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 Progression Order No. 3

COMMENTS OF THE NEBRASKA COST-BASED COMPANIES IN RESPONSE TO JUNE 19, 2018 ORDER SEEKING FURTHER COMMENTS AND SETTING HEARING

The Nebraska Cost-based Companies[1] (the "Companies") submit these Comments in response to the Progression Order No. 3 issued by the Nebraska Public Service Commission (the "Commission") in this proceeding on June 19, 2018 (the "Order") and the Commission's clarification letter dated July 6, 2018.[2] The Companies appreciate the opportunity to provide the following Comments to the Commission. The Companies are considered legacy/cost-based rate-of-return carriers in that they either did not accept or were not offered A-CAM support by the FCC and remain on the cost-based recovery mechanism.

In its Order, the Commission solicits comments on proposed modifications to reform the high-cost program distribution mechanism for ROR carriers. Many of the modifications proposed appear targeted to those RoR carriers that elected A-CAM model support. For example,

[1] Clarks Telecommunications Co., Hartington Telecommunications Co., Northeast Nebraska Telephone Company, and Three River Telco.

[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, Order Seeking Further Comments and Setting Hearing (June 19, 2018) (the "*Order*") and *See,* Letter from Frank E. Landis, Jr. to Paul M. Schudel with attached responses, Re: Application No. NUSF-108, Progression Order No. 3, released July 6, 2018 (the "*Staff Responses*").

when asked to explain what the phrase "CAF-supported census blocks" is intended to mean, the Commission's response was:

> CAF-supported census blocks is intended to mean the census blocks where federal universal service support in the form of CAF A-CAM model support has been offered to a rate-of-return carrier in the state-level election process, and accepted by that rate-of-return carrier for specific broadband buildout obligations.[3]

In addition, the Commission, in its Order requested comment on whether the Commission should coordinate the use of state high-cost support with federal support particularly for those RoR Carriers that have elected to take model support, its proposal to reimburse RoR carriers based on actual costs of the grant projects deployed, and its proposal to give RoR carriers two years to complete each grant project.

The Companies support the Commission's goals and concepts to reform the RoR carrier distribution mechanism and to improve its reporting requirements. The Companies submit comments in favor of those portions of the Commission's Order which impact them directly, specifically the following:

From the Order:

1. For carriers that have eligible census blocks already built out with broadband networks capable of 25/3 Mbps service, we propose to pay both operating expenses and capital expenses for these blocks, based on the calculation of support by SBCM. All ongoing support would continue to be subject to an earnings test. The Commission may update the NUSF-EARN Form process at a later time.

   The Companies agree with the Commission's proposal. This would allow carriers that have built out broadband networks capable of 25/3 Mbps service to recover their expenses and a return on investment in order to recover the cost of the network that has been built-out. The Commission has previously recognized that "the NUSF-EARN Form has been a tool

[3] *See* Staff Responses

used by the Commission to ensure carriers were making investments in their network."[4] The Commission's "tool" has worked as it was and is intended for the Companies making this filing and we urge the Commission to continue its use.

2. In cases where support is remaining due to overearnings of carriers in this allocation block, such support would be redistributed to other RoR carriers eligible to receive ongoing support.

The Companies agree with the Commission's proposal. This would allow carriers that are under earning to recover more of its investment and return on investment up to but not more than the Commission's specified rate-of-return.

From the Commission's July 6th Clarification Letter:

3. The Commission stated that for all carriers, the NUSF-EARN form will continue to be required in part because it accounts for federal USF monies received. In the similar manner to how it is utilized today, the earnings test will be applied to the amounts allocated for carrier's ongoing funds, and if a carrier's earnings exceed the cap, their support will be reduced or eliminated.

The Companies agree with the Commission's response. The EARN-Form appropriately considers all regulated revenues, investments, and expenses, including federal USF support.

From the Commission's Order Seeking Comment, December 19, 2017:

4. 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?

The NUSF EARN Form does not determine the allocation of support. Currently the SAM, which determines each company's out-of-town costs, allocates the relative support

[4] *In the Matter of the Nebraska Public Service Commission, on its own motion, to administer the Universal Service Fund High-Cost Program*, Application No. NUSF-99, Progression Order No. 1, p. 6 (Sept. 1, 2015).

among the carriers.[5] The NUSF-EARN form only limits support based on a company's variance from the Commission's specified rate-of-return. The Companies believe the Commission's switch to an SBCM allocation and use the NUSF-EARN form is a fair and equitable way to allocate NUSF support. The Companies submit that the NUSF budget is not sufficient to allow companies to recover their expenses, investments, and earn the Commission's specified return on investment.

5. 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 focus on the amount of debt taken on by a carrier 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

The Commission's current allocation of support and use of the NUSF-EARN form is working as it was intended for those companies that have built-out. The relative distribution of NUSF support currently accounts for in-town versus out-of-town costs. This approach has incented these carriers to invest in their networks. Through the calculation of the rate-of-return on net investment, the NUSF-EARN form takes into account companies' debt and internal funding used to build out their networks. The largest impediment for carriers in paying back loans or internal funding is not the current allocation of support but rather the insufficiency of the NUSF budget.

As stated above, the Companies appreciate the opportunity to provide these Comments in response to the *Order*.

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[5] For carriers that have eligible census blocks already built out with broadband networks capable of 25/3 Mbps service, the Commission proposes to pay both operating expenses and capital expenses based on the calculation of support by SBCM (*See* Order at 6).

Dated: July 19, 2018.

NEBRASKA COST-BASED COMPANIES

Clarks Telecommunications Co., Hartington Telecommunications Co., Inc., Northeast Nebraska Telephone Company, and Three River Telco

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of July, 2018, that an original and five copies of the foregoing Comments on behalf the Nebraska Cost-based Companies were filed with the Public Service Commission, and a copy was served via e-mail to the following:

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