rate of \$2.50 per connection per month represents an increase of \$.59/month or \$7.08/year in the consumer surcharge payment in order to produce annual NUSF collections as described in the above table. This total revenue will support the Commission's NUSF program budget set forth in Table 4 of its February Order.

- Note 3: As an effective substitute for traditional switched local exchange service connections, VoIP connections for consumers and businesses are subject to the same per connection surcharges as wireline voice connections for consumers and businesses.

- Note 4: This local exchange switched access connection surcharge rate for business and government grade service of \$5.00 per connection has been established at twice the monthly consumer surcharge rate in order the reflect the historical policy position that business grade service should bear a higher rate of support for universal service than consumer grade service based upon amount of service use and value of service to a business customer.

  For comparison purposes, under the current revenue-based contribution mechanism using the original NUSF business basic local exchange service benchmark of \$27.50/month plus a reasonable assumption of an additional \$25.00/month intrastate assessable revenue (i.e. consisting of intrastate toll charges, vertical services charges, etc.) a small business with a single connection would currently pay a surcharge of \$3.65/month (\$52.50 x 6.95%) (local business connections are assessed as 100% intrastate service).

  The proposed business surcharge rate of \$5.00 per connection per month represents an increase of \$1.35/month or \$16.20/year in order to produce the annual NUSF collections set forth in the above table. This total revenue will support the Commission's NUSF program budget set forth in Table 4 of its February Order.

- Note 5: This total amount does not reflect an uncollectability factor. Although RIC does not have data available to reflect the historical collection percentage for NUSF surcharge assessments, RIC notes that in the attachment to the February Order, a "collectible %" of 97.19% is reflected.

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:

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All Other Commenting Parties

Paul M. Schudel (by KE)

Paul M. Schudel