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	)	Application No. NUSF-100
CONTRIBUTION METHODOLOGY	)	PI-193
	)	

Direct Testimony

of

William F. Kreutz

March 24, 2017

DIRECT TESTIMONY OF
WILLIAM F. KREUTZ
APPLICATION NO. NUSF-100, PI-193

Q. Please state your name and business address.

A. My name is William F. Kreutz. My business address is 4001 Rodney Parham Road, Little Rock, Arkansas 72212.

Q. By whom are you employed and in what capacity?

A. I am employed as the Senior Advisor—Policy and Strategy for Windstream Communications.

Q. **How long have you been employed in the telecommunications industry?**

A. I started my career with Contel, an independent operating telephone company, in 1973. From 1973 to 1991, I held various accounting, budget, revenue and regulatory positions at Contel. From 1991 to 2006, I held regulatory and government affairs positions with GTE, Verizon Communications and Valor Telecom, all of which provided telecommunications services to customers in multiple states. In 2006, I started working for Windstream Communications as Vice President - Regulatory Strategy and in 2008 I assumed my current position. As Senior Advisor-Policy and Strategy for Windstream Communications, I have been actively involved in many state and federal regulatory proceedings including various proceedings in Nebraska. In total, I have been employed in the telecommunications industry for more than 43 years.

Q. As a result of your position with Windstream Communications, are you familiar with the company's Nebraska operations?

A. Yes. For purposes of this proceeding, the operating entity providing local exchange telephone services as an incumbent local exchange carrier ("ILEC") to customers in Nebraska has the legal name Windstream Nebraska, Inc. In addition to the ILEC, Windstream Communications also operates several competitive local exchange carriers and interexchange carriers in the state.[1] In this testimony, I will refer to the collective operating entities as "Windstream." Since this proceeding could change

[1] These entities are: McLeodUSA Telecommunications Services, LLC, PAETEC Communications, Inc., Windstream Communications, Inc., Windstream IT-Comm, LLC, Windstream KDL, Inc., Windstream Norlight, Inc., Windstream NTI, Inc., Windstream of the Midwest, Inc., Windstream Systems of the Midwest, Inc., Business Telecom, LLC, DeltaCom, LLC, and EarthLink Business, LLC.

the manner that all providers collect and remit their state universal service contributions, all of these entities and their customers could be impacted by the final order in this proceeding.

As a result of my work for Windstream, I have been actively involved with many aspects of Windstream Nebraska operations, including representing the company in various proceedings before the commission, mostly related to state universal service issues.

Q. Have you previously testified before this Commission?

A. Yes. I have testified before the Commission on behalf of the Windstream twice in recent years. I have also testified many times before regulatory commissions in other states.

Q. What is the purpose of your present testimony in this proceeding?

A. The purpose of my testimony at this time is to provide comment regarding the Commission's Order and Order Seeking Further Comments and Setting Hearing dated February 22, 2017 (the "Order"). My testimony evaluates the Commission's proposed connection-based NUSF contribution mechanism (the "Proposed Mechanism").

Q. What is your understanding of the Proposed Mechanism?

A. The Commission proposes a connection-based contribution mechanism whereby a surcharge would be assessed on each "wired line or wireless channel used to provide end users with access to assessable service." The proposed definition of an "assessable service" is "[a] service which allows a connection to other networks through inter-network routing as a means to provide telecommunications." "Internetwork routing" would be identified through working telephone numbers. The Commission emphasizes that the Proposed Mechanism would be based on intrastate voice connections and not on standalone broadband Internet access services.

The Order sets out separate, fixed, per-connection surcharges for mobile voice and residential fixed voice ($1.29 and $1.24, respectively). With regard to business fixed voice, the Order establishes five tiers of "end user retail rates charged for voice grade business service," along with corresponding surcharges. As the rate range within each tier increases, the associated surcharges increase, but not in a proportionate fashion.

Q. Has the Commission clearly explained how the Proposed Mechanism would work?

A. No. The Order is unclear on numerous points, such as the following:

What revenues are to be considered and included in the determination of what surcharge tier a specific customer would be assessed? Should only the business tariff rate be considered, or should EAS fees also be included?

Should long distance charges be included in determining the appropriate revenue tier for a customer? If so, these revenue amounts can fluctuate from month to month and besides causing tremendous billing implementation issues, could, for example, cause a business customer in one month to be charged a $3.11 surcharge and in the following month that has heavy long distance charges be assessed a $9.33 surcharge.

For business customers purchasing bundles or buy under individual contract basis that include broadband and other non-assessable services, what amount should be used to determine the appropriate rate tier?

Q. What factors should be considered in evaluating the Proposed Mechanism?

A. As Windstream has stated in its comments in this docket: (1) the funding level should be stable and predictable; (2) providers should contribute in a competitively and technology-neutral manner and provider discretion should be minimized through clear mandates; (3) consumer impacts should be equitably distributed consistent with the public interests of the NUSF; and (4) administrative efficiency should be maximized. In addition, in the Order, the Commission asks for comment on whether the mechanism is adaptable to future contribution decisions of the FCC.

Q. Based on the Order, are you able to assess the Proposed Mechanism according these factors at this time?

A. Because the Order is unclear on several points, I am not able to give a complete and meaningful assessment of the Proposed Mechanism at this time. However, I will endeavor to address the referenced factors based on the information at hand.

Q. Would the Proposed Mechanism provide stable and predictable funding?

A. Generally, yes. A connection-based mechanism should be less volatile than a revenue-based mechanism, and in particular, it should be less vulnerable to erosion of the contribution base. As the Commission stated in the Order, the existing revenue-based mechanism is sensitive to pricing changes (for example, due to bundling) as well as safe harbor allocations that skew revenue between jurisdictions. In contrast, a connection-based mechanism generally would not be impacted by these factors and would only result in a more stable assessment base since connections are generally increasing and don't have volatile fluctuations that can occur when determining jurisdictional retail revenues. .

Q. Is the Proposed Mechanism competitively and technologically neutral?

A. It's difficult to determine if the Proposed Mechanism is competitively and technologically neutral. There simply isn't enough information about how the current system collects surcharges from the various technology providers and whether or how the new mechanism will change the amounts collected from the same providers or customer groups. On its face, the Proposed Mechanism appears to be reasonably headed in the right direction if the goal is to make customer contributions the same regardless of what technology is chosen. However, the Business Fixed

Voice surcharge tiers are difficult to understand and may be very complex to implement, so more information is needed to weigh in on whether this portion of the proposal is competitively and technologically neutral.

Q. Would the Proposed Mechanism minimize provider discretion in assessing the surcharge?

A. Lack of clarity regarding several aspects of the Proposed Mechanism, as noted above, could result in providers using different methods to identify and collect the proposed surcharges from their customers. In particular, the multi-tiered business surcharges could be interpreted in a different manner by companies and cause an inconsistency across companies and customer groups. The Commission should address these issues to avoid confusion and discretionary implementation.

Q. Would the consumer impacts of the Proposed Mechanism be equitably distributed consistent with the public interests of the NUSF?

A. Because the Commission did not provide its rationale for its proposed allocation of the contribution burden among different consumers, it is not possible, at this time, to find that the overall scheme impacts consumers in an equitable fashion. The current revenue-based mechanism imposes a surcharge rate of 6.95%, which applies uniformly to consumers regardless of wireline vs. wireless technology or class of customer. In contrast, the Proposed Mechanism imposes different surcharges across technologies and customer classes—and in the case of business fixed voice, *within* a customer revenue class. If there is a sound basis for such distinctions, the Commission does not disclose it.

In theory, a connection-based mechanism can be an equitable way of funding universal service. Instead of focusing on the value of the assessable services, a connection-based mechanism focusses on the value of access to the network. However, the business rate tier component of the Proposed Mechanism is essentially a hybrid mechanism that is true to neither a revenue-based or connection-based philosophy and therefore is difficult to understand.

The proposed surcharges outlined in Table 2 are derived from an accompanying Excel spreadsheet Appendix that shows the calculations of the proposed rates. Since the spreadsheet indicates on several of the key assumptions in developing the surcharges (particularly the Business Fixed Voice surcharges) that the assumptions have no data to support the allocations and that these are for illustrative purposes, it's not possible to understand what the overall or individual customer impacts may be.

However, an observation of the illustrative data does raise a concern that should be addressed. The business tier surcharges, again only using the illustrative data, appears to reflect a possible irrational outcome. As an example a $1,000 rate corresponds to a $46.65 surcharge (i.e. 4.665%) while a $1,001 rate (just one dollar more) corresponds to a $124.41 surcharge (i.e. 12.43%)—a difference of nearly eight percentage points and nearly $80 in surcharge. Admittedly, purely connection-based mechanisms, by their nature, will result in differing effective surcharge rates relative to assessable revenues—precisely because revenues are not deemed to be relevant. But when, as in the case of the Proposed Mechanism, revenues are expressly taken into account, the tiered structure seems to impose a lot of lumpiness in the effective per revenue surcharge on individual customers.

Q. Would the Proposed Mechanism be easy to administer?

A. Generally speaking, a connections-based mechanism would be reasonably easy to administer because connections, if well-defined, are relatively easy to count and are less volatile than revenue. However, the tiered aspect of the business surcharge poses challenges for administration. While any change to the existing contribution mechanism will require carriers to incur costs and expend resources to implement the change, the tiered component of the Proposed Mechanism would require complicated and costly billing software adjustments to implement. In fact, it may not be feasible to implement these changes within the time-frame set by the Commission. Assuming that the mechanism could be billed, the ongoing operational tasks associated with a variable surcharge would be burdensome.

Q. Would the Proposed Mechanism be adaptable to future contribution decisions by the FCC?

A. For ease of administration, it would be preferable for state universal service contribution mechanisms to be consistent with the FCC mechanism. Also, with all the flaws of the current retail revenues assessment method used by both the FCC and this Commission, such method does assure that consumers are not assessed twice for the same dollar of spend. Also, a change in the state assessment method will require carriers to make costly and time-consuming adjustments to their billing systems to implement two (or for multi-state carriers, potentially numerous) different mechanisms. However, it is difficult to anticipate the nature or timing of future contribution decisions of the FCC. Thus, the Commission is left with the choice of deferring action on the state fund until after the FCC acts or going forward with a proposal that may be inconsistent with the FCC's decision. If the Commission determines that it can no longer wait to adjust the contribution mechanism, it cannot realistically expect that the adjustment will be consistent with future FCC action.

Q. Please summarize your concerns about the Proposed Mechanism.

A. While a connection-based mechanism may potentially serve the objectives of stability, predictability, competitive and technological neutrality, equity, and ease of administration, flaws in the Proposed Mechanism could undermine these objectives. Various aspects of the Proposed Mechanism are unclear, and the business rate tier component is unworkable. The Commission needs to reconsider the Proposed Mechanism with these concerns in mind.

Q. Does this conclude your direct testimony?

A. Yes. I may be called upon to submit rebuttal testimony if necessary.

<u>/s/ William F. Kreutz</u>

<u>William F. Kreutz</u>
<u>Sr. Advisor-Policy & Strategy</u>

Certificate of Service

The undersigned hereby certifies that on this 24th day of March, 2017, an electronic copy of the foregoing was emailed to the following:

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