BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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.	)))))	Application No. NUSF-111/ PI-211

COMMENTS OF COX NEBRASKA TELCOM, LLC

Cox Nebraska Telcom, LLC hereby files these comments in the above-captioned docket, as permitted by the Nebraska Public Service Commission ("Commission") Order entered herein December 19, 2017.

By responding, Cox does not deviate from its previous position conveyed through comments, testimony and briefs that it is ill-advised for the Commission to proceed independently, prior to the Federal Communications Commission ("FCC") taking action on this subject. However, given the Commission's entry of the Order in NUSF-100 on October 31, 2017 ("October Order") approving a change in the Nebraska Universal Service Fund ("NUSF") collection methodology, Cox files the following comments to respond to the Commission's questions.

1. *The Commission seeks comment on establishing a rate design that is consistent with the NUSF Act's statutory goals. More specifically, we seek comment on how to structure a connections-based rate design that will result in a specific, predictable, sufficient and competitively neutral contribution mechanism.*

2. *Further, the Commission seeks comment on a proposed rate design that will reasonably balance the burden of the surcharge with the requirement that the NUSF provide reasonably comparable access to telecommunications and advanced communications services in rural high-cost areas.*

In response to Questions #1 and #2, Cox asks the Commission to explicitly reject the rate design proposals that were proposed by the Commission in its February 22, 2017 Order Seeking Further

Comment and Setting Hearing ("February Order"). The February Order contained an unduly complicated, and frankly unworkable rate design that suggested the NUSF surcharge be based on customer revenue tiers. This concept was rejected by all interested parties, and Cox asks the Commission clarify that such an inordinately complicated structure is dismissed from further consideration.

Three new alternatives were suggested by Commission Staff via the Direct Testimony of Cullen Robbins, on March 24, 2017. While not as complicated as a tiered customer revenue approach, these alternatives levy excessively high surcharges for multi-line business customers in a connections-based environment and accordingly, should be disregarded as well. Staff Alternative One suggested a $10.40 per-connection charge for multi-line business customers. Under that proposal, the present 6.95% surcharge would become a 50% surcharge for a Cox Business customer who purchases a single ISDN Primary Rate Interface ("PRI") circuit giving them 23 access lines at the average cost of $475. That customer's NUSF remittance would become $239.20. The cheapest multi-line business surcharge contained in Alternative Three still results in a staggering 32% surcharge level for that customer.

A primary driver of these excessively high surcharge levels was the result of the effort to generate approximately $71 million for the NUSF annual budget. That amount is not only unrealistic, it's unworkable without foisting massive rate increases on end users. The Commission has stated repeatedly in this docket that its intent in moving towards a connections-based methodology is to "stabilize" the fund. As a result, all previous proposals that served to double the NUSF size should be rejected.

Cox encourages the Commission to develop a rate structure that eliminates rate shock to customers, which should be achievable if the Commission's goal is to 'stabilize' NUSF revenues. Future customer assessments should resemble the amounts customers presently pay. If the Commission is aware of the approximate ratio that is presently paid into the NUSF by residential customers compared to business customers, efforts should be made to maintain that ratio going forward. A new rate design should not create winners and losers, or those who pay more or less when the objective is to maintain the current revenue stream figure.

Finally, Cox suggests the Commission explore the concept proposed by Windstream that a small, uniform fee be assessed per connection. The details surrounding Windstream's proposal have not been presented, but the concept merits further consideration. Cox asks the Commission to permit the filing of Reply Comments to allow interested parties the opportunity to respond to the comments others file herein. Assuming Windstream explains its proposal further, or other parties offer specific surcharge proposal figures, Cox would like the opportunity to respond and possibly support the suggestions that are recommended by others.

3. *We solicit comments on how to design a contribution mechanism in light of the estimated costs to deploy broadband service to the remaining areas in Nebraska and the ongoing costs to maintain areas that have already built out. On the one hand, the Commission currently uses the Benchmark Cost Proxy Model (BCPM) which was a cost model we recommended to the FCC for universal service in Docket No. C-1633. More recently, we made the State Broadband Cost Model (SBCM) available to interested parties through a licensing agreement. The SBCM estimates broadband deployment costs throughout the state. Are there other broadband deployment costs the Commission should consider? How should these costs be considered when determining a connections-based surcharge?*

Cox files no comments in response to Question 3.

4. *It was suggested by some commenters in NUSF-100/PI-193 that a per-line connection assessment could result in a significant impact on enterprise business customers. In the workshop held in that proceeding, some participants discussed the potential use of a cap similar to that used in the Telecommunications Relay Service (TRS) program, which is capped at the first one hundred telephone numbers or functional equivalents per subscriber. Should the Commission likewise adopt a rate design which uses a cap for*

business lines for NUSF remittance purposes? If so, please provide comments or recommendations related to the method by which the Commission could calculate the cap. What source data should the Commission use to determine a cap? We ask interested parties that have an interest in a surcharge cap to assess the impact such a cap would have on the overall annual remittances either by an individual carrier or as a whole relevant to the total remittance base and provide the Commission with that information for its consideration.

Cox expressed its concerns with the use of a connections-based methodology and the corresponding impact a hefty connection surcharge will have on large business customers who use hundreds, if not thousands of connections in response to Questions #1 and #2 above. The proposals suggested by the Commission in its February Order and in the Direct Testimony of Cullen Robbins resulted in extraordinary NUSF surcharge levels for large business customers. A cap may be worth considering to prevent what resulted in double-digit surcharge levels and unreasonably high increases under those proposals. However, the quandary with a cap lies in the fact that a hard cut-off will potentially result in a medium-sized business customer paying the same NUSF surcharge as a multi-thousand connection business, such as a telemarketing company.

Furthermore, a cap fails to address the rate-shock that some business customers may face, as it ignores the massive changes that have occurred in technology since the NUSF was created in 1998. Today's business customers do not only use conventional technology to receive voice services, such as PRIs, they also receive voice-channels via internet pipes. The cost of this service is dramatically lower, and can be just a few dollars per month, per channel. This concern was brought to the Commission's attention by Ms. Pamela Hollick, on behalf of Level 3 at the NUSF-100 hearing.[1] The Commission must take into consideration that new and innovative business products have totally transformed the pricing that existed twenty years ago at the

[1] NUSF-100 / PI-193 Hrg. Aug. 30, 2017, Testimony of Pamela Hollick on behalf of Level 3, TR 45-46.

NUSF's inception. In today's environment, even a small NUSF surcharge on every connection could represent an enormous percentage of an end user's bill.

Therefore, before a cap is deemed necessary, Cox encourages the Commission to specifically size the fund to determine the amount of money it intends to raise. This includes a thorough examination of what it will cost to achieve the goals of the NUSF before it concludes what customer contribution amount is appropriate, or conversely, is excessive. Until the Commission determines what it needs to fund, and what those costs are, it is premature to assess the customer impact and the necessity of a cap. The customer impact of creating a $71 million NUSF as was initially proposed, is vastly different than creating a NUSF half that size at $35 million.

To properly size the fund, a critical next step is to better quantify the federal support that is flowing to Nebraska. As was pointed out by Commissioner Rhoades in her Concurring Opinion to the October Order, it is important to eliminate the possibility of "double dipping" with carriers receiving both federal and state support for the same area.

In addition, it should be examined what, if any, basic local rate increases NUSF-recipient companies should be required to make in the 2018 era. The Commission should undertake the effort to examine local benchmark levels, just as it did when the NUSF was initially created twenty years ago. Such is not only an entirely reasonable exercise as the Commission establishes the fund size, but it serves to ensure the adherence of the NUSF policy goal that rural rates are similar to those paid in urban areas.

In closing, if the NUSF surcharge is priced at a de minimus amount, it may negate the need for a cap. Therefore, it is important before determining whether a cap is necessary, to first size the fund. Then it can be ascertained how that sum is fairly paid by Nebraska's consumers.

5. *In order for the Commission to assess the comparative contribution differences among categories of service moving from a revenues basis to a connections basis, we ask commenters to provide the following aggregate data:*

   a. *The average monthly NUSF contribution per consumer-grade service customer under the current revenues-based contribution mechanism as well as a calculation of that current contribution on a per connection basis for both circuit-switched and interconnected VoIP customers.*

   b. *The average monthly NUSF contribution per business and government grade service customer under the current revenue-based contribution mechanism as well as a calculation of that current contribution on a per connection basis for both circuit-switched and interconnected VoIP customers.*

   c. *The average monthly NUSF contribution per mobile telephony service customer under the current revenues-based contribution mechanism as well as a calculation of that current contribution on a per connection basis.*

In response to Questions 5a and 5b above, Cox does not keep records of the average monthly per consumer-grade, business or government-grade NUSF contribution amount, and as such is unable to calculate or predict what that sum would be on a per-connection basis in such a short time. Furthermore, given the time required to manually produce this information, Cox questions the relevancy and usefulness what these numbers provide. With the wide array of products and services customers subscribe to, the "average" contribution will be significantly less than what some users pay, while grossly over-inflating what a POTS (Plain Old Telephone Service) subscriber pays. Such a disparity will be even more extensive in the business sector where the contribution paid by a single-line business customer, averaged with a telemarketing company's contribution results in a meaningless figure for calculation purposes. Question 5c is not applicable to Cox.

6. *In providing responses to the questions posed in questions 1-5 above, the Commission requests that the commenters explain how connections data reported to the FCC on Form*

477 was used, if applicable, and if so, how the instructions for Form 477 were relied upon for definitional or other determinations.

Cox did not use the Form 477 to respond to Questions 1-5 above. Form 477 could theoretically provide the total number of voice connections in the state, which could then be theoretically applied against the overall desirable size of the fund to determine the per-connection surcharge. The difficulty of using the Form 477 lies with its calculation of connections for business customers. The Form 477 essentially counts one connection for each residential customer, i.e. in a 1:1 ratio. However, such is not the case for business connections. The Form 477 tallies business connections, but it does not do so on a per-customer basis. For example, one PRI used by a business is counted as 23 connections in the Form 477. In other words, the numbers are aggregated data. This makes the Form 477 problematic in determining the number of business connections per customer, potentially yielding incredibly onerous and burdensome assessments on large business users, something Cox has cautioned against since the beginning.

7. *If a commenter believes that a state-wide data source other than the FCC Form 477 data is appropriate, please explain how that data source meets the objectives of the Commission regarding the need for data to implement the connections-based mechanism. As part of this explanation, please explain why such a data source should be used and how compliance with Commission objectives would be achieved through its use.*

Cox is not aware of another data source that would remedy the inherent flaws of the Form 477. This is one more reason why Cox has expressed concerns with the Commission proceeding independently without having the benefit of direction and guidance from the FCC how a totally new, and untested connections-based assessment methodology should be implemented.

8. *We seek comment on how a connections-based system should be implemented. What are the associated costs and benefits of moving to a connections-based system? How would the costs differ from any other flat rate charge currently established by the Commission such as the E911 or the TRS surcharge?*

Please see the answer provided below in response to Question #9 related to cost.

9. *We ask interested parties to provide the Commission with an estimation of cost of a billing system conversion as well as the time required to complete such a conversion to implement a connections-based NUSF contributions mechanism. Please include any supporting data.*

Out of pocket costs will not be incurred to purchase a new billing system. Rather, internal expenses involving personnel will be required to reconfigure the billing system. Of course, any time the billing system is 'touched', extra time and caution must be taken in order to ensure other billable items, such as 911, TRS, occupation taxes, etc. are left intact and not impacted by modifications to the billing system. Therefore, time will also be incurred to review the changes made as part of a compliance process. Cox estimates it will take 90 days to implement, as that is the period generally used to safely make billing modifications.

10. *Please identify and quantify other costs which may be associated with implementation of a connections-based mechanism, including necessary supporting data as well as a timeline for implementation*

Cox is not aware of any other costs that would be associated with implementation at this time.

In closing, Cox reiterates its request above that the Commission offer interested parties a Reply Comment opportunity. Valuable information can be provided to the Commission and it will not unduly delay or burden the implementation of the connections methodology. In fact, Reply Comments will enhance and enrich the docket with constructive, useful information.

Respectfully submitted this 30th day of January, 2018.

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Certificate of Service

The undersigned hereby certifies that on this 30th day of January, 2018, five copies of Cox Nebraska Telcom, LLC's Comments in NUSF-111, PI-211 were hand-delivered to the Nebraska Public Service Commission, and a copy of the same was e-mailed to the following:

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