

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the contribution methodology and determine a rate design for services currently subject to a revenues-based surcharge)))))))	Application No. NUSF-119/PI-233
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INTRODUCTION

1. AT&T Corp., Teleport Communications America, LLC, and New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (collectively “AT&T”) submit the following comments in response to the Nebraska Public Service Commission’s (“Commission’s”) June 30, 2020 Order Opening Docket and Seeking Public Comment¹ in the above captioned proceeding.

2. The Commission’s Opening Order, notes that the proceeding is being opened to determine whether the Nebraska Universal Service Fund (“NUSF”) should “extend a connections-based surcharge to business and government services, as well as other services currently subject to a revenues-based surcharge; and, if adopted, how a connections-based surcharge[should be] applied.”²

3. AT&T’s comments here are limited to the issue of whether a connections-based surcharge should be extended to business and government services.

4. AT&T is a member of the Cellular Telecommunications Industry Association (“CTIA”). CTIA is filing comments separately in this proceeding and AT&T joins in and supports CTIA’s comments, in addition to these separately filed comments set forth below.

¹ Order Opening Docket and Seeking Comment, *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the contribution methodology and determine a rate design for services currently subject to a revenues-based surcharge*, Application No. NUSF-119/PI-233, June 30, 2020 (hereinafter “Opening Order”).

² *Id.* at p. 1.

AT&T'S COMMENTS

A. The Commission should keep business and government services on the existing revenues-based contribution mechanism.

5. AT&T strongly believes the Commission should maintain business and government service on the existing revenues-based contribution mechanism. First and foremost, as evidenced by the issues and questions on which the Commission seeks comment in this proceeding, they remain the same issues and concerns raised and addressed by the parties in both the NUSF-100 and NUSF-111 concerning the topic generally. A Commission determination to leave the existing revenues-based contribution mechanism and methodology in place eliminates any need for further consideration of the many issues associated with a proposed change to a connections-based methodology.

6. The current revenue-based contribution mechanism is a system with which carriers providing business and government services in Nebraska have a working history. As Mr. Joseph Gillan's testimony before this Commission in NUSF-100 in 2017 clearly stated,

[i]n very simple terms, a revenue-based contribution arrangement is a system with *known* (and corrected, to the extent correctable) flaws, while a connection-based regime is a system of *yet to be appreciated* distortions, inevitable complexities and significant transaction costs. The fixed implementation costs of revenue-based systems are sunk, while the variable costs of a state fund are incremental to the federal system. Moving away from this system will be complex, costly, confusing,³

Indeed, the history carriers, like AT&T, have with the revenue-based contribution methodology means that its issues and challenges are well understood. To the contrary, a proposed connections-

³ Pre-Filed Initial Testimony of Joseph Gillan on Behalf of Charter Fiberlink—Nebraska, LLC and Time Warner Cable Information Services (Nebraska) , LLC March 24, 2017, *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, at pp. 4-5, ls. 20-02. (Emphasis original).

based methodology applicable to business and government services presents both carriers and the Commission with panoply of challenges that, as Mr. Gillan warned the Commission, will be complex, costly and confusing.

7. From AT&T's perspective a transition to a complex connections-based mechanism for business and government services would be both time consuming and costly for telecommunications providers. The existing revenue-based mechanism that is congruent with the larger federal USF mechanism uses carriers' current accounting and reporting systems and provides for readily verifiable revenue reports and bills. A change to a connections-based methodology would impose new, unrecoverable, burdensome administrative and other costs on competing carriers. Carriers would be required to change software, billing, accounting and reporting systems – changes that are time and personnel intensive, requiring extensive testing to insure that they not only bill the NUSF amount correctly but that they capture and provide verifiable information.

8. These complex, costly changes cannot be made overnight and implementation will be made more difficult because most all business and government services are provided over connections that are shared-use facilities -- facilities that provide both intra- and interstate services. The shared nature of these "connections" in the business and government services context means those services are more complex (including multi-line systems, PBXs, PRIs, T-1s, etc.) to separate jurisdictionally. In addition, large business and government services tend to use cutting edge technologies that are constantly evolving and making changes difficult to implement. Unlike residential connections, the complex nature of business and government connections are not always a "one for one" correlation, as a result the likelihood of attempts to "game" the counting and reporting of access lines for NUSF purposes could increase.

9. Additionally, the shared-use nature of most business and government service connections means that carriers could potentially be forced to apply the NUSF assessment to interstate services provided over a jurisdictionally shared connection. Indeed, federal requirements already dictate that carriers treat certain lines as wholly interstate in certain circumstances.⁴ Carriers are simply unable to accurately split connections into intra- and interstate components for NUSF assessment purposes. Further, applying a connections-based NUSF assessment to lines deemed interstate under federal precedent arguably would conflict with federal law.⁵ By contrast, continuing to apply a revenue-based methodology to business and government services:

a) would maintain consistency with the federal assessment methodology which requires states to distinguish between intrastate and interstate service revenues for assessment purposes;⁶ and,

b) would assure the Commission of a more accurate understanding of the impact of the NUSF assessment on business and government customers. Whereas moving to the alternative connection-based methodology would result in the imposition of an unintended financial burden on business and government customers as revenue per access line or “connection” is not consistent across all businesses.

10. AT&T encourages the Commission to leave the contribution mechanism unchanged for business and government services for all the reasons set forth above. Rather than

⁴ *In the Matter of the Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association, Inc., Universal Service Contribution Methodology*, CC Docket Nos. 96-45, 97-21, WC Docket 06-122, Order, DA-17-309, rel. March 30, 2017, ¶ 9.

⁵ See *Universal Service Contribution Methodology, Petition of Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring that State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues*, WC Docket No. 06-0122, Declaratory Order, FCC 10-185, rel. Nov. 5, 2010, ¶ 17.

⁶ See *Universal Service Contribution Methodology, A National Broadband Plan For Our Future*, GN Docket No. 09-51, WC Docket No. 06-122, Further Notice of Proposed Rulemaking, FCC 12-46, 27 FCC Rcd. 5357, rel. April 30, 2012, ¶ 12.

changing methodologies, AT&T believes, especially considering the impact of the COVID-19 pandemic, that states like Nebraska should rethink how USF supported services and programs are funded as the contribution mechanisms based on traditional voice services continue to see declining revenues.⁷

B. The NUSF contribution mechanisms should be structured to provide a more equitable division of the remittance percentage.

11. AT&T believes the remittance percentages should be rebalanced between residential and business services to more equitably distribute the contribution burden. However, as noted above, AT&T also strongly believes, especially considering the impact of the COVID-19 pandemic, that states like Nebraska should rethink how USF supported services and programs are funded as the contribution mechanisms historically based on traditional voice services continue to see declining revenues. As technology continues to change and customers who traditionally purchased legacy TDM voice services switch to IP-based alternatives – especially business and government customers -- the decline in assessable revenues and connections will continue and so will the disparity in contribution percentages.⁸

Respectfully submitted this 31st day of August 2020.

AT&T



Loel P. Brooks, #15352
Brooks, Pansing Brooks, PC, LLO
1248 O Street, Suite 984
Lincoln, NE 68508
(402) 476-3300
lbrooks@brookspanlaw.com

⁷ See generally <https://www.attpublicpolicy.com/universal-service/we-need-to-fundamentally-rethink-how-usf-programs-are-funded/>

⁸ See fn. 7 supra.

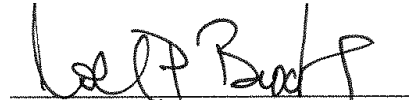
and

Bruce A. Ney
AVP - Senior Legal Counsel-AT&T
External/Legislative/Regulatory Affairs
AT&T Services, Inc.
816 Congress Avenue, Suite 1100
Austin, TX 78701
(512) 457-2311
bruce.ney@att.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 31st day of August, 2020, one original, five copies, and one electronic copy of the Comments of AT&T in Application No. NUSF-119/PI-233 were mailed to the Nebraska Public Service Commission, 1200 N Street, Suite 300, Lincoln NE and a copy of the same has been e-mailed to the following:

psc.nusf-filings@nebraska.gov

A handwritten signature in black ink, appearing to read "Loel P. Brooks", written over a horizontal line.

Loel P. Brooks