

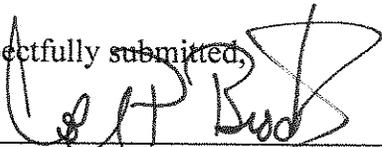
BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service)
Commission, on its own motion, to make) Application No. NUSF-108
adjustments to its high-cost distribution) Progression Order No. 3
mechanism and make revisions to its reporting)
requirements)

COMES NOW CTIA, the Wireless Association, ("CTIA") by and through its Counsel, and moves the Nebraska Public Service Commission (the "Commission") to accept for late filing CTIA's Comments in the above-referenced matter. In support of it Motion, Counsel states that a computer processing malfunction was experienced on Monday, March 5, 2018, which was not resolved until after regular business hours which prevented timely filing of the Comments. No party will be harmed by permitting this late filing

WHEREFORE, for the foregoing reasons, CTIA respectfully requests that the Commission grant its Motion for Acceptance of Late Filed Comments.

Dated this 6th day of March, 2018.

Respectfully submitted,
By: 
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Nebraska
Public Service Commission

and

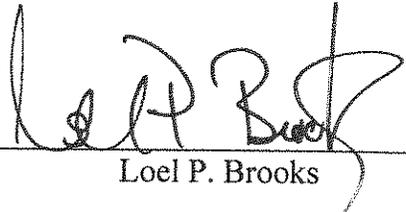
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CERTIFICATE OF SERVICE

I certify that on the 6th day of March, 2018, one original, five copies and an electronic copy of the foregoing Motion to Accept Late-Filed Comments on behalf of CTIA-the Wireless Association, in Application No. NUSF-108, Progression Order No. 3, were delivered to:

Shana L. Knutson
Nebraska Public Service Commission
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Loel P. Brooks

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**COMMENTS OF CTIA
IN RESPONSE TO THE ORDER SEEKING COMMENT**

CTIA¹ respectfully submits its comments in response to the Nebraska Public Service Commission’s (“Commission’s”) Order Seeking Comment entered December 19, 2017 in the above-captioned docket.²

I. INTRODUCTION AND SUMMARY

As discussed in more detail below, CTIA urges the Commission to look closely at reforming the Nebraska Telecommunications Universal Service Fund (“NUSF”) rules for rate-of-return (“ROR”) incumbent local exchange carriers (“ILECs”) in a way that minimizes the size of the fund, and thus, the burden it imposes on Nebraska’s wireless consumers. As CTIA previously noted in another of the Commission’s dockets examining the NUSF, “[t]o minimize the burden on consumers, the fund should be set at the minimum size necessary to ensure

¹ CTIA – The Wireless Association® (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st-century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry, and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984.

² *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, Order Seeking Comment (Dec. 19, 2017) (“Order”).

universal service today.”³ The Commission should ensure that NUSF support is never duplicative of federal Connect America Fund (“CAF”) support, seek to use the most efficient technology for each area, including wireless and satellite as appropriate, and reconsider its focus on extending fiber to areas where the cost is excessive to do so.

II. RESPONSES TO SPECIFIC QUESTIONS

1. **Should the Commission reform the distribution mechanism for ROR carriers by making specific allocations for broadband buildout in ROR areas?**

CTIA has no response to this specific question at this time.

2. **If so, how should the Commission consider ongoing operations expenses? Should the revised mechanism default to mirror the mechanism in place for price cap carriers which includes specific percentages of support allocated for broadband plant and ongoing operating expenses? Please explain.**

CTIA has no response to this specific question at this time.

3. **How can the Commission establish a responsible but administratively efficient process for ROR carriers to annually present a list of the projects for which broadband funding is desired and have the Commission review, and approve or deny the projects?**

CTIA has no response to this specific question at this time.

4. **How should the Commission coordinate the use of state high-cost support with federal support, particularly for those ROR carriers that have elected to take model support? How should the Commission treat ROR carriers where the carrier will remain on a legacy-based support mechanism?**

As noted above, CTIA urges the Commission to ensure that NUSF support is coordinated with federal support to ensure that ROR incumbent local exchange carriers cannot double-recover funding.⁴ As Commissioner Crystal Rhoades recently noted, more accountability in the

³ CTIA Reply Comments, App. No. NUSF-100/PI-193 (filed July 15, 2016) (“CTIA July 2016 Reply Comments”) at 6.

⁴ See *supra* Section I.

NUSF is needed “to avoid ‘double dipping’ of both state and federal universal service funds on the same projects.”⁵ In a similar vein, Commissioner Landis noted that, in the NUSF reform effort, the Commission “do[es] not want to create rate shock.”⁶ The Commission should work to ensure that the NUSF is as efficient as possible so that the Commission can meet its goals for universal service in Nebraska without imposing excessive burdens on consumers.

5. **Similar to the price cap territories, the Commission proposes to disallow broadband buildout support in areas that already have an unsubsidized carrier providing comparable broadband service. Please comment.**

Consistent with our response to Question 4, CTIA also strongly supports the proposal to disallow broadband support in areas where there is already an unsubsidized provider. There is no basis to provide a subsidy for broadband service in an area where no subsidy is needed, as demonstrated by the entry of an unsubsidized provider. This restriction is a necessary step to protect Nebraska consumers from excessive NUSF costs.

6. **How can the Commission fairly treat rate-of-return carriers who have already deployed broadband throughout their footprint? For ROR carriers that have built out fiber to the premises, is the NUSF EARN Form an appropriate way to determine or limit the allocation of support?**

CTIA has no response to this specific question at this time.

⁵ Paul Hammel, “Nebraska Plans to Start Collecting Flat Fee for Each Phone Connection,” *Omaha World-Herald* (Nov. 21, 2017), available at http://www.omaha.com/news/nebraska/nebraska-plans-to-start-collecting-flat-fee-for-each-phone/article_893d868b-9b57-5752-8590-aa47c0746f05.html.

⁶ *Id.*

7. **How do we account for ROR carriers that have built out to 100 percent of their subscribers and have extensively borrowed for plant investment? Should the Commission look at existing loan terms and payment requirements? If so, what type of information should be filed? How could the Commission account for this in an administratively efficient manner? How should the Commission consider in-town versus out-of-town investment when looking at structuring support aimed at ongoing operational expenses and debt?**

There is no need for the Commission to attempt to devise a way to account for loans that ROR carriers have taken out previously. These carriers took out these loans without any apparent expectation of specific recovery from the NUSF. The purpose of universal service support is to create incentives for the deployment of service in areas where it would not otherwise be economical. If the Commission instead provides support for ongoing expenses, including debt service, the Commission will take away funding that could otherwise go to expanding deployment. Such an approach would create an ongoing need to expand the fund in order to build new areas. If areas are uneconomic and cannot be built without perpetual support, different technologies (such as satellite⁷) or support models need to be considered. The state should support rural projects that can be self-sustaining, not projects that cannot. Moreover, it would violate the statutory principle of competitive neutrality⁸ to provide support for the operating expenses of ROR carriers while the Commission consistently declines to provide such support for wireless carriers.⁹

⁷ “[T]he next generation of satellite Internet services promise to reduce lag by bringing the satellites closer to earth. By placing them in low-earth orbit instead of geostationary orbit, Internet data will spend less time in transit — leading to a smoother, faster Internet experience.” Brian Fung, *We’re One Step Closer to Getting Cheaper, Faster Internet from space*, Washington Post, June 22, 2017 (https://www.washingtonpost.com/news/the-switch/wp/2017/06/22/were-one-step-closer-to-getting-cheaper-faster-internet-from-space/?utm_term=.6af4788bb531) (last visited October 20, 2017). *See also*, Mike Dano, *OneWeb Gets FCC Approval for 720 Low-Earth Orbit Satellites to Offer Global Internet Service*, Fierce Wireless (June 22, 2017, 11:58 am), <http://www.fiercewireless.com/tech/oneweb-gets-fcc-approval-for-720-low-earth-orbit-satellites-to-offer-global-internet-services>.

⁸ *See* 86 Neb. Rev. Stat. § 86-323(5).

⁹ *See, e.g., In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to implement policies and procedures related to providing dedicated universal service support for wireless telecommunications services: Petition received July 1, 2013 from United States Cellular Corporation*, App. No. NUSF-69.15, Prefiled

8. **How should the Commission account for the ROR carriers that have built out broadband to a majority of subscribers but not to those that are the furthest out? Should the Commission focus NUSF support on the last mile customers? Are there some subscribers that are too expensive to serve? Should the Commission encourage the use of alternative technologies to reach the last mile subscribers above a certain cost threshold? If so, what should that threshold be?**

Consistent with the imperative to avoid burdening Nebraska ratepayers with larger NUSF surcharges than necessary, the Commission definitely should consider the use of technologies other than fiber to reach consumers that could be served more economically with other technologies. Technologies, including wireless and satellite, are successfully providing many customers with high-speed broadband, particularly in rural and hard-to-serve areas. As CTIA's witness testified in this Commission's NUSF-100 proceeding, focusing solely on fiber solutions at the expense of potentially less-costly alternatives such as wireless and satellite "is not only contrary to federal policy, but also shortsighted in terms of the Commission's obligation to limit the NUSF funding burden on Nebraskans."¹⁰

In the Federal Communications Commission's ("FCC's") CAF program, the FCC established an "extremely high-cost threshold" to identify lines where the FCC's cost model predicted that interstate support would need to exceed \$198.60 per month.¹¹ These areas were not included in the model-based offers of support to ILECs, and instead will be addressed

Testimony of Sue Vanicek for Commission Staff (Oct. 22, 2013) at 4 ("Operating costs have not been funded for any other applicants under this [wireless] program."); *see also id.*, Order (Granted in Part) (Nov. 25, 2013) at 3 ("We agree with the staff's proposed methodology and that the amount requested by US Cellular be adjusted for the removal of US Cellular's submitted first year operating expenses.").

¹⁰ *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology*, App. No. NUSF-100, PI-193, Direct Testimony of Don Price on Behalf of CTIA (March 24, 2017) at 21-22.

¹¹ *See, e.g., Wireline Competition Bureau Publishes List of Extremely High-Cost Census Blocks in Price Cap Areas*, Public Notice, 30 FCC Rcd 6418, 6818 fn.1 (FCC Wireline Comp. Bur. 2015), https://apps.fcc.gov/edocs_public/attachmatch/DA-15-734A1_Rcd.pdf.

principally through the FCC's Remote Areas Fund, which focuses on alternative technologies.¹²

This Commission also should recognize that certain areas are simply too remote to serve with fiber, and instead should be served with alternative technologies. The FCC's extremely high-cost threshold is a useful tool for identifying such areas.

III. CONCLUSION

CTIA urges the Commission to incorporate the points raised in these comments as it considers NUSF reform, and ensure that the NUSF imposes no more burden than necessary on Nebraska consumers. CTIA also believes, consistent with its comments in related dockets, that rate of return reform is best accomplished in the context of a broader strategic plan for the NUSF which the Commission should endeavor to develop.¹³

Respectfully submitted,

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March 5, 2018

¹² See *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6018 ¶¶ 195 *et seq.* (2016).

¹³ See, e.g., Comments of CTIA in Response to the Order Opening Docket and Seeking Comment, Application No. NUSF-111/PI-211 (Jan. 30, 2018), at 1, 3-4.