

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 to make revisions
to its reporting requirements.)

Application No. NUSF-108)



COMMENTS OF THE RURAL INDEPENDENT COMPANIES

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Comments in response to the Commission’s Order Opening Docket and Seeking Comment entered in this proceeding on September 27, 2016 (the “Order”). RIC appreciates the opportunity to provide the following Comments to the Commission.

The Commission’s comments in the *Order* that precede the request for public comments include the statement that “not all carriers were incented to make needed investments in their plant facilities in a timely fashion.”² While no specific carriers are identified in connection with the foregoing statement, RIC believes that its member Companies listed in footnote 1 below have conscientiously invested in plant facilities such that access to “broadband” services, as currently defined by the Commission, is available to the vast majority of the customers located in the RIC members’ service areas. To the extent that the highest cost customers located in such areas do not yet have broadband availability, the RIC members continue their efforts to ubiquitously offer

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

² *Order* at page 2.

access to broadband, and in addition are making efforts to increase the broadband speeds available to their customers.

With regard to the Commission's desire to strengthen existing reporting and accountability requirements, RIC is on record in support of these efforts by the Commission.³

RIC supports the Commission's efforts to encourage investments in broadband-capable networks, and to implement steps to achieve this goal in concert with the Commission's goals to reform the contribution mechanism and to resize the NUSF High-Cost Program.⁴ Efficient and responsible use of the limited resources of the High-Cost Program in coordination with federal universal support will benefit all Nebraska consumers.

Issues for Public Comment

The following comments are organized in accordance with items A through D as set forth in the *Order*.

A. Distribution Mechanism

The Commission proposes to put the distribution of support for price cap carriers back through the Support Allocation Mechanism ("SAM") and proposes to retain separate budgets for price cap ("PC") carriers and rate-of-return ("RoR") carriers. Since the Commission is proposing to maintain separate budgets for PC carriers and RoR carriers (a position that RIC supports), the distribution methodology and amount of NUSF support regarding RoR carriers will apparently not be impacted by the Commission's proposal to put the distribution of support

³ See e.g., *Comments of the Rural Independent Companies in Response to Order Seeking Comments*, Application No. NUSF-50 (Dec. 10, 2015) and *Comments of the Rural Independent Companies in Response to Order Seeking Further Comments*, Application No. NUSF-100 at pages 9 and 25 (June 6, 2016).

⁴ *Order* at page 2; also see generally, *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, Order seeking Further Comments (April 5, 2016).

for PC carriers back through SAM. RIC therefore does not offer an opinion as to whether this Commission proposal should be adopted; however, RIC favors implementation of reasonable actions by the Commission to assure the efficient use of High-Cost Program support and accountability for the use of such support.

B. Reported Earnings Adjustments

The Commission proposes to utilize the NUSF-EARN data to determine the percentage of ongoing versus grant-based support that would be provided to each PC carrier, and to make this determination through several steps. First, the Commission will consider competitive losses experienced by each PC carrier and add revenue back into the calculation to offset the loss in revenue experienced due to competitive attrition. Second, the Commission proposes to lower the current 12 percent rate of return to 9.75 percent. Third, the Commission proposes to account for Federal universal service fund support received by the carrier through the CAF II program and seeks proposals regarding proper accounting for Federal universal service support received, and in particular, seeks comment as to whether the timing of receipt of support should be considered.

Since the Commission proposes to allocate 2017 NUSF support for PC carriers between grant-based projects (capital investments) and on-going maintenance and operating expense based on a carrier's rate-of-return, it will be necessary for the Commission to obtain data in order to calculate each PC carrier's rate-of-return. If it is the Commission's intent to use 2015 data to calculate this rate-of-return, because the amount of each PC carrier's CAF II support and frozen high cost support is publicly available information, the Commission could use such publicly available information as part of the PC carrier's 2015 EARN form calculation. The Commission would also need to request additional 2015 EARN form data from each PC carrier in order to make its proposed rate-of-return calculation.

RIC notes that the Commission cites the FCC's *Connect America Fund Order* as the basis to lower the rate-of-return to 9.75%. The FCC, however, transitions to this rate-of-return for legacy rate-of-return carriers beginning July 1, 2016 and ending on July 1, 2021.⁵ Although not so stated in the *Order*, if the Commission ultimately determines to extend to RoR carriers the same approach that it proposes under Section B of the *Order* to apply to PC carriers, RIC is supportive of such a determination provided that the Commission adopts the same transition as the FCC adopted in the *Connect America Fund Order*.

C. The Calculation of Support

The Commission proposes to allocate that portion of support which would be above 9.75 percent rate of return (presumably for PC carriers) for grant-based projects. Any support not allocated to grant-based projects would be distributed to the carrier as it had been previously distributed under the SAM mechanism for ongoing provision, maintenance, and upgrades to their network. The Commission seeks comment on its proposal to allocate grant-based versus ongoing model support.⁶ Prior to stating its position in response to this proposal, RIC will await clarification from the Commission as to whether it is intended that this approach would also apply to RoR carriers.

D. Broadband Coverage

The Commission seeks to target support to areas lacking in broadband coverage utilizing Form 477 broadband deployment data as well as data from carriers deploying broadband through the use of Connect America Fund support in hopes that carriers will extend broadband to

⁵ See, *In the Matter of Connect America Fund; ETC Annual Reports and Certifications; Developing a Unified Intercarrier Compensation Regime*, WC Docket Nos. 10-90, 14-58, CC Docket No. 01-92, 31 FCC Rcd. 3087, 3093 (Mr. 30, 2016) (the "*Connect America Fund Order*"). [para. 326]

⁶ *Order* at page 4.

unserved areas. The Commission seeks comment on how best to use the Form 477 data as well as the data from the carriers for this purpose and further seeks comment on whether there is another dataset it should consider. It is unclear as to whether the Commission intends for its statements on this point to apply only to PC carriers or also to apply to RoR carriers. Based upon the assumption that ultimately the considerations relating to this topic will be applied to RoR carriers, RIC offers the following brief observations.

The Form 477 broadband deployment file shows all census blocks in which the filer makes broadband connections available to end users, along with the technology of transmission, maximum upload and download speeds and consumer versus business/government service. By using the deployment file, the Commission should be able to determine which census blocks lack broadband as defined by the Commission. In light of the fact that the Commission's current definition of "broadband" is based upon 4/1 Mbps and the FCC's definition is based upon 10/1 Mbps, RIC recommends that the Commission should re-evaluate its definition of broadband for purposes of the *Order*.

III. CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Comments in response to the questions posed by the Commission, and look forward to providing reply comments for consideration by the Commission.

Dated: October 27, 2016.

Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telephone Co., Inc., and Three River Telco (the "Rural Independent Companies")

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 27th day of October, 2016, an electronic copy of the foregoing pleading was delivered to:

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