

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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

**POST-HEARING COMMENTS OF**  
**CHARTER FIBERLINK – NEBRASKA, LLC,**  
**TIME WARNER CABLE INFORMATION SERVICES (NEBRASKA), LLC AND COX**  
**NEBRASKA TELCOM, LLC.**

In accordance with the Hearing Officer's Procedural Order dated August 27, 2018, Charter Fiberlink – Nebraska, LLC and Time Warner Cable Information Services (Nebraska), LLC (collectively, "Charter"), and Cox Nebraska Telcom, LLC ("Cox") provide these Post-Hearing Comments for the Nebraska Public Service Commission's ("Commission") consideration in the above-captioned proceeding.

Application NUSF-108 proposes to incrementally reform the Commission's universal service arrangements with respect to Nebraska's rate-of-return carriers. As indicated previously, Charter and Cox generally support the proposals set forth as positive steps to becoming a more transparent and open universal service system, including to isolate census blocks where support should be targeted, to remove urban census blocks and to remove federally supported census blocks.<sup>1</sup> The companies continue to urge the Commission to target support to qualifying census blocks and to increase transparency by annually publishing the list of qualifying census blocks in

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<sup>1</sup> *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 NUSF-108, Progression Order No. 3, Order Seeking Further Comments and Setting Hearing entered June 19, 2018.



conjunction with a challenge process.<sup>2</sup> The Commission's proposals, with a deviation regarding the frequency of the census block review were generally supported at hearing by the Rural Telecommunications Coalition of Nebraska ("RTCN").<sup>3</sup>

Charter and Cox focus these Post-Hearing Comments on the singular, but tremendously important subject of ensuring the continued open and transparent implementation of the Nebraska Universal Service Fund ("NUSF"). The companies have previously indicated herein, as well as in other NUSF dockets that the Commission must ensure high-cost support is used solely for its intended purposes. The public must be able to easily and readily understand where the NUSF is being spent and must have reasonable assurances of no overbuilding, no waste, no fraud and no abuse. Given the unexpected increase in the NUSF surcharge, customers may wonder why their NUSF remittances have dramatically increased under the new collection methodology as a result of the \$1.75 per-connection fee adopted in NUSF-111.<sup>4</sup>

A step towards improving openness will be achieved by gravitating towards a grant-based process for the rate-of-return companies. As presently proposed, the Commission will continue to allocate a substantial portion of high-cost to the rate-of-return carriers without any correlation to any specific project. Rather these new amounts will be used for ongoing "general maintenance", which may have little to do with deployment of a broadband network. Moreover,

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<sup>2</sup> In comments previously filed herein, Charter and Cox supported what we understood would be a "grant-based" regime for rate of return carriers. Based on Staff's testimony at hearing (TR at 16-17), it is not clear that such a regime is part of the proposal, which would narrow considerably the incremental improvement we first believed the NUSF-108 proposal envisioned. We, like CenturyLink (TR at 134) believe that the Commission, as it refines its approach, should continue its leadership in using broadband grants as a mechanism to promote broadband deployment.

<sup>3</sup> Testimony of Stacey Brigham, TR. pgs. 120-121.

<sup>4</sup> *In the Matter of the Nebraska Public Service Commission, on its own Motion to determine a rate design and address implementation issues with a connections-based contribution mechanism*; NUSF-111, PI-211, Order entered August 7, 2018.



in an age of deregulation where companies are permitted to enter, and many companies do enter markets outside local voice service including cable, broadband, and wireless, it is difficult to determine why such support is automatically needed. As a result, such vagueness is not only troublesome, but funds may be potentially duplicative, and perhaps unnecessary in light of the over \$250 million in federal and state USF support to RIC members in the last five years alone.<sup>5</sup>

Charter and Cox encourage the Commission to expressly describe in the Final Order the process it intends to utilize to ensure openness, accountability, and transparency exists for all NUSF sums awarded to the rate-of-return companies. It is the Commission's responsibility to ensure any public funds are used efficiently, effectively and that they result in actual network deployment in areas where economics preclude such deployment on a private market basis. Recipients of NUSF support should be required to publicly disclose their use of public monies so there is no question taxpayer dollars are being used efficiently and for their intended purposes. Transparency is the foundation of public trust. Accordingly, the Commission's efforts in this regard will benefit all Nebraskans who have paid hundreds of millions of dollars into state and federal funds in the past and who will be paying into these funds at new, higher rates.

Charter and Cox also encourage the Commission to explicitly describe how it intends to account for federal funding going to the rate-of-return companies to ensure 'double-dipping' is not occurring. The Final Order should detail the procedures that will be utilized and the frequency of such to track and account for the federal support coming to Nebraska, both current

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<sup>5</sup> See Cox and Charter's Reply Comments filed April 12, 2018 in this docket. As stated therein, federal USF support is estimated from HC01- High Cost Support Projected by State by Study Area (annualized from the 4Q filing) available at <https://www.usac.org/about/tools/fcc/filings>. NUSF Yr14 support NUSF-108 High Cost Support Distribution, available at [http://www.psc.nebraska.gov/ntips/ntips\\_nusf.html](http://www.psc.nebraska.gov/ntips/ntips_nusf.html). Prior year disbursements were obtained using the "Wayback machine" at <http://archive.org/web/>. NE USF Yr13 support was not available from any date archived and was estimated as the midpoint between Yr12 and Yr14 disbursement levels.



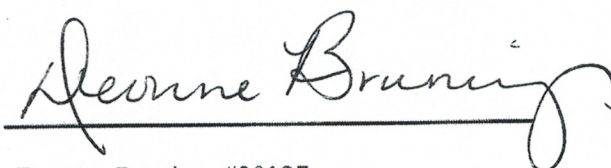
and forthcoming. Information should be made openly available to instill trust that support is not going to otherwise funded areas, or to areas served by an unsubsidized competitive provider.

In closing, improving the transparency of the NUSF will aid in justifying its continued existence, the achievement of goals and for many, paying an increased surcharge. However, should the Commission decline to include such specific details and procedures herein, Charter and Cox recommend the Commission open a new, separate docket focused exclusively on the subject of improving the transparency, openness and accountability of the NUSF. Comments could be received and a workshop and/or a hearing held to collect information to create a record that establishes a meaningful mechanism that ensures the public interest is being served by the NUSF.

Respectfully submitted this 17th day of September 2018.



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## Certificate of Service

The undersigned hereby certifies that on this 17<sup>th</sup> day of September, 2018, an original and five copies of the Post-Hearing Comments of Charter Fiberlink - Nebraska, LLC, Time Warner Cable Information Services (Nebraska), LLC and Cox Nebraska Telcom, LLC in Application NUSF-108, Progression Order 3 were hand-delivered to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln NE and a copy of the same was e-mailed to the following:

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