

RECEIVED

OCT - 1 2018

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)
Public Service Commission, on)
its own motion, to determine)
contribution requirements)
relative to prepaid wireless)
providers.)

Application No. NUSF-113/PI-220

Nebraska
Public Service Commission

COMMENTS OF THE RURAL INDEPENDENT COMPANIES

I. INTRODUCTION.

The Nebraska Rural Independent Companies ("RIC")¹ hereby submit these Comments in response to the Nebraska Public Service Commission's (the "Commission") Order Opening Docket and Seeking Comment entered herein on August 28, 2018 (the "Order"). RIC appreciates the opportunity to provide this submission and looks forward to continuing participation in this docket and other pending dockets regarding the Nebraska Universal Service Fund contribution reform.

II. THE COMMISSION HAS THE LEGAL AUTHORITY TO SUBJECT PREPAID WIRELESS TELECOMMUNICATIONS SERVICES TO A CONNECTIONS-BASED NEBRASKA UNIVERSAL SERVICE FUND SURCHARGE.

Among the responsibilities delegated to the Commission by the Nebraska Legislature with regard to the Nebraska Universal Service Fund ("NUSF") is that the Commission "[s]hall require every telecommunications company to contribute to any universal service mechanism established by the commission pursuant to state law."² In connection with the performance of

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 *Neb. Rev. Stat.* § 86-324(2)(d) (Reissue 2014).

the foregoing responsibility, the Commission “[s]hall have *authority and power to issue orders* carrying out its responsibilities . . .” (emphasis added)³ Further, in the Legislature’s declaration of policy regarding the NUSF, among the principles enumerated is that “[a]ll providers of telecommunications should make an equitable and non-discriminatory contribution to the preservation and advancement of universal service.”⁴

Prepaid wireless telecommunications service has been defined by the Legislature to be a telecommunications service.⁵ Further, for the purposes of the Prepaid Wireless Surcharge Act, provider “means a person that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.”⁶ As such, the Commission has the authority, by and through its orders, to require providers of prepaid wireless telecommunications service to make an equitable and non-discriminatory contribution to the NUSF, and to implement a connections-based mechanism for such contribution.⁷

III. IN ORDER TO ESTABLISH AN EQUITABLE AND NON-DISCRIMINATORY NUSF CONTRIBUTION FOR PREPAID AND POSTPAID WIRELESS TELECOMMUNICATIONS, THE COMMISSION SHOULD ADOPT THE APPROACH FOR ASSESSMENT OF A CONNECTION-BASED SURCHARGE AS WAS TAKEN IN PROPOSED AM 1906 TO LB 157.

In the Commission’s August 7, 2018 Order entered in Application No. NUSF-111/PI-211, the Commission found that a connections-based contribution mechanism should be adopted

³ *Id.* § 86-324(2)(b).

⁴ *Id.* § 86-323(4).

⁵ *Id.* § 86-902(3) and (7).

⁶ *Id.* § 86-902(4).

⁷ Consistent with these conclusions, the Commission has adopted Nebraska Universal Service Fund Rules and Regulations which, in Section 002.01, provide that “[t]he NUSF surcharge shall be assessed on all end-user telecommunications provided in Nebraska intrastate commerce.” *See, Neb. Admin. R. & Regs.*, tit. 291, ch. 10, § 002.01.

“on residential wireline, wireless and VoIP services.”⁸ The Commission proceeded to further find that the connections-based surcharge should initially be set at \$1.75 per month per connection.⁹ Although the Commission initially imposed a revenues-based surcharge of 6.95 percent on prepaid wireless, the Commission also declared that it would open “a subsequent proceeding to determine how a connection-based contribution mechanism as defined in NUSF-112 can be established for prepaid wireless telecommunications service providers.”¹⁰ Of course, the instant docket was opened pursuant to the above-quoted statement of intent.

In order to fulfill the statutory directive that all providers of telecommunications service shall make an equitable and non-discriminatory contribution to the NUSF, RIC recommends that the Commission should enter an order in this docket that (a) vacates the finding made in Application No. NUSF-111 that prepaid wireless telecommunications service shall be subject to a revenues-based surcharge of 6.95 percent, except for prepaid *business* wireless telecommunications service; and (b) implements a connections-based surcharge for prepaid *residential* wireless telecommunications service calculated on the basis of a percentage calculated by dividing (i) the amount of the surcharge certified by the commission (in this instance \$1.75/connection/month) by (ii) fifty.

The Commission should thereafter certify to the Nebraska Department of Revenue (“NDOR”) that it has established a connection-based contribution mechanism applicable to prepaid residential wireless telecommunications service and request that the NDOR impose and

⁸ *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, Order at 25 (Aug. 7, 2018).

⁹ *Id.* at 27.

¹⁰ *Id.* at 28, fn. 208.


collect this surcharge from prepaid wireless telecommunications service providers in accordance with the procedures set forth in Section 86-903 of the Nebraska statutes.

IV. CONCLUSION

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

Dated: October 1, 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")

By: 
Paul M. Schudel, NE Bar No. 13723
WOODS & AITKEN LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508
Telephone (402) 437-8500
Facsimile (402) 437-8558
pschudel@woodsaitken.com

Thomas J. Moorman
Woods & Aitken LLP
5151 Wisconsin Avenue, N.W., Suite 310
Washington, D.C. 20016
Telephone (202) 944-9502
Facsimile (202) 944-9501
tmooman@woodaitken.com

CERTIFICATE OF SERVICE


The undersigned hereby certifies that on this 1st day of October, 2018, an electronic copy of the foregoing pleading was delivered to:

Nebraska Public Service Commission

Cullen.Robbins@nebraska.gov

Brandy.Zierott@nebraska.gov

Shana.Knutson@nebraska.gov


Paul M. Schudel