

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

RECEIVED

MAR 23 2018

Nebraska
Public Service Commission

REPLY COMMENTS OF COX NEBRASKA TELCOM, LLC

Cox Nebraska Telcom, LLC ("Cox") hereby submits these Reply Comments in the above-captioned docket, as permitted by the Hearing Officer Order entered herein February 23, 2018. Cox thanks the Commission for allowing interested parties this opportunity.

The Commission Should Stabilize, Not Increase the Size of the Fund

As Cox has indicated previously, it is critically important that modifications to the Nebraska Universal Service Fund ("NUSF") contribution methodology do not result in the consequence of inflicting rate shock on customers. Cox is concerned what impact a new, untested connections-based NUSF surcharge will have on consumers. Cox asks the Commission to be mindful regarding residential customers who may be incentivized to 'cut the cord' due to the imposition of higher taxes and surcharges. And furthermore, Cox asks the Commission to be attentive to large telecommunications business customers that can quickly and easily relocate their operations to a lesser taxed state if the Commission's actions cause dramatic price increases.

For this reason, Cox strongly disagrees with the suggestion made herein by the Rural Independent Companies ("RIC") that a \$60 million fund is necessary.¹ It is fiscally irresponsible

¹ Comments of Nebraska Rural Independent Companies (hereinafter referred to as "RIC"); NUSF-111/PI-211, filed Jan. 30, 2018, p. 12.

in these challenging economic times when significant budget reductions are being made across the state that the NUSF fund would nearly double in size from current projected levels.

It has been stated repeatedly throughout the course of the contribution reform proceedings that the goal of reform is to stabilize the fund, and to curtail the decline that is said to be imminent in projected forecasts so as to provide predictability and stability. To fulfill those goals while simultaneously increasing the size of the fund is ill-advised, and increases the potential for confusion, rate shock and market distortions.² As Windstream stated, the rate design should be based on the existing NUSF budget.³ And Charter encouraged the Commission to focus on a connections-based methodology that maintains current funding levels.⁴

While the Commission has previously stated its goal is to deploy a fiber-based network everywhere, something supported by the RIC⁵, the expense of such makes the goal unrealistic. RIC points out a statewide fiber-based network exceeds \$152 million.⁶ Even RIC agrees that amassing such a figure would conflict with the ability to maintain ‘just, reasonable and affordable rates’.⁷ Cox agrees with the CTIA that as the Commission considers issues related to the size and structure of the NUSF, the Commission should focus on minimizing the size of the fund, and the burden it imposes on customers.⁸ The Commission should use the most efficient technology, and abandon its focus on extending fiber to areas where the cost of deployment is excessive.⁹

² Comments of Charter Fiberlink - Nebraska LLC and Time Warner Cable Information Services Nebraska (hereinafter referred to as “Charter”); NUSF-111/PI-211, filed Jan. 30, 2018, p. 3.

³ Comments of Windstream Nebraska Inc. (hereinafter referred to as “Windstream”); NUSF-111/PI-211, filed Jan. 30, 2018, p. 5.

⁴ Comments of Charter; NUSF-111/PI-211, filed Jan. 30, 2018, p. 3.

⁵ Comments of RIC; NUSF-111/PI-211, filed Jan. 30, 2018, p. 6.

⁶ *Id.*

⁷ *Id.*

⁸ Comments of CTIA – The Wireless Assoc. (hereinafter referred to as “CTIA”); NUSF-111/PI-211, filed Jan. 30, 2018, p. 5.

⁹ *Id.*

No one can say with certainty what impact a connections-based methodology will have, particularly on large telecommunications customers who use PRIs, T-1s and IP technology, as advancements in technology are steadily lowering prices for high-volume users. Nebraska is forging ahead and will be one of the first states in the country to implement a connections-methodology, ahead of the Federal Communications Commission (“FCC”) whose experts have studied the topic for years. Accordingly, the Commission should proceed cautiously and concentrate on stabilizing the fund at current revenues, and not take advantage of changing the connections-methodology to surreptitiously effectuate a fund increase.

Instead of Implementing a Cap, the Commission Should Consider Maintaining the Current Revenues-Based Assessment on Business Customers

Cox suggests the Commission explore the possibility of limiting the connections-based methodology to residential and wireless customers at the onset. Such an idea particularly merits consideration after one reads the NUSF-111/PI-211 Comments showing no concurrence whether a cap on business lines is a satisfactory solution or even achievable.¹⁰ It was indicated that even a small connections-based surcharge may present problems for large businesses and institutions.¹¹ Charter joined Cox in expressing concerns that a cap will not address the fact that businesses are moving towards services that establish paths that are dramatically less expensive than legacy TDM services.¹² The cost of these service may be just a few dollars a month. And as Cox has noted

¹⁰ Those supporting a cap in NUSF-111/PI-211 Comments filed Jan. 30, 2018 included Windstream (pgs. 6-7), Frontier (p. 2), Century Link (p. 4). Those opposing a cap included Assoc. of Teleservices Intl, Inc. (pgs. 1-2). RIC indicated a cap is premature and opposes any structure that requires data other than that which is available through use of FCC Form 477 (p. 15).

¹¹ Comments of Charter; NUSF-111/PI-211, filed Jan. 30, 2018, p. 7; Comments of Cox Nebraska Telcom, LLC (hereinafter referred to as “Cox”); NUSF-111-211, filed Jan. 30, 2018, p. 4.

¹² Comments of Charter; NUSF-111/PI-211, filed Jan. 30, 2018, p. 11.

previously herein, a cap potentially results in a business customer with dozens of lines paying the same NUSF surcharge as a business customer with hundreds or even thousands of lines.¹³

The hybrid concept of excluding businesses from the connections-based methodology was suggested by the RIC in NUSF-100/PI-193 Comments filed June 6, 2016.¹⁴ At that time, RIC provided strong rationale why certain services should retain the revenues-based assessment. That concept should be revisited now that the Commission has entered into the connections-methodology implementation phase.

In its NUSF-111 Comments, RIC pointed out that nothing in the NUSF Act requires the Commission to utilize one specific contribution mechanism.¹⁵ And that the Commission may establish a hybrid mechanism that utilizes a combination of connections-based and revenue-based assessments.¹⁶

Cox has consistently advocated that contribution reform be as unnoticeable to customers as possible. With the unknown impact the change in methodology will have on business customers, and the significant difficulty it presents to fairly implement a per-connection surcharge on large enterprise customers, and no optimal solution having been presented to date to remedy these concerns, Cox suggests the Commission implement the connections-based methodology on residential and wireless customers only at this time. Besides business customers, a hybrid approach could also be advantageous for a company like Securus Technologies, Inc., an Institutional Operator Service Provider who filed Comments herein stating they are technically

¹³ Comments of Cox; NUSF-111/PI-211, filed Jan. 30, 2018, p. 4.

¹⁴ Comments of RIC; NUSF-100/PI-193, filed June 6, 2016, p. 13.

¹⁵ Comments of RIC; NUSF-111/PI-211, filed Jan. 30, 2018, p. 3.

¹⁶ *Id.*

unable to bill a connections-based methodology.¹⁷ The status quo treatment could also be afforded to special access providers.

Frontier Communications pointed out in its NUSF-111 Comments that businesses have more communications options than residential customers.¹⁸ And if the cost of pricing is burdensome on business customers, they have the ability to transition to other, 'non-telecommunications' products that are outside the Commission's reach.¹⁹ Furthermore, as Cox stated above, many of these types of businesses can easily relocate their operations out of state if the NUSF surcharge becomes burdensome.

Additionally, as Cox has stated previously, the Form 477 has inherent flaws when it comes to calculating business customer connections. The Form 477 essentially counts one connection for each residential customer line, i.e. in a 1:1 ratio, which makes the implementation of a connections-based methodology workable. However, such is not the case for business connections. The Form 477 tallies business connections, but it does so using voice grade equivalent ratios, often equating numerous connections to individual business customers.

The continuation of a revenues-based assessment on business, special access and operator service providers would provide for a continued remittance of NUSF contributions while further study is done to implement an assessment system that fairly meets the needs and circumstances for all types of customers. Furthermore, phasing-in the connections-based methodology to residential and wireless customers would lessen the risk that will be encountered by forging ahead with an untested, unproven structure across the board. Such was part of RIC's rationale for

¹⁷ Comments of Securus Technologies, Inc.; NUSF-111/PI-211, filed Jan. 30, 2018, p. 2.

¹⁸ Comments of Citizens Telecomm. Co. of NE, d/b/a Frontier Comm. of NE Comments; NUSF-111/PI-211, Jan. 30, 2018, p. 2.

¹⁹ *Id.*

supporting this concept in NUSF-100/PI-193.²⁰ As Charter indicated, no state has experience implementing a connections-based program, and problems associated with it are still largely unknown.²¹ A smaller fund brings smaller problems.²² The merits of proceeding with the connections-based methodology only on residential and wireless customers could be discussed by interested parties through the submission of additional comments, in a workshop or at a hearing.

Accountability Is Important for the NUSF's Future

Cox reiterates from its NUSF-111 Comments that it is critical to accurately quantify the federal support that is flowing to Nebraska, and additionally, that measures openly show how NUSF high-cost monies are being used. As Commission Rhoades stated in her Dissenting Opinion to the NUSF-108 Order on Reconsideration, entered February 6, 2018, billions of dollars in subsidies have been distributed to Nebraska carriers through high-cost support, and carriers should be able to demonstrate that these funds have been used as intended.²³ It should be widely understood how the public's money is being spent and in what locations. An openness regarding the federal funding that is allocated to Nebraska as a part of the Commission's contribution-methodology reform will aid in justifying the NUSF's continued existence to the public.

²⁰ Comments of RIC; NUSF-100/PI-193, filed June 6, 2016, p. 13.

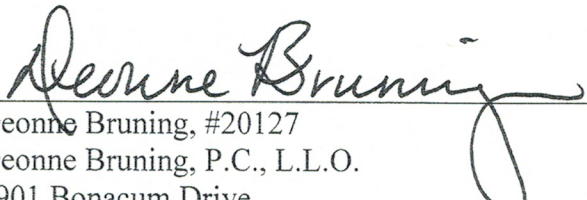
²¹ Comments of Charter; NUSF-111/PI-211, filed Jan. 30, 2018, pgs. 1-2.

²² *Id.* at pg. 12.

²³ NUSF-108 Order on Reconsideration, entered Feb. 6, 2018, p. 3.

Respectfully submitted this 23rd day of March, 2018.

ATTORNEY FOR COX NEBRASKA TELCOM, LLC


Deonne Bruning, #20127
Deonne Bruning, P.C., L.L.O.
2901 Bonacum Drive
Lincoln, NE 68502
(402) 440-1487

Certificate of Service

The undersigned hereby certifies that on this 23rd day of March, 2018 an original and five copies of Cox Nebraska Telcom, LLC's Reply Comments in Application NUSF-111, PI-211 were hand-delivered to the Nebraska Public Service Commission, and a copy of the same was e-mailed to:

Nebraska Public Service

Cullen Robbins Cullen.robbsins@nebraska.gov

Brandy Zierott brandy.zierott@nebraska.gov

Association of Teleservices International, Inc.

Matthew Ottemann mottemann@mcgrathnorth.com

Rural Independent Companies ("RIC")

Paul Schudel pschudel@woodsaitken.com

Thomas Moorman tmoorman@woodsaitken.com

Charter Fiberlink – Nebraska L.L.C.

Kennard Woods kwoods@fh2.com

Michael Moore michael.moore@charter.com

Russ Westerhold rwesterhold@FraserStryker.com

Windstream Communications

Jon Bruning jon@bruninglawgroup.com

Blake Johnson blake@bruninglawgroup.com

Steve Meradith stephen.meradith@windstream.com

Qwest Corporation d/b/a Century Link QC

Jill Vinjamuri Gettman jgettman@gettmanmills.com

Norm Curtright norm.curtright@centurylink.com

CTIA – The Wireless Association

Benjamin Aron baron@ctia.org

Matt DeTura mdetura@ctia.org

Loel Brooks lbrooks@brookspanlaw.com

Frontier Communications

Scott Bohler scott.bohler@ftr.com

Securus Technologies

Michael Lozich mlozich@securustechologies.com


Deonne Bruning