BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, to make adjustments to its high-cost distribution mechanism and make revisions to its reporting requirements.	))))	Application No. NUSF- 108

COMMENTS OF
CITIZENS TELECOMMUNICATIONS COMPANY OF NEBRASKA
D/B/A FRONTIER COMMUNICATIONS OF NEBRASKA

On September 27, 2016, the Nebraska Public Service Commission (the "Commission") issued its *Order Opening Docket and Seeking Comment* (“September 27 Order”), opening the above-captioned proceeding to consider certain modifications to the high-cost funding mechanism in the Nebraska Universal Service Fund ("NUSF"). In the September 27 Order, the Commission proposed several modifications to the distribution and reporting processes of the NUSF, and sought comment from parties regarding those proposals. Citizens Telecommunications Company of Nebraska, Inc. d/b/a Frontier Communications of Nebraska (“Frontier”) files the following Comments in response to the September 27 Order.

The proposals included in the September 27 Order raise a number of questions, and important aspects of the new approach suggested by the Commission are unclear. Frontier cannot fully respond to the proposals at this time, without a better understanding of exactly how the Commission’s proposal would be implemented. The comments following touch on Frontier initial reactions to the proposals, but certainly more discussion would be appropriate as the proposed new methodology is fleshed out.

Distribution mechanism

The Commission proposes to maintain two separate support budget amounts, one for price cap carriers and one for rate of return carriers. Initially, those two budgets would be set at the 2016 support levels for both categories of carriers.[1]

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[1] NUSF-108, September 27, 2016 *Order Opening Docket and Seeking Comment*, page 2.

It is not clear to Frontier exactly what this decision to set the budgets at the 2016 support level means. Will the support budget for the price cap carriers (CenturyLink, Windstream, and Frontier) be set individually at their 2016 levels? Or does the Commission propose to set a total price cap support budget at the total 2016 amount, with the allocation between the three carriers to vary from the current allocation on some basis? Without further clarification, Frontier is unable to comment meaningfully on this proposal.

The Commission proposes to again use the Support Allocation Mechanism ("SAM") for price cap carriers; a reversal of actions it took recently in Docket NUSF-99. As a result, the Commission will again use the information from the NUSF-EARN Forms of price cap carriers in this mechanism. Frontier's understanding is that the information from the NUSF-EARN Forms is a fundamental input to the SAM, and that the information drives the amount of support allocated to each carrier via the SAM. In other words, the NUSF-EARN Form results largely determine the amount of support a carrier receives.

The Commission also proposes several changes to the NUSF-EARN Form for price cap carriers, all of which would serve to reduce the indicated support needs resulting from the Form. Yet, the order states that these changes would not "disallow or cap NUSF high-cost support."[2] Frontier does not understand how this can be true, if the revised NUSF-EARN Form data (which will, by design, result in lower need than the current format) is used as an input to the SAM.

Perhaps the Commission's intent is to use an unadjusted NUSF-EARN Form (that is, excluding the adjustments it proposes in this order) as a basis for the SAM computations, and then use the adjusted NUSF-EARN Form data for a different purpose. But that is not what the order describes. With the brief description of the Commission's intent that appears in the September 27 Order, Frontier is unclear exactly how the Commission would propose to use the NUSF-EARN Form data in calculating support for price cap carriers. Without a fuller understanding of the Commission's plan for employing the SAM approach in determining

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[2] NUSF-108, September 27, 2016 *Order Opening Docket and Seeking Comment*, page 3.

support levels for price cap carriers, Frontier cannot offer any comments at this time, other than requesting a more thorough description of the Commission's proposed use of the SAM process.

Reported earnings adjustments

The Commission proposes to incorporate three "adjustments" to the NUSF-EARN Form. It appears that all three changes would serve to reduce the amount NUSF funding need calculated under the process.

Competitive losses)

First, the Commission proposes to quantify the revenue related to competitive losses, and then impute that figure into the NUSF-EARN Form reporting. Competitive losses are a fact, despite this adjustment's attempt to whitewash them. Price cap carriers have lost significant numbers of customers to competitive carriers, both wireline and wireless carriers. Frontier objects to this proposal, both on policy and practical grounds.

From a policy perspective, it is not appropriate to consciously ignore reality, and pretend that the telecommunications market is a monopoly, with the incumbent as the only provider. The adjustment proposed would totally divorce the NUSF-EARN Form data from the real situations under which the price cap carriers provide service.

As a practical matter, the proposed adjustment captures only half of the impact of customers leaving a price cap carrier for a competitive carrier, or vice versa. As competitive carriers will no doubt attest, serving a customer is not a pure-profit enterprise. With the new customer's revenue come the costs of providing service to that customer. Plant needs to be acquired to serve the customer, operations and maintenance expenses need to be funded. An adjustment to impute local service revenue from theoretical customers should also include recognition of the costs related to providing that service.

Further, the proposal to identify these "competitively lost" customers via the landline 911 reports is not valid. Simply because a customer shows up on a competitive carrier's 911 report does not mean that the customer was previously a customer of a price cap carrier. Many customers initiate service with a competitive carrier, and have never been a customer of a price cap carrier. Therefore, it is incorrect to designate all customers of competitive carriers as "competitive losses" for the purpose of imputing revenue. Further, it is not clear that the data in the 911 reports is geographically precise enough to determine which of the competitive carrier's customers reside in which price cap carrier's service territory. For example, if a competitive carrier reported customers in Howard County, it is not clear whether those customers reside in CenturyLink territory, Windstream territory, or Frontier territory.

Rate of return)

The Commission proposes to reduce the rate of return used in the NUSF-EARN Form from the current level of 12% to 9.75%. As justification for this change, the Commission points to the FCC's recent adoption of that 9.75% figure for its use in the nationwide methodology for universal service support for rate of return carriers. While that figure may be appropriate for the FCC's purposes in that particular docket, it is not clear that the 9.75% figure accurately reflects the specific circumstances that pertain to CenturyLink, Windstream, and Frontier in Nebraska.

CAF II)

The Commission questions how it should reflect CAF II support received by the price cap carriers in the NUSF-EARN Form, noting that it currently considers federal high-cost support through the SAM process. The purpose of the CAF II funding is to support the deployment of broadband. This is a different purpose than the federal high-cost funding regime that was previously in place which was directed to the support of voice service. If the Commission desires to include the CAF II support amounts in the NUSF-EARN Form, then the plant and expenses associated with those CAF II projects also should be included in the NUSF-EARN Form.

The calculation of support

The Commission states that it "proposes to allocate that portion of support which would be above a 9.75 percent rate of return to that carrier for grant-based projects."[3] As mentioned earlier, Frontier is unclear how the Commission proposes to determine the total support for each carrier. If indeed the Commission intends to use the results of the NUSF-EARN Form (reflecting the adjustments proposed, including the 9.75% rate of return factor) to determine the

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[3] NUSF-108, September 27, 2016 *Order Opening Docket and Seeking Comment,* page 4.

total support for each price cap carrier, then it does not appear that there would be any support above the 9.75% level to allocate. Again, Frontier needs to better understand the Commission's plan for determining the total support amount for each price cap carrier before it can comment on any allocation process.

Broadband coverage

While the September 27 Order does not address the process by which price cap carriers would avail themselves of any amounts of support which the Commission allocates to grant-based projects, the Commission may be considering a framework similar to that which it set up in NUSF-99. Under that NUSF-99 framework, the price cap carrier would propose a broadband deployment project to the Commission. If the Commission approved the project, then the costs of the project would be reimbursed from the money set aside by the Commission to fund the grant-based projects. Under that "prior Commission approval" approach, the Commission could weigh the desirability of the proposed project using various measures, including material from the Form 477 broadband deployment reporting. The Commission should not attempt to dictate exactly where those grant-based projects must be done; rather, the prerogative of proposing specific projects should be left to the price cap carrier which is has a better understanding of its network and customer base.

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Respectfully submitted,

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