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. 5

COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES

Dated: February 18, 2020.

Arlington Telephone Company, Blair Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, LLC., 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 and Three River Telco (the "Rural Independent Companies")

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COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES

I. INTRODUCTION

The Nebraska Rural Independent Companies ("RIC")[1] submit these Comments in response to the Order Seeking Comment entered by the Nebraska Public Service Commission (the "Commission") in this docket on December 17, 2019 (the "*PO 5 Order*"). In the following discussion, each of the Commission's inquiries presented in the *PO 5 Order* is set forth using the heading provided by the Commission and is then followed by RIC's comments in response thereto. RIC appreciates the opportunity to provide these Comments and looks forward to continuing participation in this docket and other pending dockets regarding the Nebraska Universal Service Fund ("NUSF").[2]

II. OVERVIEW

Coupled with its actions regarding NUSF contribution reform, the Commission over the last several years has refined the nature and scope of the NUSF in an effort to advance the overarching

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

[2] Unless otherwise indicated, RIC uses the terms "NUSF" in these Comments to refer to the NUSF High Cost Program and the term "EARN Form" to refer to the reporting form used by the Commission to ascertain NUSF eligibility by Nebraska Eligible Telecommunications Carriers ("NETCs") since NUSF is only available to such NETCs. *See, e.g.*, 47 U.S.C. § 214(e); *Neb. Rev. Stat.* § 86-324(1).

Nebraska legislative directive of deploying broadband networks throughout the State of Nebraska[3] with the aspirational goal that scalable fiber optics-based networks should be ubiquitously deployed to provide such broadband.[4] However, RIC believes that further refinement of the Commission's distribution regime is necessary due to current limitations on NUSF support for certain Rate of Return ("ROR") carriers. RIC believes that by adopting the Revised EARN Form Framework presented in these Comments the Commission will continue its NUSF reform efforts in a manner consistent with policies and objectives governing today's NUSF. Moreover, by adopting this Framework, all NETCs – the Price Cap NETCs and all ROR NETCs (both federally-electing ACAM ROR NETCs and "Legacy" ROR NETCs) – will be treated consistently with respect to the availability of Broadband Deployment Support ("BDS") where such NETC has otherwise demonstrated a commitment to deploy such broadband network within its service area.[5] Also as explained below in response to the *PO 5 Order*'s "other issues," RIC also recommends that the Commission should adopt new measures to make the ROR NUSF distribution process more transparent and predictable, as well as to adopt the concept of transferability of NUSF BDS between affiliated NETCs.

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[3] *See, Neb. Rev. Stat.* § 86-1101(2).

[4] *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, P.O. #3, Order Seeking Further Comments and Setting Hearing at 6 (June 19, 2018) (the "*6-19-18 NUSF 108 PO 3 Further Comment Order*"); P.O. #3, Findings and Conclusions at 43 (Nov. 19, 2018) (the "*11-19-18 NUSF PO 3 Order*"); P.O. #4, Order Seeking Further Comment at 4-5 (Feb. 5, 2019); P.O. #4, Order at 25-27 (Oct. 29, 2019) (the "*10-29-19 NUSF PO 4 Order*").

[5] RIC notes that on January 28, 2020, the Commission placed on hold the 2020 NUSF BDS allocation available to Price Cap NETCs pending resolution of outstanding issues in Application No. NUSF-99 Progression Order 2, noting that such NETCs have not used all such BDS. *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 Authorizing Payments at 2-3 (Jan. 28, 2019). In contrast, however, RIC believes that ROR NETCs have consistently used their respective NUSF allocations for the intended purposes.

A. **The Overarching Principle of RIC's Revised EARN Form Framework – Increasing Broadband Deployment – is Reasonable and Appropriate, Consistent with Existing Commission Policies, and Should be Adopted.**

RIC's proposed Revised EARN Form Framework[6] and its responses to the *PO 5 Order* inquiries are intended to provide increased incentives for the deployment of networks capable of at least 25/3 Mbps.[7] Thus, for any ROR NETC that has elected the federal Alternative Connect America Fund Cost Model ("ACAM") for its FUSF support, the Commission should make NUSF BDS available to any census block not fully funded by the FUSF.[8]

Making BDS specifically available for any 25/3 Mbps broadband investment, including capped ACAM census blocks, is consistent with the Commission's NUSF program objectives.[9] However, for ROR carriers that have elected federal ACAM support, the Commission's current distribution process provides *only* ongoing NUSF support (after service has been deployed at 25/3 Mbps) but not NUSF

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[6] As used herein, the term "Revised EARN Form Framework" refers to the policies outlined in these Comments and includes the Revised EARN Form provided in Exhibit A that proposes changes vis-à-vis overearnings that, in the past, would have caused a ROR NETC to be ineligible for NUSF support in a given program year. The Revised EARN Form deletes the unnecessary columns that are unrelated to total company financial reporting (*see PO 5 Order* Subject 1: Carrier Elections, Response to Inquiries A and B, below) and adds a line eliminating expenses above those permitted under the federal Universal Service Fund ("FUSF") program.

[7] RIC notes that references to "25/3 Mbps" in these Comments are intended to be the minimum speeds for which NUSF BDS and ongoing support is provided.

[8] *See, e.g., Neb. Rev. Stat.* § 86-317; *see also, 11-19-18 NUSF PO 3 Order* at 44.

[9] RIC notes that the Commission's discussion of earnings has specifically addressed *only ongoing* NUSF support levels. *See 6-19-18 NUSF 108 PO 3 Further Comment Order* at 6; *see also 10-29-19 NUSF PO 4 Order* at 28. No explicit explanation has been provided as to why BDS eligibility was limited in the current EARN Form process or why such limitation is consistent with the overarching policy of increased broadband investment. The Revised EARN Form Framework addresses this apparent anomaly by explicitly allowing ACAM capped locations to be eligible for NUSF BDS. Moreover, if limiting use of BDS was not an inadvertent anomaly, then the changes made herein are fully justified in the context of addressing the fact that "the Commission's NUSF-EARN Form reporting should be modified going forward to align the reporting requirements with the current environment." *11-19-18 NUSF PO 3 Order* at 42.

BDS to capped census blocks.[10] This apparent policy inconsistency should change. To encourage additional broadband deployment investment,[11] it is reasonable and appropriate that ACAM-electing NETCs should be eligible to use BDS to build out 25/3 Mbps broadband in capped FUSF locations, especially since these are the locations that lack sufficient federal investment funding.

B. Proper Implementation of the Transfer of a ROR NETC's *Capped* Over-Earning Amounts to BDS can be Easily Implemented.

RIC respectfully submits that the Revised EARN Form Framework requires proper implementation to achieve the desired increased broadband investment. RIC respectfully submits that such desired result can be achieved by the Commission's adoption of the following companion EARN Form implementation principles, each of which advances the public interest as further explained in the comments provided below regarding the subject areas included in *PO Order 5*.

Implementation Principle 1: Regardless of the method by which a ROR NETC receives its FUSF support, no yearly redistribution of NUSF support should occur based on over earnings

[10] The Commission has published NUSF-108 guidelines. *See* https://psc.nebraska.gov/sites/psc.nebraska.gov/files/doc/NUSF%20108%20Guidelines_0.pdf. These guidelines state that the Commission will publish a list of census blocks eligible for BDS and provide the following link within the guidelines: (https://psc.nebraska.gov/sites/psc.nebraska.gov/files/doc/Public%20BDS%20Eligible%20blocks.xlsx). Based on RIC's review of the Excel file identifying eligible BDS census blocks, none of the eligible BDS census blocks in the attached file are located in capped census blocks served by ACAM I companies. RIC is also not aware of whether the Commission has issued any updated list of BDS-eligible census blocks based on the subsequent ACAM II election provided by the Federal Communications Commission ("FCC") last year.

[11] This same overarching principle – encouraging investment in the existing networks of NETCs – was one of the policies upon which the NUSF Earn Form was based. *See, e.g., 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 at 6 (Sept. 1, 2015) ("Historically, the NUSF-EARN Form has been a tool used by the Commission to ensure carriers were making investments in their network and to ensure NUSF support provided was being used in Nebraska."); *see also 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 Opening Docket and Seeking Comment at 2 (Sept. 27, 2016) and Order Seeking Further Comment and Releasing Proposed 2017 Distribution Calculations at 3 (Dec. 20, 2016).

identified from the Revised EARN Form.[12]

Implementation Principle 2: All *capped* over earning amounts of NUSF support should be transferred to the recipient's NUSF BDS eligibility.[13] This change would result in more locations receiving service at speeds of 25/3 Mbps or higher because the NUSF BDS available to supplement a company's investment would be higher. As with other NUSF BDS recipients, the ROR NETC would provide notice to the Commission of its deployment projects[14] and as the Commission has directed, report through the High Cost Universal Broadband portal 25/3 Mbps eligible locations in order to receive such support.[15]

Implementation Principle 3: Subject to the available NUSF budget in any given funding year and as previously established by the Commission, the Revised EARN Form is to be used solely to identify the treatment of an NETC's level of operating expense in the upcoming NUSF program year.[16] Over earnings should not affect a ROR NETC's eligibility for NUSF in any given program year. Rather, to the extent that an EARN Form filing by any ROR NETC shows over earnings, the company's overearnings should be used to increase the ROR NETC's total NUSF BDS allocation for the upcoming NUSF budget year, except that the amount of overearnings a company can transfer to BDS should not exceed its Base Total Ongoing Model Support Amount.

Implementation Principle 4: When adopting the Revised EARN Form, the Commission should also enhance accountability regarding the use of NUSF by including in the Revised EARN Form a line that removes from total company operating expenses any amounts above federally prescribed FUSF expense caps. Absent this change, the current NUSF EARN form may unintentionally negate federal expense caps.[17]

RIC respectfully submits that based upon these Implementation Principles the Commission

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[12] RIC notes that this policy effectively places the implementation of the ROR NUSF program closer to that of the Price Cap NUSF program in which the Price Cap NUSF program overearnings are not considered. As explained below, however, under RIC's Revised EARN Form Framework, the overearnings are capped and, subject to such cap, allocated to BDS dollar for dollar.

[13] Exhibit B, attached hereto and incorporated herein by reference, provides a hypothetical example of how this "cap" would work.

[14] *See* https://psc.nebraska.gov/sites/psc.nebraska.gov/files/doc/NUSF%20108%20Guidelines_0.pdf.

[15] *See 10-29-19 NUSF PO 4 Order* at 27.

[16] *See 6-19-18 NUSF 108 PO 3 Further Comment Order* at 6.

[17] RIC notes that explicit FUSF expense caps exist only for "legacy" ROR carriers pursuant to applicable Part 54 rules issued by the FCC (*see, e.g.,* 47 C.F.R. Subpart K and Subpart M); however, ACAM-electing ROR carriers are also subject to expense limits because the ACAM model determines that amount of operating expenses a carrier is allowed.

should revise its EARN Form in order to encourage the availability of 25/3 Mbps broadband services provided via fiber-based networks for all Nebraska consumers,[18] and thereby allocate NUSF dollars for BDS to each ROR NETC. The deployment and operation of such broadband networks should be the key objectives of any application and implementation of the EARN Form on a going-forward basis and is the central focus of the Revised EARN Form Framework being proposed herein.

III. RESPONSES TO COMMISSION INQUIRIES

RIC provides the following responses to the Commission's inquiries in the *PO 5 Order*. RIC respectfully submits that these comments bolster and provide further support of the Revised EARN Form Framework and Implementation Principles outlined in Section II, above.

A. Subject 1: Carrier Elections

> A. *The Commission seeks comment on setting a uniform basis for reporting earnings, such as a requirement that the NUSF EARN Form data be based on total company earnings.*
> B. *We seek comment on the continued need to allow carriers to choose among the previous three options [total company, jurisdictional or supported services].*
> C. *In addition, we seek comment on whether to require all carriers to move from a three-year average to a single year basis or vice versa.*
> D. *The Commission seeks comment on whether it should continue to allow carriers to consolidate affiliate entities into one for NUSF EARN Form filing purposes? Should the NUSF EARN filing be based on the assigned NE code or legal tax entity? Is there any reason not to require carriers to file NUSF EARN forms separately for each NE code? Please explain.*

Response to Inquiries A and B: As a general matter, the Commission should adopt the Revised EARN Form attached hereto as Exhibit A as part of its adoption of the implementation principles identified above. Under this proposal, RIC notes that in the proposed Revised EARN Form a ROR NETC would report financial information in order to facilitate the determination of NUSF support eligibility and would do so with increased accountability. The Revised EARN Form would be based on

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[18] *See, e.g., 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, Order at 5 (April 5, 2016); see *also Neb. Rev. Stat.* § 86-1101(2).

total company earnings.[19] Such approach is, in RIC's view, rational since the focus of both FUSF and NUSF is deployment of one network by each NETC with that network being capable of providing at least 25/3 Mbps speeds as well as supporting voice services. Moreover, as a result of implementing NUSF-50, the calculations used by Commission Staff from the current EARN Form are based on a total company approach irrespective of the election (total company, intrastate or supported services) made by an individual NETC. For these reasons, the use of total company EARN Form reporting is appropriate.[20]

As proposed herein, RIC's Revised EARN Form Framework also includes an additional measure to improve the Commission's NUSF accountability policies. By using total company regulated financial information, the Revised EARN Form Framework would eliminate expenses that are impermissible for the FUSF high cost mechanism under 47 C.F.R. § 54.7, and non-regulated revenue and expenses pursuant to the reg/non-reg rules found in 47 C.F.R. § 64.901 *et seq.* In addition, the Revised EARN Form would explicitly eliminate from total company expenses those operating expenses in excess of any federally mandated FUSF expense cap.

By adding this line to the current EARN Form and eliminating operating expenses above federally mandated FUSF caps, the Commission would avoid recovery by NETCs of operating expenses from the NUSF already found to be inappropriate for FUSF purposes. Absent this consistent approach, the Commission's current EARN Form may permit inclusion of these expenses for NUSF support eligibility and therefore negate the FUSF's elimination of such expenses. For these reasons, Commission adoption of RIC's proposed changes in the Revised EARN Form is appropriate and in the public interest.

Finally, the Revised EARN Form Framework's use of capped overearnings for BDS is further

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[19] RIC's use of the phrase "total company earnings" refers to those regulated investments and expenses that are properly subject to recovery under both the FUSF and NUSF as reflected in the Revised EARN Form Framework (including the revised EARN Form) discussed herein.

[20] *See, Neb. Rev. Stat.* § 86-1101(2).

supported by the following two considerations regarding earnings. First, no NETC should be penalized for pursuing its commitment to deploy state of the art broadband networks. Levelized ACAM support is provided to electing companies for a specific time period but only funds up to a cost of $200 per location per month. In many instances, especially in extremely sparsely populated areas, a support level of $200 per location per month does not adequately reimburse a carrier for the investments required to build fiber facilities. Excluding these capped census blocks from NUSF BDS runs counter to the need for increased broadband investment that is called for by the Commission's policies. Second, over earnings may be a timing issue for those companies that have broadband investments in progress.[21] Since investment levels and resulting depreciation costs are lower at the onset of an investment cycle, it follows that earnings will be higher in the early years of capital projects. As investments are made, a company's rate base and resulting depreciation costs will increase, and its earnings will decrease. By allowing capped over earnings to be shifted to NUSF BDS, additional investment in broadband facilities in rural Nebraska will be facilitated.

Response to Inquiry C: RIC submits that, absent a Commission-approved waiver for good cause shown, ROR NETCs should be required to calculate earnings on a single-year basis. The use of this one-year period harmonizes and is consistent with the time period that the Commission has established for NUSF budgetary and distribution purposes.

Response to Inquiry D: Because the proposed Revised EARN Form focuses on establishing a ROR NETC's NUSF support eligibility, the earnings being reported should be that of the NETC entity. For the reasons explained in the Section II.E "Other Issues" below, however, the use of any NUSF distribution should be able, based on good cause, to be assigned to an affiliated NETC.

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[21] This situation is especially true for those carriers that opted for ACAM I funding, which was directed to those areas that still have significant deployment needs. Companies opting for ACAM II funding generally were more highly built out.

B. **Subject 2: Permitted Expenses, Cost Allocation and Affiliate Transactions**

The Commission seeks comment from interested parties on whether to mirror those [FCC] rules,[22] *particularly as it relates to the FCC's expense limitations. If the Commission should deviate from the FCC's rules, please provide the rationale.*

Response: Yes, RIC submits that it is appropriate for the Commission to follow applicable FCC rules. Applicable federal law and FCC rules establish permissible and impermissible uses of FUSF.[23] Similar requirements apply to the NUSF.[24] RIC has not identified any reasonable basis to deviate from these existing legal requirements. Moreover, without the proposed change to the current EARN form outlined herein that would exclude expenses not allowed for FUSF cost recovery, NUSF support may unintentionally be used to reimburse companies for expenses excluded by caps that effectively have been established under both FUSF programs applicable to ROR NETCs.[25]

C. **Subject 3: Prescribed Rate of Return**

A. The Commission further seeks comment on reducing the prescribed rate of return so that it is consistent with that authorized by the FCC.
B. The Commission seeks comment as to whether to set the transitional rate of return at 10.25 percent. Why or why not? Please explain.
C. Should the Commission simply mirror the FCC's transition to 9.75 percent and administratively have the staff make the adjustment as the FCC's prescribed rate of return changes?

Response to Inquiries A and B: RIC previously supported the Commission's proposal that, for NUSF purposes, mirroring the FCC's transition from an 11.25% rate of return to a 9.75% rate of return,

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[22] *In the Matter of the Connect America Fund, et al., Report and Order, 3rd Order on Reconsideration, and Notice of Proposed Rulemaking*, WC 10-90, *et al.*, 33 FCC Rcd 2990, 2995 (March 23, 2018).

[23] *See,* 47 U.S.C. § 254(e) ("A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."); 47 C.F.R. § 54.7.

[24] *See, Neb Rev. Stat.* 86-324(1) and Commission Telecommunications Rules, Title 291, Chapter 5, Section 009.

[25] *See* n. 18 *supra* and accompanying text.

provided that such return level is applicable to both ROR carriers and Price Cap carriers.[26]

Response to Inquiry C: Because, as noted in the *PO 5 Order*, the Commission has suspended its reductions of the authorized rate of return at the 11% level,[27] a new transition for reducing the rate of return percentage should be established and applied at such time intervals as are reasonably determined by the Commission. This approach will provide the benefits of gradual rate of return reductions, should minimize unintended consequences to NETCs that could arise from a more precipitous phase down and should otherwise be more manageable within the NUSF program.

D. Subject 4: Federal Universal Service Support Distinctions

A. Should the Commission create two distinct NUSF EARN Form reports – one for ROR carriers opting to stay on federal legacy support, and another for ROR carriers opting into model-based support? If so, how should the NUSF EARN Form filings differ?
B. What categories of support should be included in each?
C. What about ROR carriers electing incentive regulation under the FCC's Business Data Services (BDS) Order?[28] Has any Nebraska ROR carrier made this election? Is any Nebraska ROR carrier planning to make this election in 2020?
D. Should the Commission require carriers to keep separations-based accounts for the purpose of receiving NUSF ongoing support? Why or why not? Please explain.

Response to Inquiry A: A single EARN Form applicable to all NETCs can and should be developed by the Commission. Based upon the Implementation Principles outlined herein, RIC sees no reason that the Revised Earn Form in Exhibit A cannot be used by all ROR NETCs.

Response to Inquiry B: For the reasons provided for the adoption of Implementation Principle 3 above, the Revised EARN Form should be modified to eliminate those costs that are excluded under

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[26] *See,* Comments of the Rural Independent Companies, Application No. NUSF-108, filed October 27, 2016 at 4.

[27] *See, PO 5 Order* at 3.

[28] *See, In the Matter of Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers, et al., Report and Order, Second Further Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, WC Docket No. 17-144 *et al.*, 33 FCC Rcd 10403 (October 24, 2018).

both FUSF programs – "legacy" and ACAM – applicable to ROR NETCs.[29]

Response to Inquiry C: No modification is required to the current EARN Form on the basis that an NETC has or has not elected the FCC's BDS[30] framework. Since the FCC's BDS framework requires the NETC to continue to treat the revenue and expenses as regulated, compliance with applicable accounting standards should address any issue with the FCC's BDS election. It is anticipated that many, if not all, Nebraska ROR companies electing the FCC's BDS framework will continue to follow Part 32 rather than GAAP. If found to be a problem, this issue could be addressed on a company-by-company basis as part of the annual NUSF and FUSF use certification process.

With respect to reporting the FCC's BDS elections, because all such elections will have been made by the reply comment due date, in its reply comments RIC will identify those of its member companies that have elected the FCC's BDS program.

Response to Inquiry D: No. Because RIC recommends that the Commission adopt a total company reporting approach for NUSF EARN Form purposes via the Revised EARN Form Framework, the need for and costs incurred in connection with a separations study solely for NUSF purposes are unnecessary. Moreover, based on the experience of the RIC member companies, total company results are generally used by the Commission Staff in the NUSF eligibility process, thus making any separations study expense and need unnecessary.

E. <u>Subject 5: Other Issues</u>

> *The Commission finds that interested parties may provide comments on other issues that are germane to the issues raised above. Are there other modifications the Commission should consider? If so, please explain.*

For the reasons stated herein, RIC respectfully requests that the Commission address the

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[29] *See* Section II.E, *PO 5 Order* Subject 5: Carrier Elections, Response to "Inquiries A and B", *supra.*

[30] To eliminate confusion between the use of "BDS" to refer to NUSF Broadband Deployment Support and the FCC's Business Data Services Order, RIC will refer to the federal concept available to ACAM-electing NETCs as "FCC BDS" in these Comments.

following two (2) matters and adopt RIC's recommendations in connection with its resolution of the issues raised in the *PO 5 Order*.

1. NUSF Distributions should be Subject to Limited Transferability Among Affiliated NETCs.

As indicated above, RIC respectfully submits that NUSF eligibility should be subject to the earnings level of the specific NETC.[31] For the following reasons, however, RIC also suggests that the Commission should permit transferability among affiliated ROR NETCs in order to fund broadband deployment within an affiliated NETC's area. First, as broadband deployment increases, 25/3 Mbps broadband investment in remaining unserved and underserved areas becomes ever more costly. To restrict investment to a specific study area may result in some census blocks having BDS that cannot be utilized efficiently, and other census blocks having too little support for necessary investments. Therefore, allowing the transfer of NUSF in a given year to an affiliated NETC should increase 25/3 Mbps deployment compared to that which would have occurred in the absence of such transfer. Second, the ability to transfer such NUSF support would be limited as a practical matter. Among the RIC member companies, the only NETCs that would be authorized to make transfers between affiliates would be the American Broadband Companies and the Consolidated Companies. Third, RIC notes that any such NUSF use would not, in any way, alter the federal deployment requirements of the ROR NETC. Therefore, the better solution in RIC's view is to allow the NETC to decide how to best allocate limited investment dollars among its NETC affiliates.

2. There should be Increased Transparency Between the NUSF Eligibility Process and the NUSF Distribution Process.

Finally, RIC respectfully requests the Commission to direct its Staff to undertake additional efforts to make the NUSF distribution framework as transparent and predictable as the NUSF eligibility framework. In recent years, RIC member companies have found it difficult to determine the

[31] *See* "Carrier Elections, Response to Inquiry D".

methodology for NUSF budget allocations among ROR NETCs. To address this situation, RIC respectfully suggests that, at the Commission's direction, the Commission Staff undertake periodic webinars and/or workshops to explain the distribution process for the upcoming year based on known facts and circumstances relating to the NUSF program, including but not limited to expenditures to date in the given NUSF year, expected NUSF remittances for the given NUSF year, and the estimated NUSF budget for the coming year. RIC understands that Staff discussions early in any given NUSF funding year may be subject to change and to supplemental NUSF funding year disclosures. Nonetheless, information that is provided should cause actual support amounts to be more ascertainable and thus more reliable. As such, predictability of the level of NUSF support for any given year for an NETC should be enhanced, a result fully consistent with governing statute - "There should be specific, predictable, sufficient, and competitively neutral mechanisms to preserve and advance universal service."[32]

IV. CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Comments in response to the inquiries presented by the Commission in the Order and look forward to continuing participation in this docket.

[32] *Neb. Rev. Stat.* § 86-323(2).

Dated: February 18, 2020.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of February 2020, an electronic copy and one paper copy of the foregoing pleading were delivered to:

Nebraska Public Service Commission

Cullen.Robbins@nebraska.gov

Brandy.Zierott@nebraska.gov

Also, electronic copies of the foregoing pleading were electronically delivered to the other parties to this docket.

Paul M. Schudel

Paul M. Schudel

EXHIBITS

[See Attached]

Nebraska Universal Service Fund
Earnings Adjustment

Exhibit A -- Revised EARN Form

Company: ______________________

Base Period: ______________________

Ln#	Description	Source		Total Company Form M (A)
	Investment			
1	Plant in Service	Records	$	-
2	Materials & Supplies	Records	$	-
3	Short Term PUC	Records	$	-
4	Depreciation Reserve	Records	$	-
5	Deferred Income Taxes	Records	$	-
6	NET INVESTMENT	Ln1+Ln2+Ln3-Ln4-Ln5	$	-
7	Cost of Capital	PSC Defined Input		%
8	Return on Investment	Ln6*Ln7	$	-
9	State Tax Rate	Records		%
10	Federal Tax Rate	Records		%
11	Effective Tax Rate	(Ln9+Ln10)/(1+Ln9)		%
12	Tax Base Adjustments	Records	$	-
13	Investment Tax Credit	Records	$	-
14	NET INCOME BEFORE TAXES	[Ln8-(Ln12*Ln11)-Ln13] [1-Ln11]	$	-
	Expenses			
15	Plant Specific Operations	Records	$	-
16	Plant Non-Specific Operations	Records	$	-
16a	Depreciation Expense - 1 yr	Records-base period	$	-
17	Customer Operations	Records	$	-
18	Corporate Operations	Records	$	-
19	Other Operating Taxes	Records	$	-
20	TOTAL EXPENSES	Sum(Ln15..Ln19)-16a	$	-
21.1	Disallowed Federal Operating Expenses	Records	$	-
21	TOTAL COST	Ln14+Ln20-Ln 21.1	$	-
	Revenues			
22	Local Network Service	Records	$	-
22.1	Unbundled Network Element	Records	$	-
22.2	Non-UNE Local Svs to carriers	Records	$	-
22.3	Other Local Network Service	Records	$	-
23	Network Access	Records	$	-
24	Long Distance	Records	$	-
25	Federal USF	Records	$	-
25.1	High Cost Loop Support	Records	$	-
25.2	CACM	Records	$	-
25.3	ACAM	Records	$	-
25.4	BLS/ICLS	Records	$	-
25.5	Other Federal USF	Records	$	-
26	State USF	Records	$	-
26.1	High Cost	Records	$	-
26.2	NTAP	Records	$	-
26.3	Tele-Health	Records	$	-
26.4	Other State USF	Records	$	-
27	Miscellaneous	Records	$	-
28	Non-Regulated	Records	$	-
29	Uncollectible - Net	Records	$	-
30	TOTAL REVENUES	Sum(Ln22..Ln28)-Ln29	$	-
31	Earnings Variance from 11%	Ln30-Ln21	$	-
32	Earnings Adjustment	Max(0,Ln31)	$	-

NUSF EARN-Form Instructions

Company	The company name should be entered on the indicated line.
Base Period	The base period year should be entered on the indicated line. The base period year is either the preceding calender year or the preceding three calendar years.
Columns	A company must populate Columns A, D, and F. The population of Columns B, C and E is optional, and should be used for the purposes described below.
Column (A)	Column (A), "Form M", Lines 1-6, 13, 15-20, and 22-30 should contain amounts that match the data submitted on a company's Form M submission for the relevant year. Line 12 should contain any adjustments made to the tax base prior to applying the applicable tax rates, such as fixed charges. This amount should be calculated on the same basis as the other amounts in Column (A). If this amount can be calculated from the Form M submission, a company should provide a schedule showing the calculation. If this amount cannot be calculated from the Form M submission, a company should provide adequate supporting documentation to verify the accuracy of this amount.
Column (B)	Column (B), "Interstate Services", Lines 1-6, 12-13, 15-20, and 22-30 should contain the amounts that need to be excluded to focus the earnings adjustment to a total state jurisdictional level.
Column (C)	Column (C), "Other Excluded Services", Lines 1-6, 12-13, 15-20, and 22-30 should contain the amounts that need to be excluded to focus the earnings adjustment to a supported services level. As set forth in the January 13, 1999 order in Docket No. C-1628, these amounts will be subject to Commission approval. Therefore, a company should provide adequate supporting documentation to verify the accuracy of the included amounts. For companies not filing on a support services level, that include amounts in Column (C), please contact the NUSF department for the required attestation to be included with your submission.
Column (D)	Column (D), "Total Prior to Adjustments", Lines 1-6, 12-13, 15-20, and 22-30 should equal the result of Column (A) minus Columns (B) and (C) for each line. On Lines 8, 11, 14, 21, 31, and 33, a company should use the described formulas to calculate the required amounts. Line 7 should contain the Commission's approved cost of capital of 11%. Line 9 and 10 should contain a company's applicable state and federal tax rates, respectively.
Column (E)	Column (E), "Other Adjustments", Lines 1-6, 12-13, 15-20, and 22-30 allow a company to make adjustments for significant known and measurable events that will occur over the support period and are not adequately reflected in the base period. Line 32 should contain the dollar amount of additional support that a company is requesting. A company including amounts in this column must file a waiver request. The waiver request should state why the adjustments should be allowed and fully support the calculated adjustments.
Column (F)	Column (F), "Total", Lines 1-6, 12-13, 15-20, and 22-30 should equal the result of Column (D) plus Column (E) for each line. On Lines 8, 11, 14, 21, 31, and 33, a company should use the described formulas to calculate the required amounts. Line 7 should contain the Commission's approved cost of capital of 11%. Line 9 and 10 should contain a company's applicable state and federal tax rates, respectively.
Line 16a	Line 16a should contain an annual depreciation expense amount for the preceding calendar year. Companies filing on a three year average should not report a three year average amount for this line, but rather report only the depreciation expense amount for the preceding calendar year. The amount in line 16a is a subpart of the amount included in line 16 and therefore only line 16 is included in the calculation of total expenses.
Line 22	Lines 22.1, 22.2, and 22.3 should contain a disaggregation of the amount in Line 22. The sum of these lines should equal the amount in line 22.
Line 25	Lines 25.1, 25.2, 25.3, 25.4 and 25.5 should contain a disaggregation of the amount in line 25. The sum of these lines should equal the amount in line 25.
Line 26	Lines 26.1, 26.2, 26.3, and 26.4 should contain a disaggregation of the amount in line 26. The sum of these lines should equal the amount in line 26.

Exhibit B - Example of Transfer Overearnings to BDS

Company Name	Type	Eligible Support Amount *a*	Ongoing Support Base *b*	Share of the Model Support Base *c*	Base Total Model Ongoing Support Limit *d*	Ongoing Support Transferred to BDS *e*
		Capped Overearnings	*SBCM Output*	*=(b)/Σ(b)*	*=Ongoing Support Budget*(c)*	*=Minimum of (a) and (d)*
Company A	RoR	$ 100,000	$ 200,000	4.00%	$ 40,000	$ 40,000
Company B	RoR	$ 80,000	$ 550,000	11.00%	$ 110,000	$ 80,000

Company A had $250,000 of Overearnings on the EARN Form and $150,000 of NUSF High Cost Support which results in a negative $100,000 of Eligible Support Amount (i.e. Capped Overearnings). The amount transferred to BDS equals **$40,000,** which is the lesser of the Capped Overearnings ($100,000) and the Base Total Ongoing Model Support Limit ($40,000).

Company B had $140,000 of Overearnings on the EARN Form and $60,000 of NUSF High Cost Support which results in a negative $80,000 of Eligible Support Amount (i.e. Capped Overearnings). The amount transferred to BDS equals **$80,000,** which is the lesser of the Capped Overearnings ($80,000) and the Base Total Ongoing Model Support Limit ($110,000).