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) Progression Order No. 3

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Public Service Commission

COMMENTS OF THE AMERICAN BROADBAND COMPANIES, THE CONSOLIDATED COMPANIES, GREAT PLAINS COMMUNICATIONS, INC. AND THE NEBRASKA CENTRAL TELEPHONE COMPANY IN RESPONSE TO JUNE 19, 2018 ORDER SEEKING FURTHER COMMENTS AND SETTING HEARING

I. Introduction

The undersigned companies ("the Companies")[1] respectfully provide the following Comments to the Nebraska Public Service Commission ("the Commission") in Progression Order No. 3 ("P.O. 3 Order" or "Order") of the above-captioned docket. The Companies cannot stress enough the importance of this docket to the future prospects of broadband deployment and ongoing maintenance of broadband facilities in high-cost areas of Nebraska served by rate-of-return ("RoR") carriers. While the proposals presented in the P.O. 3 Order are difficult, if not impossible, to fully understand and replicate, the Companies provide these Comments to improve the proposals based on our presumed understanding of them.

It is widely accepted that the cost of deploying broadband in rural areas of the nation, including much of Nebraska, is significant. The co-author of a recently published report estimates the cost of deploying fiber to the home ("FTTH") to unserved rural areas in the country

[1] The Companies include the American Broadband Companies (Arlington Telephone Company, the Blair Telephone Company, Eastern Nebraska Telephone Company and Rock County Telephone Company); the Consolidated Companies (Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc. and The Curtis Telephone Company); Great Plains Communications, Inc.; and The Nebraska Central Telephone Company.

at $61 billion, excluding necessary operating expenses.[2] A map included in the report compares the cost of fiber deployment across the nation, and a wide swath of rural Nebraska (including areas served by the Companies) was in the highest cost category (areas in excess of $200 per location per month). Thus, there is much to be done in Nebraska to accomplish universal broadband, and predictable and sufficient NUSF support is critical to that result.

As a fundamental matter, the P.O. 3 Order proposes to establish separate NUSF funding tracks for RoR companies largely based on whether their federal support is derived from legacy or the Alternative Connect America Model ("A-CAM") support mechanisms. The Companies believe this approach appears to result in an outcome that is arbitrary and damaging to customers of companies that accepted A-CAM support. The Companies will propose changes to the apparent methodologies presented in this Order in an attempt to "level the playing field" so that high-cost areas of A-CAM companies will receive appropriate support under the NUSF high-cost program.

One significant concern with the Commission's proposal is the omission of A-CAM companies' partially funded census blocks from the determination of NUSF-eligible costs. The Federal Communications Commission ("FCC") intentionally changed the methodology for RoR A-CAM carriers from that used for price cap carriers, whose Connect America Fund ("CAF") support was targeted to locations with costs less than $146.10 per month. Recognizing that RoR companies wish to serve *all of their customers, including those in higher-cost areas whether partially or fully funded,* the FCC specifically provided some level of funding to all A-CAM companies' eligible census blocks. Given that the FCC established a single, nationwide

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[2] *See* "Economists Put the Tab at $61 Billion to Bring Fiber to Rural U.S.," Telecompetitor, June 11, 2018. The article highlighted a white paper entitled "Rural Broadband Economics: A Review of Rural Subsidies," commissioned by NTCA-The Rural Broadband Association and USTelecom-The Broadband Association.

maximum level of support, $146.10 per location, and the relative high cost of Nebraska locations, there are a large number of partially funded RoR locations in Nebraska. However, the Commission's proposal apparently eliminates from NUSF eligibility *all* A-CAM-supported census blocks, which will result in severe under-funding of A-CAM companies' costs and larger numbers of unserved customers.

The proposed plan appears to be based on the assumption that the A-CAM funding mechanism replicates the federal support provided to price cap companies, and thus it establishes grant-based distribution rules and possibly price cap-like operating expense allowances for A-CAM companies in Nebraska. Meanwhile, legacy companies that have utilized federal support to build out their networks will receive NUSF support for both their capital expenses and operating expenses. Any discrepancies that the Commission may contemplate in support calculations between A-CAM and legacy RoR companies should be eliminated to fairly treat rural customers of all RoR companies.

The Companies' Comments will demonstrate that A-CAM funding elected by Nebraska RoR Companies comes with specific buildout requirements targeted to areas in need of further broadband deployment. Since A-CAM funding only provides support for an average of 48 percent of the total cost of providing and maintaining service,[3] the NUSF must supplement federal funding so that broadband deployment can happen statewide.

[3] Among the Nebraska A-CAM companies, between 36 and 85 percent of the SBCM cost is supported by federal A-CAM. The remainder of the cost must come from other sources, such as the NUSF.

II. SBCM Costs Should Be Used as the Baseline for Determining Each RoR Company's State-Eligible Costs, with No Exceptions or Other Parameters Used

The NUSF-108 Order states the Commission may prefer to use the State Broadband Cost Model ("SBCM") over the Benchmark Cost Proxy Model ("BCPM").[4] The BCPM, which was used to estimate the cost of a copper network with maximum loop lengths of 18,000 feet, has now been updated. The resulting SBCM determines the costs to construct and operate FTTH networks. The Companies support the use of SBCM, as long as SBCM costs are applied equally to all companies. Further, the Commission should consider the federal support that each company, legacy or A-CAM, receives when establishing the amount of state support for which a company is eligible. In no case, though, should a company receive federal and state USF support combined in excess of its SBCM cost, even though its return is less than the authorized return.

The Commission should also be aware that the FCC has modified support for both legacy and A-CAM companies. The FCC eliminated the so-called "haircut" for legacy companies' 2017-18 support by reversing the impact of the budget control mechanism.[5] This action will reinstate legacy companies' federal support to full funding for the 2017-18 cost year. Meanwhile, A-CAM companies have been offered a revised offer at up to $146.10 per eligible A-CAM location,[6] with a concomitant increase in a company's buildout obligation. Accompanying this Order, the FCC issued a Notice of Proposed Rulemaking requesting

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[4] *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, Progression Order No. 3, at 5 (June 19, 2018) ("*P.O. 3 Order*").

[5] *Connect America Fund; ETC Annual Reports and Certifications; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing a Unified Intercarrier Compensation Regime;* WC Docket Nos. 10-90, 14-58, and 07-135, CC Docket No. 01-92; Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, paras. 77-81 (Mar. 23, 2018) ("*2018 RoR Reform Order and NPRM*").

[6] *Id.* at paras. 67-68.

comment on stabilizing future legacy support, increasing funding for existing A-CAM companies to $200 per location and issuing an A-CAM offer to additional legacy companies.[7] For both legacy and A-CAM companies, the Commission will need to recognize these historical changes in support, as well as potential future changes, and adjust companies' state support accordingly.

III. A-CAM Companies' Partially Funded Locations Should be Eligible for NUSF Support

The proposal in the P.O. 3 Order to remove all CAF-funded census blocks from funding[8] appears to be premised on an assumption that the federal support RoR companies receive for each census block under the A-CAM fully funds the *total* costs for those census blocks. This assumption is in error. A-CAM funding approved thus far by the FCC only funds A-CAM companies' eligible census blocks up to $146.10 per eligible location,[9] which is much less than SBCM calculated cost for many locations. For many companies, in fact, the funding provided under A-CAM is less than half the SBCM cost to provide and maintain service in their service areas. The Companies combined on average only recover 48 percent of their total costs when A-CAM is funded at a level up to $146.10 per location. Under the Commission proposal, the remaining costs in A-CAM partially funded census blocks would be ineligible for NUSF support, a result that is inconsistent with the concept that the funding of infrastructure should be a joint state and federal responsibility[10] and directly conflicts with the Legislature's intention in LB 994.

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[7] *Id.* beginning at para. 103.

[8] *See P.O. 3 Order* at 4.

[9] *See 2018 RoR Reform Order and NPRM* at para. 66.

[10] *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, para. 184 (2016) ("*2016 RoR Reform Order*"). ("[T]he 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

The Order disregards the fact that the FCC intentionally changed the funding methodology for the RoR A-CAM program from how the price cap carriers' CAF funding functions. The FCC implemented a "high-cost threshold" for price cap areas, whereby funding was not provided to locations above that threshold of $146.10 per location. Price cap carriers, therefore, are only required to provide broadband at 10/1 Mbps to census blocks with model costs at or below $146.10 per location.

In contrast, A-CAM-electing companies have to build out to prescribed numbers of locations at speeds of 25/3 Mbps, 10/1 Mbps or 4/1 Mbps, reflecting the varying costs of serving these high-cost areas and the limited budget that was made available.[11] For RoR carriers that opted for A-CAM, the FCC provided the same maximum support amount per location to *all* eligible census blocks with average costs above the funding benchmark of $52.50,[12] even though the costs of some census blocks far exceeded the funding cap of $146.10. The A-CAM funding methodology therefore resulted in large number of A-CAM companies' census blocks being partially funded, especially in higher-cost western states. It is reasonable to conclude that by the plain language in the P.O. 3 Order ("We also propose removing the CAF-supported census blocks," stated on Page 4 of the Order) the Commission contemplates excluding from funding eligibility *all* RoR A-CAM census blocks that received *any* federal support, including the many census blocks that are only partially funded. As observed above, given how much cost is not

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.").

[11] *Id.* paras. 25-26.

[12] *Id.* para. 37.

recovered for the Companies with federal A-CAM support, it is apparent that NUSF funding is necessary to serve locations in partially funded census blocks.

The Order then compounds this problem by limiting funding to only grant-based funding for whatever few census blocks remain.[13] Since the Commission has not released any data on census block eligibility under its proposal, it is unclear what A-CAM census blocks, if any, would remain eligible for funding. The FCC eliminated the following census blocks from eligibility under A-CAM: (1) those census blocks with a cost less than $52.50, (2) those census blocks that are at least partially served by FTTH facilities, and (3) those census blocks with unsubsidized competitors that can provide voice service and broadband of at least 10/1 Mbps. Presumably it is only these census blocks that the FCC eliminated from eligibility that are being considered for support by the NUSF.

The census blocks that the FCC eliminated from eligibility should not necessarily be considered for NUSF grant-based support. First, census blocks with a cost of $52.50 or lower are expected to be funded by end user charges. In Nebraska, these census blocks are likely in towns or cities, and thus should not be supported by NUSF. Second, while census blocks at least partially served with FTTH facilities were eliminated from A-CAM funding in an effort to target funding to areas that were not yet built, these census blocks are in need of state funding for the facilities already constructed. However, it does not make sense that these census blocks should need significant *grant* funding because likely most of the capital expenditures have already made. Third, the Commission proposes to disallow census blocks that are served by an unsubsidized competitor that can provide voice service and wireline broadband of at least 25/3

[13] The Companies believe that the small number of out-of-town census blocks that the Commission may find to be unfunded among A-CAM companies in the state are those eliminated by the FCC from A-CAM eligibility. *Id.* para. 56.

Mbps. The following table shows which census blocks are eligible for support under A-CAM and the NUSF as proposed in the Order:

Unsubsidized Competitor offers voice and broadband less than 10/1 Mbps	Unsubsidized Competitor offers voice and broadband of at least 10/1 Mbps and less than 25/3 Mbps	Unsubsidized Competitor offers voice and wireline broadband of 25/3 Mbps or greater
NUSF ineligible	NUSF eligible	NUSF ineligible
A-CAM eligible	A-CAM ineligible	A-CAM ineligible

The only census blocks supported by NUSF would be those where an unsubsidized competitor can provide voice service and broadband of speeds of at least 10/1 Mbps. Such a list of census blocks is likely to be minimal indeed.

This apparent decision by the Commission to implement rules for the A-CAM companies similar to those implemented for price cap companies appears to be based on the mistaken belief that all A-CAM census blocks that receive federal funding are fully funded. Again, such is not the case. The Companies urge the Commission to revise this portion of the proposal and make all partially funded A-CAM census blocks eligible for NUSF support. This change will cause the combined support, federal plus state, for a census block to properly reflect the actual SBCM cost of the census block and will fairly treat all Nebraska customers, regardless of where they are located.

IV. RoR Companies in Nebraska Invest in Their Networks in the State, and the Funding Mechanism for RoR Companies Need Not Use Grants to Achieve Additional Buildout

The Order appears to treat A-CAM and other RoR carriers with rural broadband deployment left to accomplish similarly to how it treats price cap carriers for NUSF distribution purposes. In recognition of the vast differences between price cap and RoR carriers in the state, we urge the Commission to maintain distinct distribution rules based on the type of carrier, price cap or RoR. Differing regulations in recognition of the obvious differences between RoR and price cap carriers have been historically maintained by the Commission and the FCC. The FCC continues to maintain the RoR universal service distribution program separate from its differing price cap universal service program.

One particular area in which the P.O. 3 Order strays into use of the NUSF existing price cap distribution rules is by proposing to use grants for broadband project construction. Rather than adopt this policy, the Companies urge the Commission to continue the practice of making ongoing support available to all RoR carriers for both capital and operating expenses. We make this recommendation in light of the irrefutable differences between price cap and RoR carriers in the state, and the accepted fact that RoR companies do invest and will continue to invest in their rural customers as long as universal service support systems are properly structured. These are differences that both the Commission and the FCC have long recognized and require that distinct NUSF funding methodologies remain in place.

We understand and share the Commission's interest in wanting to attain further buildout of broadband services in rural Nebraska, but using grants in RoR areas will not accomplish this goal. All RoR carriers rely on universal service support to assist with needed capital investments and to help defray operating costs. Without exception, Nebraska RoR carriers serve small rural communities, extremely rural unincorporated areas and the vast surrounding areas, often hundreds if not thousands of square miles in size. The largest community served by a regulated RoR carrier in the state is Blair, population 8,089. In contrast, the price cap carriers maintain regulated operations in the state's larger cities including Omaha, Lincoln, Grand Island, Kearney and others, in addition to serving rural areas. Nebraska RoR carriers have no larger population centers to offset the costs of their rural operations. Furthermore, price cap carriers have large cities in other states that demand their resources – for example, CenturyLink operates in Seattle, Denver and Minneapolis. Thus, to ensure that the capital expense portion of NUSF support for which price cap carriers qualify is utilized in Nebraska for broadband buildout, it is reasonable to only provide price cap carriers funding via grants.[14]

Importantly, as the FCC has observed, RoR carriers have strong track records of investing in their networks.[15] This Commission has also recognized that RoR carriers in the state have generally invested in their networks,[16] while stating concerns with price cap carriers' broadband investments in Nebraska.[17] This concern over the levels of investment may justify grant-based support for price cap carriers, but the same conclusion should not be reached for RoR companies, including those that receive A-CAM support.

From strictly a financial perspective, discontinuing NUSF support for RoR capital spending would have a severely negative effect on companies' financial strength. If ongoing support for capital investments is discontinued, a RoR carrier will lose a significant portion of its rate base going forward since grants are not considered capital investments on a company's

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[14] The Companies note that the price cap portion of the NUSF budget has a balance of more than $27 million. *See* Fund Balance Report, April 30, 2018. The large amount of unused funds appears to demonstrate that the price cap broadband grant program in the state is being underutilized.

[15] *See, e.g., In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund;* WC Docket Nos. 10-90, 07-135, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51; WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 Rcd 17663 (Nov. 18, 2011), para. 205 ("We recognize that, in the absence of any federal mandate to provide broadband, rate-of-return carriers have been deploying broadband to millions of Americans ..."). *See also 2016 RoR Reform Order*, para. 2 ("Rate-of-return carriers play a vital role in the high-cost universal service program. Many of them have made great strides in deploying 21st century networks in their service territories, in spite of the technological and marketplace challenges to serving some of the most rural and remote areas of the country.").

[16] *See 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, Order Seeking Further Comment and Releasing Proposed 2017 Distribution Calculations, at 3 (Dec. 20, 2016) ("Our data further shows an *increase* in investment made by rate of return carriers") (emphasis added).

[17] *Id.* ("Our data has indicated a significant decline in investment levels by price cap carriers over the years.").

books. Thus, if grants are implemented, a RoR company will not be able to utilize that money for making capital investments on which the company can continue to earn, which would disrupt cash flows, deteriorate the company's financial health and ultimately result in service degradation. The FCC has recognized the need for universal service payments to support both ongoing capital and operating expenses. In the A-CAM program, the FCC has continued to compensate companies through traditional universal service payments for both capital and operating expenses.[18] In doing so, the FCC is accomplishing its broadband buildout goals – which are common to those of this Commission – by requiring A-CAM recipients to accomplish specific and documented buildout requirements over a 10-year period based on A-CAM costs. The Commission's consideration of converting some RoR carriers to grant-based support would cause financial harm to these companies and, most importantly, the very customers that these companies are trying to reach with broadband service.

Another critical issue that is alluded to but not specifically described in the Order is the allocation that the Commission intends to use for RoR carriers between capital and operating expenses.[19] It is unclear what allocations the Commission intends to use, and whether it contemplates different allocations between segments of RoR carriers. The Commission established this split for price cap carriers at 80 percent for capital expenses (via grants) and 20 percent for operating expenses.[20] In recognition of the differences between RoR and price cap

[18] *See 2016 RoR Reform Order*, para. 30 ("Although actual costs may differ from forward-looking economic costs at any particular point in time, allowing monthly recovery of the model's levelized cost means, on average, all carriers *will earn an amount that would allow them to maintain the specified level of service going forward over the longer term.*") (emphasis added).

[19] *See P.O. 3 Order* at 4.

[20] *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, Findings and Conclusions, at 6 (Mar. 28, 2017).

companies, if the Commission intends to proceed with a mandated split between capital and operating expenses, we urge that it does so with a capital-operating expense balance that takes into consideration the differences between RoR and price cap carriers.

In its Opinion and Findings on the matter for price cap companies, the Commission stated: "The Commission's data indicates that price cap carriers have used support more heavily in the ongoing maintenance of the networks rather than concentrating support on capital investment projects to build out the needed broadband capable networks in Nebraska."[21] The Commission to date has not given a hint of the same problem existing for RoR carriers. That is because no such problem exists; RoR carriers invest in their networks.

Universal service support has historically existed to support both capital and ongoing operating expenses for companies that operate in rural areas of the nation. For decades, those rural networks provided carrier-of-last-resort voice services to rural customers. More recently, the federal and state universal service programs are appropriately focusing on also bringing broadband services to rural customers. It is important to recognize that the RoR high cost program to date has not required deployment of broadband service with NUSF support, although all RoR carriers have utilized their support for both voice and broadband services. That will change with the implementation of this docket, which will require specific buildout to unserved customers. However, the Companies urge the Commission to recognize that it cannot ignore the need for expense recovery in addition to capital expenditures, and the level of recovered expenses should be higher than that of price cap carriers, which as noted above the Commission recognized were using a majority of their NUSF support for expense recovery.

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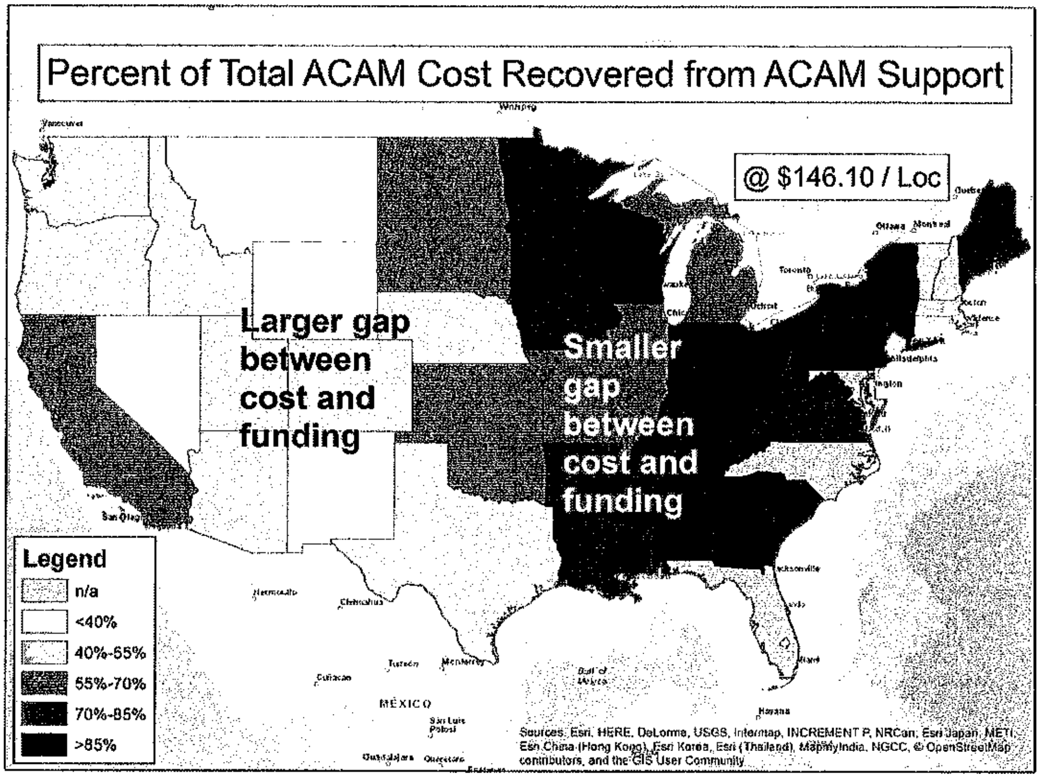
[21] *Id.*

V. Companies that Experienced Increases in Federal Support by Opting for the A-CAM Model Cannot be Penalized with Less NUSF Support

Many RoR companies across the country opted to receive federal universal service support based on the A-CAM model. The Companies sponsoring these Comments are among them. These companies did so for a variety of reasons, but foremost among them was the ability to receive stable, predictable federal USF support that enables them to invest in rural broadband deployment. For many of these companies, the election of A-CAM support provided them with an increase in federal funding compared to their previous support under the former legacy system. In exchange for that increase in funding, of course, these companies must deploy broadband at either 25/3 Mbps, 10/1 Mbps or 4/1 Mbps to prescribed numbers of customers over the 10-year duration of the program.

For whatever reasons, there has been informal discussion swirling around the NUSF RoR program that A-CAM companies may receive reductions in their state support. We are unable to ascertain from the language in the Order whether that is the case or not; nevertheless we are compelled to raise the issue. Compared to companies across the country, in fact, Nebraska A-CAM recipients recover a relatively small portion of their total A-CAM costs with the support thus far made available by the FCC. The map on Figure A shows state-by-state the percent of cost recovered by A-CAM recipients, and Nebraska and other western states are low compared to the rest of the nation. The Commission should take note of this disparity in A-CAM cost recovery in Nebraska relative to other states.

FIGURE A



Furthermore, we believe it is essential to put in proper perspective the sound public policy behind the A-CAM program, as well as understand how legacy rules for federal USF distribution were historically unworkable for some RoR companies. The FCC has long recognized the problems with existing legacy high-cost rules, and indeed these problems were among the chief public policy considerations the FCC took into account in moving to an optional model system for RoR companies.

Previously, many RoR companies that serve low-density, costly areas under legacy regulation either did not receive High Cost Loop Support ("HCLS") or received lesser amounts of HCLS than many legacy companies that service higher-density, less costly areas. Many, if not all, of the legacy companies in relatively higher-density, less costly areas of Nebraska that have built out broadband in rural areas have been able to do so because of the amount of HCLS they receive. We have no issue with these companies receiving these amounts of HCLS support, as such was accomplished in accordance with FCC rules. Yet, as the FCC has recognized, many HCLS recipients were able to use the "structure and incentives" of that mechanism to increase their loop costs, a so-called "race to the top."[22] In the meantime, however, many other companies could not qualify under HCLS rules for sufficient funding (or *any* HCLS funding) to prudently justify the levels of expenditures that would be necessary in a low-density, high-cost area. As the FCC properly recognized, introduction of the A-CAM program on an optional basis was the only way many RoR companies could receive a sufficient amount of federal support to enable them to reasonably invest in broadband in rural areas:

> "... The option of receiving model-based support will provide the opportunity for carriers that have made less progress in their broadband deployment than other rate-of-return carriers to 'catch up.'... And finally, the model path may well be a viable option for high-cost companies that no longer receive HCLS due to the past operation of the indexed cap on HCLS, often referred to as the 'cliff effect.' The Commission took steps to address this problem in December 2014 by modifying the methodology used to adjust HCLS to fit within the existing cap, but that did not restore HCLS to those companies that previously had fallen off the cliff."[23]

Any increase in federal support that Nebraska companies received because of A-CAM is not a windfall. Rather, it is support based on a vetted, forward-looking model that, as recognized by the FCC, is an efficient system that accounts for the cost of providing and operating broadband networks and reasonably compensates those companies that accepted the buildout

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[22] *See In the Matter of Connect America Fund, ETC Annual Reports and Certifications, Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Obsolete ILEC Regulatory Obligations that Inhibit Deployment of Next-Generation Networks,* WC Docket Nos. 10-90, 14-58 and 14-192 (Dec. 18, 2014), paras. 101-103, specifically footnote 216 ("The 'race-to-the-top' is the incentive that some carriers have to incur additional operating and investment expenses because all of their incremental investment expenses and many of their incremental operating expenses are recoverable through federal high-cost support mechanisms.").

[23] *See* 2016 *RoR Reform Order*, para. 20.

obligations required of them.[24] The Commission should embrace and build upon the positive results being accomplished by the A-CAM program, and provide A-CAM recipients with ongoing support based on SBCM for both capital and operating expenses to achieve additional broadband deployment in unserved areas.

VI. The Election of A-CAM Support by Nebraska Companies Came With a Specific Requirement of Broadband Deployment, but Many Customers Will Remain Unserved Without Adequate NUSF Support

While the A-CAM program is creating the opportunity to deploy and operate broadband services for many Nebraska customers, there remain large numbers of customers that will not be reached because of inadequacy of funding in the federal USF budget. As noted above, collectively the Companies' A-CAM funding only accounts for an average of 48 percent of the total cost of providing and maintaining service to all customer locations. Thus, a sizable number of customers will remain unserved or underserved under A-CAM. Together, the Companies have more than 12,000 total locations in the state that receive only partial funding under A-CAM. While we will strive to serve as many of those locations as possible with available funding, federal support alone will not suffice.[25] We urge the Commission to help fill this funding gap by making cost-based NUSF support available to help offset the costs of deploying and operating networks in rural Nebraska, and allowing all Nebraskans to receive broadband service, as intended by the Legislature.

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[24] *Id.* ("... By creating a voluntary pathway to model-based support, we will spur new broadband deployment in rural areas, which will help close the digital divide among rate-of-return carriers. ... By creating defined performance and deployment obligations for specific and predictable support amounts, we are completing the framework envisioned by the Commission in the 2011 USF/ICC Transformation Order. We also are taking additional steps to fulfill the Commission's longstanding objective of providing support based on forward-looking efficient costs.").

[25] In response to the *2018 RoR Reform Order and NPRM*, the Companies are proactively advocating that the FCC increase funding for A-CAM companies to up to $200 per location. But even though this increase would increase broadband deployment, it would still only account for average of 58 percent of total cost.

VII. There Should Be No Arbitrary Per-Location Cap on Receipt of Support

The P.O. 3 Order also proposes to establish a per-location cap of $15,000 in any census block under the grant-based program,[26] again which would primarily apply to A-CAM companies. The Order states that such a cap would only impact the highest-cost locations, but not "approximately 90 percent of customer locations."[27] The Companies are unclear where the Commission comes to this determination that 10 percent of locations have costs in excess of $15,000, but recommend that such cap not be implemented for high-cost census blocks.

State universal service policy established by the Legislature directs that "access to advanced telecommunications and information services should be provided in all regions of the state,"[28] and that "consumers in all regions of the state...should have access to telecommunications and information services...that are reasonably comparable to those services provided in urban areas...."[29] Contrary to law, use of an arbitrary cap, such as proposed in the Order, could result in service not being available to some of the highest-cost customers, which the Companies would observe are precisely the customers for whom universal service policy exists in the first place. We would also note that there already exist locations in the state served by legacy carriers (presumably with FTTH) that have SBCM costs in excess of $15,000. Therefore, the Commission should reconsider this prospective per-location cap.

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[26] *P.O. 3 Order* at 5.

[27] *Id.*

[28] *Neb. Rev. Stat.* § 86-323(2).

[29] *Neb. Rev. Stat.* § 86-323(3).

VIII. Conclusion

The Companies are extremely concerned about some of the proposals contained in P.O. 3, as these Comments describe. Fortunately, the Commission has the opportunity to address the various policy issues raised and, we would recommend, issue a future order with modifications. Specifically, a future proposal should be based on the policy recommendations presented herein.

Dated: July 19, 2018

Dated: July 18, 2018

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of July, 2018, an electronic copy of the foregoing Comments was delivered to:

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