

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

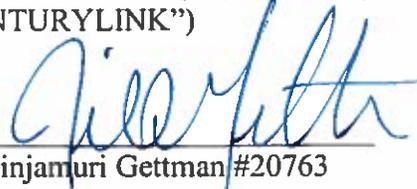
NOTICE OF SERVICE

**NOTICE OF FILING OF PRE-FILED DIRECT TESTIMONY  
OF ALAN LUBECK ON BEHALF OF UNITED TELEPHONE COMPANY  
OF THE WEST, INC d/b/a/ CENTURYLINK AND QWEST CORPORATION, INC.,  
d/b/a CENTURYLINK QC (collectively "CENTURYLINK")**

COMES NOW CenturyLink and hereby gives notice of service of the filing of the Direct Testimony of Alan Lubeck in the above matters. A copy of same is attached hereto and has been served on all interested parties as indicated on the Certificate of Service.

Dated this 24<sup>th</sup> day of March, 2017.

UNITED TELEPHONE COMPANY OF THE  
WEST, INC d/b/a/ CENTURYLINK AND  
QWEST CORPORATION, INC., d/b/a  
CENTURYLINK QC (collectively  
"CENTURYLINK")

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 24<sup>th</sup> day of March, 2017, a true and correct copy of the Notice of Filing of Direct Testimony of Alan Lubeck for CenturyLink was provided to the following interested persons by electronic mail indicated as follows:

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Original plus five copies via hand delivery:

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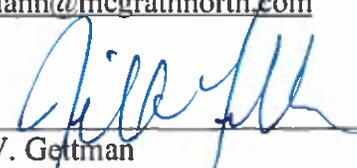
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Jill V. Gettman

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH CENTURYLINK.**

A. My name is Alan Lubeck. My business address is 600 New Century Parkway, New Century, Kansas 66031. I am currently employed by CenturyLink, Inc. as State Regulatory Operations Director.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND, WORK EXPERIENCE AND PRESENT RESPONSIBILITIES.**

A. I graduated in 1980 from the University of Nebraska – Lincoln with a Bachelor of Science degree in Business Administration with a major in Accounting, and then worked for six years in the audit and tax divisions at what is now Price Waterhouse Coopers. I joined Sprint in 1986, serving in various tax, accounting and finance positions for ten years. I then joined Sprint’s Wholesale organization just after the 1996 Federal Telecom Act was passed, and over the next decade I negotiated interconnection, resale and collocation agreements. When Embarq Corporation was spun off by Sprint in 2006, I was named a Wholesale Product Manager, where I developed and managed Special Access and Interconnection products and services. In 2008 I joined the Public Policy organization. As a Public Policy Director, I investigated, drafted and defended CenturyLink policy positions in specific areas. I have testified in Pennsylvania, Texas, Indiana, Washington and South Carolina, have filed written affidavits/testimony in Minnesota, Nevada and Oregon, and have presented to Commissions or Legislatures in Wyoming, Nebraska and at NARUC conferences. I currently support legislative and regulatory activities for Colorado, Kansas, Nebraska and Texas.

**Q. DOES CENTURYLINK SUPPORT A CONNECTIONS BASED CONTRIBUTION MECHANISM FOR THE NUSF?**

A. CenturyLink supports the move to a connections based contribution mechanism for the NUSF, which will help the Commission to stabilize the fund and provide support to the many programs under the NUSF umbrella. However, CenturyLink is concerned with the large number of significant process and program changes proposed by the Commission in this Order. The Commission must ensure that any changes made to the NUSF adhere to the legislative policy of the NUSF, which is that “(1) Quality telecommunications and information services should be available at just, reasonable, and affordable rates; (2) Access to advanced telecommunications

and information services should be provided in all regions of the state; (3) Consumers in all regions of the state, including low-income consumers and those in rural and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas; (4) All providers of telecommunications should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service; (5) There should be specific, predictable, sufficient, and competitively neutral mechanisms to preserve and advance universal service. Funds for the support of high-cost service areas will be available only to the designated eligible telecommunications companies providing service to such areas. Funds for the support of low-income customers, schools, libraries, and providers of health care to rural areas will be available to any entity providing telecommunications services, maintenance, and upgrading of facilities. The distribution of universal service funds should encourage the continued development and maintenance of telecommunications infrastructure; (6) Elementary and secondary schools, libraries, and providers of health care to rural areas should have access to advanced telecommunications services as described in the Telecommunications Act of 1996. To promote the efficient use of facilities in rural areas, universal service rules should not preclude the sharing of facilities supported by universal service funds with other local users, if such ineligible users pay appropriate retail usage rates to the telecommunications company; (7) The implicit support mechanisms in intrastate access rates throughout the state may be replaced while ensuring that local service rates in all areas of the state remain affordable; and (8) The costs of

administration of the Nebraska Telecommunications Universal Service Fund should be kept to a minimum.”<sup>1</sup>

**Q. WHAT CONCERNS DO YOU HAVE WITH THE COMMISSION’S PROPOSAL?**

A. When the NUSF was created the Commission established a social contract with the telecommunications carriers that receive NUSF support. That social contract required the recipient carriers to provide telecommunications services in high cost areas of the state at below cost rates in return for the support received. This support only partially offset the high cost of providing voice service in these areas. The Commission’s proposed changes to the NUSF must continue to honor that social contract and provide support for the ongoing maintenance and operating costs of the network so that residents in high cost areas continue to receive affordable voice service.

CenturyLink applauds the Commission for looking forward to what consumers may need in the future. In making its proposal, however, it appears the Commission is attempting to make the NUSF match its vision of the future without consideration of the existing mandate for voice service in high cost locations. The Commission cannot ignore either the current legislative policy or the consumer consequences of the changes it is proposing. If the Commission chooses to immediately transform the entire NUSF support to broadband deployment rather than continuing to support the ongoing costs of maintaining the network in high cost areas, it should recognize that change in direction and purpose of the support by relieving the carriers of the regulatory obligations that go with the receipt of high cost support for voice service, including the requirement to price voice service below cost. As a result of the 2011 FCC transformation order that converts high cost voice support to broadband support, the FCC recognized that obligations without support was not appropriate, and concurrent with the change to CAF II in

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<sup>1</sup> Neb. Rev. Stat. Section 86-323.

2015, the FCC granted forbearance to the Price Cap companies from most obligations in the lower cost areas where these companies no longer received federal USF support<sup>2</sup>.

**Q. DO YOU HAVE ANY CONCERNS WITH THE PROPOSED SURCHARGES?**

A. In setting the surcharges under the connections based methodology, the Commission must balance the needs of the fund with the burden that is placed on the consumers, who ultimately pay the surcharge. The consumer should not be subject to an unnecessarily high surcharge.

CenturyLink has a number of concerns with the proposed surcharges.

CenturyLink believes the surcharge for a residential connection should be the same regardless of technology. As noted earlier, the legislative policy for the NUSF includes a provision that “[a]ll providers of telecommunications should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.” Having different surcharges for mobile and fixed wireline residential connections would be neither equitable nor nondiscriminatory. Each residential connection to the network provides the same opportunity to use the network and should have the same surcharge applied. The current approach favors mobile connections over fixed wireline connections. According to the calculations on the Commission’s Attachment A, mobile connections are adjusted down by a factor of 2.73 to estimate a household, but fixed landline connections are not adjusted at all. Therefore, for a mobile household with two lines, the surcharge would be \$1.29, but for a fixed landline household with two lines the surcharge would be \$2.48 (\$1.24 X 2). The Order’s Attachment A doesn’t address family plans that are used by multiple households, and the carriers would not be able to identify how many households are covered under a single account. For example, a family wireless bill might have six lines spread across three households. Under the Commission’s proposal, even though this isn’t addressed in the Commission Order, it appears

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<sup>2</sup> Connect America Fund; ETC Annual Reports and Certifications, FCC14-190, Paragraphs 50-51. See <https://www.fcc.gov/document/fcc-releases-order-increase-connect-america-rural-broadband-speeds>.

this family account would pay an NUSF surcharge of only \$1.29, even though there are six connections and three households. All mobile connections should be charged the same surcharge rate, not some arbitrary factor that ends up charging a significantly higher rate per line to a mobile single connection account than for a family mobile account. Each residential mobile connection should have the same surcharge applied. Further, each residential wireless connection and fixed wireline connection should also have the same surcharge per connection. *Neb. Rev. Stat. § 86-323(5)* states “there should be specific, predictable, sufficient, and competitively neutral mechanisms to preserve and advance universal service.” If the surcharge is different per connection for mobile accounts or different for a mobile connection compared to a fixed landline connection, it is neither competitively neutral nor easy to administer, and creates winners and losers based on technology.

**Q. WHAT ABOUT BUSINESS CONNECTIONS?**

Just as the residential connection surcharge should be the same for each connection, the mobile and fixed wireline business connections should be charged the same surcharge. If the Commission has assumed some business mobile connections in the calculation of the mobile connection and that those mobile business connections are charged using the same surcharge methodology, that information was not conveyed in the Commission’s Order. It appears that a mobile business account of any number of mobile connections would have a surcharge of just \$1.29 per month, while the Commission estimated a \$3.11 surcharge **per connection** for fixed landline accounts. As noted above, *Neb. Rev. Stat. § 86-323(5)* states that the contribution mechanism should be competitively neutral, stable and easy to administer. Having wildly different surcharges for mobile business connections and fixed wireline business connections is not competitively neutral. The business surcharge per connection should be the same, regardless of the carrier providing the service or the technology used.

In the case of fixed wireline business surcharges, the Commission makes certain assumptions on the number of business connections in each revenue category. However, as the Commission states in Appendix A to the Commission's Order, the Commission has no data to support the allocations. CenturyLink is concerned that the NUSF could be underfunded if the Commission's assumptions prove incorrect, which can cause additional problems for the NUSF down the road.

CenturyLink also has some concerns with the tiers of business surcharges and the surcharges for those tiers. While the Commission indicates that the tiers are based on the end user retail rates charged for voice grade business service, it may be difficult for the carrier to determine which surcharge tier applies. For example, many business customers purchase multiple services, including voice telecommunications service, through Individual Case Basis (ICB) contracts where the monthly cost for voice telecommunications service may not be easily determined.

CenturyLink is concerned that providers will not be able to properly calculate the business surcharge in their systems based on the tiers listed in Attachment A.

**Q. THE COMMISSION PROPOSES A BUDGET FOR THE USE OF NUSF FUNDING RECEIVED UNDER THIS PROPOSAL. WHAT ARE YOUR THOUGHTS REGARDING THE PROPOSED BUDGET?**

A. The Commission estimates that the NUSF will collect approximately \$71 million a year through the proposed surcharges. The Commission proposes a budget for the use of those funds; however no details are provided that show how the proposed budget amounts were developed for each of the NUSF programs. With such a significant increase in NUSF funding available, more information should be provided for the proposed budget for each of the programs to ensure that the funds are being used appropriately.

For example, the largest program under the NUSF umbrella is the Fixed Broadband Program. The Commission's proposed budget for this program is increasing by nearly 50%, going from approximately \$37 million to \$54 million, and accounts for 76% of the total NUSF spending. However, no information is provided that explains how the Commission determined that \$54 million is the appropriate amount for this program. In addition, the title of the program implies that the funding is to be used only for the deployment of broadband, yet nothing in the Commission's Order states that definitively. As indicated previously, the Commission should continue to fund the ongoing costs of maintaining and operating the voice network as companies expand the broadband network to uneconomic locations. The FCC's CAF II support covers both deployment and maintenance of the broadband network in its support amounts. These costs are not insignificant, especially for companies that provide service to large areas of rural Nebraska. If the \$54 million is to be used for both broadband deployment and ongoing maintenance costs, what is the allocation between the two? Also, the FCC determined that it could not afford to fund the deployment of a fixed wireline broadband network to the 2.3% of Nebraska price cap locations that were over the cost ceiling<sup>3</sup>. Deployment of broadband throughout the state will be very expensive. CenturyLink agrees with the Commission's acknowledgement that there are options for broadband networks other than fiber in order to balance its goal of broadband throughout the state with its other goals, but is concerned that the Commission did not lay out realistic goals based on the support available through the High Cost Fund.

**Q. DO YOU HAVE ANY OTHER CONCERNS WITH THE PROPOSED BUDGET?**

A. The Commission's proposed budget for the Mobile Wireless Broadband program is increasing by 250%, from \$4 million to \$10 million. The Commission states that it receives applications in

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<sup>3</sup> <https://www.fcc.gov/general/connect-america-cost-model-illustrative-results>, View Connect America Cost Model Final Results: Offer by Carrier and by State, Report 3 tab, Rows 92-94, column F total / column D total.

excess of support that is available; however no information is provided that supports such a dramatic increase in the budget.

The Commission also proposes to establish yet another NUSF program, the Low Income Broadband program, which would help low income customers purchase broadband services, and would presumably work something like the current Nebraska Telephone Assistance program (NTAP) does for voice service. The Commission also proposes a budget of \$3 million for this program; however no information was provided that explains how this budgeted amount was determined. In addition, the Commission provides no information on how the program would be set up or monitored, how the funds will be used, or how this program will coordinate with the FCC's plans to use Lifeline funding for broadband. Moreover, CenturyLink has not seen any indication that the Commission has determined whether a Nebraska Lifeline Broadband program in addition to a federal Lifeline Broadband program is necessary to provide service at just, reasonable and affordable rates, nor how the Commission will eliminate the potential for duplicate discounts for voice and broadband. There was no indication of whether the Commission intends to further expand the new program so the consumer gets the federal broadband/voice discount, plus the state voice and state broadband discount on the same package of services.

Similarly, the Commission proposes to increase support for the NTAP substantially. The Commission is increasing the budget for this program to pick up the FCC's portion of Lifeline credit, which will be phased out over the next few years as the FCC transitions the Lifeline program to support broadband. To CenturyLink's knowledge, no other state has made plans to fund the FCC's portion of the Lifeline program and, in fact, several states have eliminated their low income voice programs. More fundamentally, since the FCC determined that its limited funding would be better used for Lifeline broadband, there should be a discussion regarding

whether a low income voice program is even necessary in view of the FCC's decision and the very economic voice options that are adjunctive to broadband connections. In addition, there was no indication that the NTAP program would wait to expand the voice discount until the FCC phased out the federal Lifeline voice discount in 2021. Given the FCC's move to allow eligible subscribers to choose through 2021 whether to use the FCC's credit for either voice or broadband service, 2018 is not the appropriate time frame for the Commission to begin increasing NTAP for the federal portion of the Lifeline voice discount (if it is necessary at all), unless the Commission proposes offering a \$12.75 voice Lifeline discount while the federal \$9.25 voice discount is still available, providing a \$22 per month Lifeline voice discount to eligible consumers. Just as the FCC did in its 2016 Lifeline order, the Commission must work to coordinate the Low-Income Voice program with the Low-Income Broadband program, since many subscribers purchase a bundle of services that include both voice and internet service. The Commission should ensure that it is not providing duplicate discounts to consumers.

**Q. WHAT ABOUT THE COMMISSION'S PROPOSAL REGARDING ADMINISTRATIVE COSTS?**

A. The Commission proposes to increase the budget for administrative expenses by 50% but, again, no information is provided to support this drastic increase. The Commission indicates that the additional funding is needed for the increased accountability, review, and auditing of NUSF support, as well as a testing program to ensure network reliability and integrity. CenturyLink agrees that accountability, review, and auditing of NUSF support are needed, but questions whether the costs to administer a program to test network reliability and integrity are a proper use of NUSF support. The Commission has an obligation to be transparent in its use of NUSF support dollars as well as an obligation to keep administrative costs low.

**Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT THE NUSF BUDGET?**

A. Yes. The Commission's proposed surcharge appears to yield a nearly 62% increase in support over 2016.<sup>4</sup> Such a significant immediate increase in the remittances into the NUSF could be harmful to Nebraska consumers and businesses since they will be funding that increase. While the Commission proposes that a \$71 million fund is necessary, its first priority should be to stabilize the fund to prevent further declines. After completion of a thorough investigation, the Commission will have a better understanding of how it can accomplish the fund's goals, and at that point can consider resizing the fund to an appropriate level.

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<sup>4</sup> See Appendix A, page 2. The program costs in 2016 amounted to \$43,934,096 while the Commission proposes program costs of \$70,994,000 in 2018, a 61.5% increase.