

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

POST HEARING JOINT COMMENTS OF QWEST CORPORATION d/b/a CENTURYLINK QC, UNITED TELEPHONE COMPANY OF THE WEST d/b/a CENTURYLINK, LEVEL 3 COMMUNICATIONS, LLC, CITIZENS TELECOMMUNICATIONS COMPANY OF NEBRASKA d/b/a FRONTIER COMMUNICATIONS OF NEBRASKA, AND WINDSTREAM

On December 19, 2017, the Nebraska Public Service Commission (“Commission”) issued an Order Opening Docket and Seeking Comment in the above referenced proceeding. This docket arises from the Commission’s October 31, 2017 Order in NUSF-100 adopting a connections-based contribution methodology for the Nebraska Universal Service Fund (“NUSF”).¹ In that Order, the Commission stated that it “intend[s] to open a separate proceeding to study the issue of rate design, utilization of the publicly available Form 477 or TRS data for identifying and capping connections, and the costs associated with implementation of the connections-based mechanism.”² The Commission requested interested parties file comments on a number of issues related to the rate design, data sources, and implementation of a connections based contribution methodology by January 30, 2018. On February 23, 2018, the Commission issued an Order allowing parties to file reply comments by March 23, 2018. On May 1, 2018, the Commission held a hearing on this matter. At that hearing, Commissioner Landis stated that parties can file post hearing briefs or comments by May 18, 2018.

¹ See 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/PI-193, page 28 (“...the Commission is of the opinion and finds the best alternative is to adopt a connections-based contribution mechanism.”)

² *Ibid*, page 33.

Qwest Corporation d/b/a CenturyLink QC, United Telephone Company of the West d/b/a CenturyLink, Level 3 Communications, LLC,³ Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska, and Windstream⁴ (collectively, the “Joint Commenters”) appreciate the Commission’s continued efforts to stabilize the NUSF through changes to the contribution methodology and respectfully file these post hearing comments.

At the hearing, the witnesses for the Rural Independent Companies (“RIC”) testified that the Commission should establish a rate design that would achieve \$60 million in remittances. The RIC witnesses claim that this is not an expansion of the remittances, but rather stabilizes the remittances at a level that was achieved historically.⁵ RIC’s reliance on historic remittance levels is misplaced. Sizing the fund based on the average fund size from over a decade ago is attempting to turn the calendar back and then freezing time.

Historical remittances into the fund are irrelevant for the task at hand. Much has changed in the telecommunications industry since remittances into the fund were at the \$60 million level, therefore trying to achieve past remittance balances is ill advised. The primary effort here is to stabilize the fund, not expand it, and setting a rate design that collects \$60 million would represent a massive expansion of the fund. In addition, stabilizing remittances at the recent levels will minimize the chances of rate shock to Nebraska consumers and businesses from a conversion to a connections based remittance, while an increase in the fund size to \$60 million will ensure rate shocks that will be felt throughout the state.

³ Level 3 Communications, Inc. was acquired by CenturyLink on November 1, 2017. CenturyLink is now the parent company of the former Level 3 companies that provide telecommunications services in Nebraska.

⁴ Windstream Nebraska, Inc., McLeodUSA Telecommunications Services, LLC, PAETEC Communications, LLC, Windstream Communications, LLC., Windstream IT-Comm, LLC, Windstream KDL, LLC, Windstream Norlight, LLC, Windstream NTI, LLC, Windstream of the Midwest, Inc., Windstream Systems of the Midwest, Inc., Business Telecom, LLC, DeltaCom, LLC, and EarthLink Business, LLC are collectively referred to herein as “Windstream.”

⁵ The RIC witnesses provided a document at the hearing, titled “PFISTER EXHIBIT ONE” which shows the history of remittances into the NUSF. The document shows that the average annual remittance for the years 2000-2009 is \$56.6 million, and witness Pfister noted that this number is not adjusted for inflation.

RIC also asks the Commission to essentially guarantee a \$60 million NUSF for a minimum of 10 years to ensure there is sufficient predictability in the fund to achieve the broadband deployment goal. While predictability is important to companies as they develop long-term investment plans, the Joint Commenters do not believe the Commission should make such a commitment. Many things can and will change in the industry and technology over the next decade. Moreover, Commissioner Landis noted at the hearing that the Commission could open itself up to action if it was unable to live up to that commitment. The Nebraska consumer should not be held hostage to supporting an improperly-sized fund for an extended period of time. The Commission should continue its past practice of deciding on the appropriate size of the fund pursuant to a specific review of the needs each year.

The Joint Commenters also note that several parties to this proceeding have advocated for a hybrid approach, whereby business customers, as well as non-connections based services such as long distance and private lines, will continue to be assessed under the current revenues-based methodology while residential and wireless subscribers will convert to the connections-based methodology. The Joint Commenters believe that this approach has some merit and should be explored further. Such an approach may reduce delays in the docket, since the Commission will not have to immediately address the contentious and difficult question of how to count business connections. However, even with a hybrid approach there will be issues to address. The hybrid approach will add some complexity to the rate design calculation, and potentially to the implementation timeline. The Commission must determine how to allocate the remittances into the fund between the residential/wireless subscribers and the business subscribers, and must do so in a way that minimizes rate shock for both consumers and businesses. Further, the Commission must recognize that consumer levies should not include both a “per connection charge” and a “revenue based charge” on long distance service.

Finally, there are conflicting opinions regarding the appropriateness of using Form 477 data for the determination of the number of connections. It is important that the Commission find an accurate

and timely source for a predictable count of connections to ensure that the rates established for the NUSF remittances will result in the correct amount remitted into the fund. Because of concerns regarding differing interpretations of the instructions for counting connections for some business services, as well as the time lag in the publication of the Form 477 data, the Form 477 data may not be the ideal source. Using the Form 477 data may result in NUSF remittances not matching the Commission's intended fund size. The Joint Commenters recommend that the Commission annually issue a bench request to all remitters into the fund for the information needed to accurately calculate the surcharge amount. The information required will include:

- most recent contributions remittance;
- most recent assessable revenues (broken down between business and residential for wireline carriers);
- number of access lines (broken down between business and residential for wireline carriers); and
- number of assessable connections.

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Respectfully submitted,

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Certificate of Service

The undersigned hereby certifies that on this 18th day of May, 2018, an original and five copies of the foregoing Joint Comments were hand-delivered to the Nebraska Public Service Commission, and a copy of the same was emailed to:

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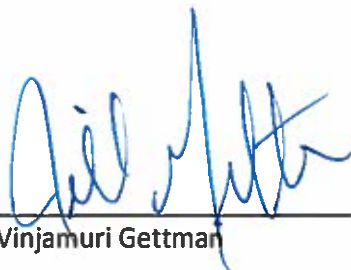
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