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Public Service Commission

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

REPLY COMMENTS OF THE RURAL INDEPENDENT COMPANIES IN RESPONSE TO ORDER OPENING DOCKET AND SEEKING COMMENT

I. INTRODUCTION.

The Nebraska Rural Independent Companies ("RIC")[1] submit these Reply Comments in response to the February 23, 2018 Procedural Order entered in this proceeding by the Nebraska Public Service Commission (the "Commission"). RIC appreciates the opportunity to provide the following Reply Comments to the Commission[2] and, as noted at the end of these Comments, RIC looks forward to continuing participation in this docket regarding the Nebraska State Universal Service Fund (NUSF") contribution reform.

II. THE COMMISSION SHOULD REJECT ANY EFFORTS TO DELAY THE IMPLEMENTATION OF ITS CONNECTIONS-BASED NUSF CONTRIBUTION FRAMEWORK.

Before proceeding with a discussion of commenters' responses to the questions posed by the Commission in the December 19, 2017 Order Opening Docket and Seeking Comment entered in this docket, it is necessary to address the recurrent suggestion by some commenters

[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, Inc., 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.

[2] For purposes of these replies, when citing to comments filed in this proceeding, RIC will cite the name of the filing party followed by the word "Comments" and the page reference therein.

that implementation of a connections-based contribution mechanism should be delayed or additional dockets should be opened by the Commission to further study issues relating to contribution reform.[3] RIC respectfully submits that any such suggestion should be rejected outright.

To be sure, no party contending for any such delay can square that contention with the Nebraska Legislature's directives that the NUSF is to be specific, predictable and sufficient.[4] At the same time, Commission action in Application No. NUSF-100 makes it clear that the current NUSF revenues-based contribution mechanism is not sustainable.[5] Thus, the effect of the positions that advocate delay of NUSF contribution reform would be to maintain the current

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[3] For example, CTIA – The Wireless Association ("CTIA") urges the Commission to "develop a comprehensive strategic plan" for the NUSF before implementing changes to the NUSF. CTIA Comments, p. 1. Qwest Corporation d/b/a CenturyLink QC, United Telephone Company of the West d/b/a CenturyLink and Level 3 Communications, LLC (collectively "CTL") recommends that the current docket be limited to a rate design for a connections-based contribution method and that the Commission should "open additional dockets" in which other issues relating to the NUSF can be considered. CTL Comments, p. 2. Cox Nebraska Telcom, LLC ("Cox") continues to advance its previous position that "it is ill-advised for the Commission to proceed independently, prior to the Federal Communications Commission ("FCC") taking action on this subject." Cox Comments, p. 1.

[4] *See generally,* RIC Comments, pp. 9-12.

[5] To illustrate the serious challenges to the continued viability of the NUSF, in 2014 total remittances were $49,236,832 and in 2017 total remittances were $35,314,153, a decline of 28.28%. Quarterly Remittance and Fund Balance Reports, http://www.psc.nebraska.gov/ntips/ntips_nusf.html. The Commission has projected a further decline in remittances for 2018 of 23%. *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, p. 1 (Oct. 31, 2017). This data stands in contrast to the fact that from 2010 through 2014 remittances to the NUSF declined at the rate of "about 2.3 percent per year". *See, In the Matter of the Commission, on its own motion, seeking to determine the level of the fund necessary to carry out the Nebraska Telecommunications Universal Service Fund Act effective fiscal year beginning July 1, 2015,* Application No. NUSF-4, p. 1 (June 16, 2015). Further, as recently at 2009, annual remittances to the NUSF were $55.4 million.

revenues-based contribution mechanism, the continuing downward spiral of NUSF remittances and the consequent further crippling of the ability of the NUSF to fulfill its policies and purposes as directed by the Nebraska Legislature. Accordingly, in RIC's view, NUSF contribution reform is not an option, but rather, it is a necessity. The viability of the NUSF and the High Cost Program must be sustained and strengthened into the future.

RIC supports the progress that the Commission has made to date regarding NUSF contribution reform. A significant amount of time has passed since the Commission first began addressing contribution reform in November 2014 in Application No. NUSF-100. Proceeding with dispatch to a final conclusion of outstanding implementation issues as noted in the caption of this proceeding is amply supported and the Commission should proceed with implementation of NUSF contribution reform at the earliest practicable date.

In so doing, RIC is confident that the Commission will implement NUSF contribution reform in a manner that places the current NUSF High Cost Program on solid footing. Opponents of the Commission's efforts to implement contribution reform have not reconciled their opposition with the governing NUSF legal/public policy framework that the Commission is directed to implement. Prompt conclusion of Application No. NUSF-108, this proceeding, and the continuation of the efforts began in Application No. NUSF-100 will allow the Commission to achieve its and the Nebraska Legislature's directives for broadband deployment in all areas of Nebraska.

III. COMMISSION QUESTIONS AND RIC'S RESPONSES.

For the reasons stated in RIC's Comments and herein, RIC respectfully submits that its rate design and implementation framework are appropriate, meet the applicable Nebraska statutory requirements, do not run afoul of federal directives, and otherwise advance in a manner consistent with federal policy, the deployment of broadband-capable networks in the State of Nebraska. As such, RIC respectfully requests that the Commission adopt RIC's rate design, data sources, and implementation framework to resolve the issues in this proceeding.

RATE DESIGN

Question 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.***

RIC supports the proposition that an NUSF connection-based surcharge should, insofar as possible, be established on a flat rate basis applicable to all connections in this State[6] and that, as noted by Cox, there is no need to adopt an elaborate and difficult to understand rate design such as that previously proposed by the Commission Staff in Application No. NUSF-100.[7]

Notwithstanding the desirability of a single, flat rate per connection surcharge, RIC agrees with commenters that continuation of the historical rate design in which business rates are higher than residential rates is appropriate.[8] Contrary to Windstream's position,[9] businesses make ample use of and derive economic benefit from their use of services and the networks that

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[6] As discussed in response to Question 6, *infra*, FCC Form 477 data should be used by the Commission to determine Nebraska-specific assessable connections. In light of the FCC's public reporting of Form 477 connections, there is no need now for an annual data request for connection data. *See,* CTL Comments, p. 2. Rather, a simple attestation or certification as to the accuracy of any NUSF remittances and the associated connections and revenue reporting as suggested by RIC should be sufficient. If a party sees the need to question how to count connections based on a definition in FCC Form 477 (*see,* Windstream Nebraska, Inc. ("Windstream") Comments, p. 3), then such party can raise that question to the Commission. *Accord,* RIC Comments, p. 17.

[7] *See,* Cox Comments, pp. 1-3 referencing Pre-Filed Testimony of Cullen Robbins, Application No. NUSF-100 (Mar. 24, 2017).

[8] *See,* Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska ("Citizens") Comments, pp. 1-2.

[9] *See,* Windstream Comments, p. 5.

provide such services, and no reason exists that such historical benefit should not be reflected in the NUSF connection-based surcharge rate design.[10]

At the same time, RIC respectfully requests that the Commission reject outright the efforts of Charter FiberLink – Nebraska, LLC and Time Warner Cable Information Services (Nebraska), LLC (collectively "Charter") to "slow roll" the process associated with the establishment of a rate design.[11] Charter's claim that the rate design is separate and apart from sizing misses the mark.[12] No question exists that the Commission is seeking a viable NUSF surcharge mechanism to support deployment of broadband in high-cost areas of Nebraska and that such deployment is costly. Charter suggests that rate designs stand in a vacuum. They do not, as reflected by the Commission's thoughtful inquiries associated with implementation issues arising from the adoption of a NUSF connections-based surcharge framework.

It is only logical therefore that the sizing of the NUSF is a function of the surcharge rate design and otherwise is an implementation issue that must be addressed as part of this

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[10] The Internet has opened and continues to provide tremendous opportunities for both large and small businesses. It has revolutionized the way business is conducted, created new ways to increase revenues and provided significant potential for cost savings. "If the Internet were a sector, it would have a greater weight in GDP than agriculture or utilities." Source: Manyika, James, Roxburgh, Charles, "The great transformer: The impact of the Internet on economic growth and prosperity", McKinsey Global Institute, 2011.

[11] Likewise, CTIA's suggestion that workshops be required to develop rate designs (*see,* CTIA Comments, p. 2) is merely an alternative delay tactic. The Commission has the legal authority to design and implement rates, including surcharges. In this regard, if Charter has concerns regarding the level of business connection surcharges and the frequency of reporting (*see,* Charter Comments, pp. 5-7) then Charter should have provided data to the Commission to address the magnitude of any such issues. Likewise, Charter's claims that a $1.00 NUSF per connection surcharge is a rate increase (*see id.*, p. 6) is based on data presented by Charter that the current NUSF percentage surcharge equates to less than a $1.00 per month per connection surcharge. As discussed in RIC's response to Question 4 below (pp. 9-11), this data appears to be suspect.

[12] *See,* Charter Comments, pp. 3-4.

proceeding. Absent the establishment of the level of funding to be determined through the Nebraska-specific connection surcharges, no rational means exist to ensure that the NUSF statutory criteria are met.[13] In short, Charter's narrow view of this proceeding cannot be sustained.

Likewise, the Commission should not be dissuaded from pursuing its connection-based surcharge contribution mechanism in light of Charter's notion that Voice over Internet Protocol ("VoIP") can only be assessed based on revenues.[14] The test under 47 U.S.C. § 254(f) relates to burdening the federal mechanism. Charter has provided no rational showing that a connections-based NUSF contribution will burden the federal program, particularly where, as here, the Commission's state program relies on the ability of the VoIP end user to make *intrastate calls* and with absolutely no reliance on interstate revenues. Charter's efforts to lengthen the Commission's process to implement contributions reform should be rejected.

Question 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.***

Four commenters proposed specific rate designs for the Commission's consideration. Charter proposed a $1.00 per month per connection surcharge that would cause the Commission

[13] In this regard, RIC notes that at pages 2-4 of its Comments, RIC proposes that the Commission's efforts to require that all current contributors to the NUSF continue to have a contribution obligation – and thus certain classes of providers should continue to contribute based on revenues – ensures that the Nebraska Legislature's directive that the Commission "[s]hall require every telecommunications company to contribute to any universal service mechanism" (*Neb. Rev. Stat.* §86-324(d)) is met, and that competitive neutrality regarding the contribution obligation is advanced. As also indicated by RIC, nothing in the underlying statute requires the Commission to utilize a single NUSF contribution mechanism or otherwise limits the Commission's flexibility to comply with the requirements of *Neb. Rev. Stat.* §86-324(d). *See also,* RIC Comments, p. 3.

[14] *See, id.,* pp. 4-5.

to "collect approximately $32 million in 2017" based upon utilization of the most recent available FCC Form 477 connections data reported for June 2016.[15]

Windstream proposed a rate design that would "be uniform across all technology types" and would "be applied without reference to customer class."[16] Based upon the total size of the NUSF for 2016 of $43,934,096 and using 2015 estimated connections less uncollectibles, Windstream proposed a per connection surcharge of $1.44 per connection per month.[17]

Citizens utilized total reported 2015 Nebraska connections of 2,614,000 in connection with its rate design. A monthly surcharge of $1.50 per connection per month applied to the foregoing number of connections would, according to Citizens, generate approximately $47 million per year. As an alternative, Citizens suggested a rate design of $1.50 per month per residential connection and $2.00 per month per business connection that "would generate nearly $50 million per year." Citizens further stated that "[b]y way of comparison, a $1.50 residential surcharge and $2 business surcharge *would be less than what Frontier's customers are currently contributing, on a per-line basis.*"[18]

As the Commission is aware, RIC proposed a rate design based upon June 2016 connections data reported on FCC Form 477. Based upon a $1.76 per connection per month surcharge on consumer-grade wireline switched access lines, interconnected VoIP subscriptions and mobile telephony connections, and a $2.64 per connection per month surcharge on business and government-grade wireline switched access lines and interconnected VoIP subscriptions,

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[15] *See,* Charter Comments, p. 6.

[16] *See,* Windstream Comments, p. 5.

[17] See, *id.,* p. 7.

[18] *See*, Citizens Comments, p. 3 (emphasis added).

annual remittances would total approximately $60 million.[19] This NUSF funding level, in turn, would provide funding of a NUSF High Cost Program that would encourage meaningful additional deployment and operation of broadband-capable networks, goals shared by both the Commission and the Nebraska Legislature. These surcharge rates represent a 3.5% and 13.8% increase in monthly surcharges for residential and business customers, respectively, when compared to the RIC member companies' current average revenues-based contribution levels for these customers converted to per connection amounts.[20]

RIC submits that the Commission's consideration of the surcharge levels to be established in the final connections-based rate design should be considerably influenced by the current levels of consumer contributions under the revenues-based surcharge converted to a per connection amount. The only publicly accessible data of current contribution levels was provided by Citizens and RIC (Windstream's data was redacted from its public filing). To the extent that other commenters chose not to provide data for the Commission's consideration, they should not be rewarded for the absence of data to support their positions. Based upon the data in the record, the Commission should approve RIC's rate design that would produce annual NUSF remittances of approximately $60 million, and find that this size of the NUSF properly balances

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[19] Annual NUSF remittances in excess of $60 million were experienced in 2002 and 2004 with actual remittances for those two years totaling $60,564,612 and $60,764,663, respectively. Source: Nebraska Public Service Commission, NUSF Remittances 1999-2017. It should be noted that the networks supported by the NUSF in 2002 and 2004 in rural high-cost areas were more predominantly voice-centric rather than broadband-centric, and thus, the costs to support and build such networks were less than the costs of ubiquitous fiber to the home networks that the Commission has identified as one of the strategic goals of this State. Further, current NUSF sizing would require upward adjustments to account for inflation in order to be comparable to the remittance levels of 2002 and 2004.

[20] *See,* RIC Comments at 7, and Exhibit 2.

the burden of consumer contributions with the Legislature's mandates established in the NUSF Act.

Question 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?***

The Commission is well aware of the history and use of the SBCM cost model. Challenges to the use of the SBCM should be rejected.[21] RIC has provided historical and rational explanations of the SBCM and its development,[22] and the record confirms the appropriateness of the Commission's use of the SBCM in this connections-based NUSF contribution mechanism implementation proceeding.[23]

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[21] *See, e.g.,* Windstream Comments, p. 6.

[22] *See,* RIC Comments, pp. 12-14.

[23] Charter's claim that the Connect America Fund ("CAF") Model assumes that there are significantly more locations in rural areas than actually exist, and thus overstates the cost of broadband deployment, should be rejected. The FCC has investigated these claims and has determined that the data furnished by those making such claims was not necessarily more accurate than the Connect America Cost Model ("CAM") data. *See, In the Matter of the Connect America Fund,* WC Docket No. 10-90, Order on Reconsideration, para 25, (Jan. 31, 2018).

CAM and its variations (Alternative Connect America Cost Model ("A-CAM") and the SBCM) provide the most reliable currently available cost estimates for building a fiber-based network to all locations in the country consistent with efficient technologies being deployed today. CAM and SBCM develop the investment and cost for an efficient voice and broadband-capable network utilizing the existing wire center locations. Calculations are based on granular cost information, "using real-world optimized algorithms to minimize road distances, current technology selections, current demand targets and related engineering rules." (*See,* A-CAM Model Methodology A-CAM version 2.3.1, p. 5.) The spatial modeling platform in CAM ensures that the network is built on a path that follows the actual roads in the service area. CAM

Question 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.***

As is the case with respect to other issues for which the Commission has requested fact-specific information, commenting parties supporting use of a "cap" on the number of assessable connections for business enterprise customers provided no facts to explain how such a cap would be implemented or the effect that a cap would have on the Commission's ability to accurately establish a budget for expected annual remittances to be generated from a particular connections-based rate design. In contrast, RIC provided the facts derived from its member companies to support the conclusion that a rate design for business enterprise customers in the $2.65 per month per connection range is sustainable and justified when compared to the current level of revenues-based NUSF assessment on businesses.[24]

Lastly, RIC takes this opportunity to ensure that the record is clear with respect to certain additional allegations made in response to this issue. First, CTL's contention that it is unable to perform a calculation that would convert current average revenues-based business customer

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and SBCM determine where demand is located and place cable along the roads to reach the demand points. (*See,* A-CAM Model Methodology A-CAM version 2.3.1, Appendix 1.) Based on this methodology, if the number of locations is over- or under-estimated for certain areas, the cost difference is typically not material as it only includes the cost to reach the particular location (drop) from the network that is being passed.

[24] *See,* RIC Comments, pp. 14-15 and Exhibit 2.

NUSF surcharge contributions into an average per connection contribution amount does not seem credible.[25] Calculation of this per connection amount is a function of determining the total NUSF surcharge remittance for business customers in a particular month and dividing that amount by total business connections. Second, Charter contends that the business surcharge should be kept at $1.00 per month per connection,[26] thus inferring that the average business customer revenue subject to the current NUSF surcharge is approximately $14.38 per business line (6.95% current assessment rate x $14.38 = $1.00). However, according to Charter's national advertising, Charter's business local/toll rate is advertised as $29.99,[27] which by application of the current NUSF surcharge would result in a current assessment greater than $1.00 per month, unless Charter can establish that average interstate/international business toll usage is more than twice as much as local/intrastate toll revenue. The absence of an explanation by Charter to support its claim that the current NUSF assessment level for its business customers is $1.00 per month significantly undermines the credibility of Charter's contention on this point.

Third, Charter's contention that certain technologies are disserved by a connections-based NUSF contribution mechanism because they use temporary voice paths is irrelevant.[28] Charter fails to acknowledge the relevant facts that the voice path exists, the voice path connection allows intrastate calling to be accomplished and, as such, this type of connection should be assessed. Moreover, if Charter has a concern regarding how some interconnected

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[25] *See,* CTL Comments, p. 4.

[26] *See*, Charter Comments, pp. 11-12.

[27] https://business.spectrum.com/lp/dpip-best-ph-ntl-lft-en-na-sem?leadRef=LP_SEM_C_G_D_LP_B_BrandTerms_Sim&p1=8553593399&leadSource=1&gclid=EAIaIQobChMIxMXkj4vb2QIVxUsNCh2i1AmqEAAYASABEgJ5d_D_BwE .

[28] *See,* Charter Comments, p. 11.

VoIP paths are reported on FCC Form 477 vis-à-vis the reporting of traditional PBX trunks on Form 477, that issue should be addressed by Charter with the FCC.

Finally, the suggestions made by Cox that high-cost locations in Nebraska could be funded from both the federal USF and the NUSF is without merit.[29] Exhibit 1 to the RIC Comments addresses any such concern by showing that the federal USF is deducted from any state model cost.[30]

Question 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.*

Please see RIC's response to Question 2, above.[31]

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[29] *See,* Cox Comments, p. 5.

[30] *See,* RIC Comments, Exhibit 1.

[31] RIC sees no need for the Commission to issue data requests for Nebraska–specific connections and remittances as suggested by CTL. *See,* CTL Comments at 4. The FCC Form 477 reported connections for Nebraska will be publicly reported by the FCC and reporting entities can confirm in a simple filing, the number of Nebraska connections that the entity has within the categories reported on the FCC Form 477.

DATA SOURCES

Question 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.***

For the reasons provided by RIC in its Comments, the record amply supports the conclusion that FCC Form 477 data is the only available reliable source of connections data and that any issues associated with the Form 477 instructions and/or definitions can be addressed by the Commission should such issues arise.[32] With this general proposition noted, RIC also seeks to ensure that the record is clear with respect to certain contentions raised by the parties.

For example, CTL claims that Form 477 data is not an appropriate source for Nebraska connections because FCC Form 477 is consolidated data.[33] RIC views this contention as a red herring. Even if connections information related to the operations is aggregated based on multiple jurisdictions in which that entity operates, state data on voice connections is required by the FCC Form 477 as noted on pages 19- 20 of the Form's instructions, and Reporting Form 477 data on a consolidated basis does not change the state or census tract in which a customer is located. However, in any and all events, a carrier knows its customer counts in this State, the level of service that each customer receives and the services to which that customer subscribes. In the absence of this data, no proper billing could take place. Each such subscription is a connection to the extent it allows intrastate calling. For all of these reasons, therefore, CTL's contentions cannot withstand scrutiny.

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[32] *See,* RIC Comments, p. 17.

[33] *See,* CTL Comments, p. 5.

Likewise, concerns about over-the-top providers, temporary voice channels and voice grade equivalents as raised by Charter[34] are issues that should be properly addressed in the context of the FCC Form 477 instructions and the application of common sense. From a common sense perspective, if a connection allows intrastate calling, then the connection is used for an assessable service and thus should be counted under the Commission's NUSF connections-based contribution regime as a connection. To the extent that reporting of connections is truly an industry-wide issue, then the Commission can and should investigate such issue and provide its conclusions to all providers that are required to assess and remit the NUSF surcharge in order to facilitate consistent and accurate operation of the NUSF connections-based contribution mechanism.

Further, Cox raises concerns over the identification of voice grade equivalents ("VGE") for certain types of service such as "PRIs".[35] Cox's concerns are already addressed in the Form 477 instructions, requiring carriers to count fully channelized PRIs as 23 VGEs. If the customer is only charged for eight (8) VGEs, the carrier should only report that number.[36] Cox's concerns need not delay Commission action in this proceeding.

In addition, CTIA claims that, since FCC Form 477 reporting only applies to facilities-based providers, the lack of reseller information effectively calls into questions the usefulness of the reported connections.[37] This concern is without merit. Each reseller resells something – a connection. The fact that the reseller is not a reporting entity for FCC Form 477 purposes does

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[34] *See,* Charter Comments at 14.

[35] *See,* Cox Comments, p. 7.

[36] *See,* FCC Form 477 Instructions at 20.

[37] *See,* CITA Comments, p. 7.

not negate this fact. If a facilities-based provider resells its connections, it knows to whom such connection is resold and that reseller entity can then be assessed the connections-based surcharge by the facilities-based carrier. The reseller, in turn, can then decide how best to recover that surcharge from its own end user. CTIA's contention should therefore be rejected.

Finally, Windstream contends that there may be differences in reporting connections for FCC Form 477 versus reporting for determining NUSF surcharges.[38] Windstream's contention may be relevant if the Commission were to adopt some form of cap on assessable Nebraska connections. But as indicated above, no data has been presented to rationally explain the basis for any such cap.[39] Even if a cap on connections were to be established, the Commission could then require (but not mandate) any reporting entity wishing to utilize such cap to voluntarily report verified total connections that such entity contended met the cap. In this way, the reported number of connections subject to NUSF connection-based surcharges is the responsibility of the reporting entity (subject to audit by the Commission if the reporting appears unreasonable).

__Question 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.***

RIC has already demonstrated that the FCC Form 477 data sources are appropriate and should be used.[40] Please also see discussion relating to Question 6, above.

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[38] *See,* Windstream Comments, pp. 8-9.

[39] *See,* RIC's response to Question 4, pp. 9-11 *supra.*

[40] *See,* RIC Comments, p. 12-14.

IMPLEMENTATION

Question 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?***

The record reveals no significant obstacle to the implementation of the NUSF connection-based surcharge. While commenting parties suggest that implementation issues can be minimized if the new surcharge mechanism is implemented on a flash-cut basis,[41] or if the surcharge mimicked other flat rate charges,[42] another party noted that the more complicated the rate design the greater the potential for increased implementation costs.[43] However, none of these additional comments displace the conclusion that the record supports the finding that the NUSF connection-based surcharge can be implemented in an efficient and timely manner.[44]

Question 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.***

No specific costs of billing system conversion were included in the filed comments. Please refer to the summary of responses to Question 8 above for a general discussion of costs.

Question 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.***

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[41] *See,* Windstream Comments, p. 9.

[42] *See,* Citizens Comments, p. 4.

[43] *See,* CTL Comments, p. 6.

[44] *See generally,* RIC Comments, pp. 18-19; *see also,* Cox Comments, p. 8 (90 days would be needed to implement billing system changes for NUSF per-connection surcharge). CTIA's claims that conversion of its members' billing systems to bill a connections-based NUSF surcharge would "require a substantial investment of time, expertise, and capital" (*see,* CTIA Comments at 8) is not supported by any demonstrated facts or data.

RIC's estimate of sixty (60) to ninety (90) days to implement the surcharge is reasonable and is consistent with the positions of Cox[45] and Windstream,[46] which seek a minimum implementation period of ninety (90) days. While CTL claims that it would take "6-12 months" to convert its billing systems, and costs could "run into the hundreds of thousands of dollars,"[47] CTL provided no data or justification to support such claim. While CTL recommends that the Commission "determine a cost recovery mechanism for carriers that must make significant changes to their billing systems,"[48] RIC respectfully submits that any such request could be made to the Commission based on the specific facts that CTL can demonstrate to support any implementation costs. RIC requests that the Commission resolve the implementation issues raised in this proceeding based on the RIC Comments and these Reply Comments.

V. CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Reply Comments to the Commission, and look forward to continued participation in this docket.

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[45] *See,* Cox Comments, p. 8.

[46] *See,* Windstream Comments, p. 10.

[47] *See,* CTL Comments, p. 7.

[48] *See, id.*

Dated: March 23, 2018.

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, Inc., 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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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 23rd day of March, 2018, an electronic copy of the foregoing pleading was delivered to:

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