

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

<b>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</b>	) ) ) ) ) ) )	<b>Application No. NUSF-119/PI-233</b>
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**REPLY COMMENTS OF AT&T**

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 reply comments pursuant to the Nebraska Public Service Commission’s (“Commission’s”) June 30, 2020 Order Opening Docket and Seeking Public Comment<sup>1</sup> in the above captioned proceeding.

1. The Commission’s *Opening Order* noted that the instant proceeding was 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.”<sup>2</sup> Interested parties were requested to provide comments responsive to the issues raised in the Order.<sup>3</sup>

2. On August 30, 2020 in addition to comments filed by AT&T, eight (8) other sets of comments were filed by parties including, CenturyLink, Frontier, CTIA, Windstream, Securus,

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<sup>1</sup> 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”); see Motion for Extended Time Granted *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, July 21, 2020

<sup>2</sup> *Opening Order* at p. 1.

<sup>3</sup> *Id.* at p. 6.

the Joint Commenters, RIC, and RTCN<sup>4</sup>, addressing issues raised in the Commission’s *Opening Order*.

## AT&T’S REPLY COMMENTS

5. AT&T strongly agrees with the Joint Commenters that in this proceeding “providers need to fully understand the issues the Commission is attempting to address.”<sup>5</sup> Further,

“[i]t is essential the Commission first appropriately size the NUSF before deciding how it should be revised. Maintaining or increasing the present revenue-based surcharge of 6.95 percent or adopting a new methodology should occur only *after* the Commission has appropriately determined the size of the fund that it seeks to amass, as well as the specific disbursement goals of that amount. It is then that the Commission can properly determine the methodology that should be employed to collect that amount from end users.”<sup>6</sup>

6. AT&T also agrees with the Joint Commenters that the Commission should maintain the revenues-based assessment on business connections.<sup>7</sup> “The revenues-based assessment is a predictable and well-understood structure, and retaining it avoids the potential adverse repercussions that would be experienced under a connections-based methodology.”<sup>8</sup> Similarly, AT&T concurs in Frontier’s position that the Commission should maintain the current revenues-

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<sup>4</sup> Comments of Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (“CenturyLink”); Comments of Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska (“Frontier”); Comment of CTIA (“CTIA”); Comments of Windstream (“Windstream”); Comments of Securus Technologies, LLC (“Securus”); Joint Comments of Cox Nebraska Telcom, LLC, Charter Fiberlink—Nebraska, LLC, and Time Warner Cable Information Services (Nebraska), LLC (the “Joint Commenters”); Comments of the Nebraska Rural Independent Companies (“RIC”); Comments of the Rural Telecommunications Coalition of Nebraska (“RTCN”).

<sup>5</sup> Joint Comments of Cox Nebraska Telcom, LLC, Charter Fiberlink—Nebraska, LLC, and Time Warner Cable Information Services (Nebraska), LLC, *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, filed Aug. 28, 2020, at p. 1 (hereinafter the “Joint Commenters Comments”).

<sup>6</sup> *Id.* at pp. 1-2.

<sup>7</sup> *Id.* at p. 5.

<sup>8</sup> *Id.* at pp. 5-6.

based contribution mechanism for business and government services, as the questions raised in the proceeding “implicates a variety of complex issues.”<sup>9</sup>

Before wading into the deep waters of those questions, the Commission should first be certain that the existing system is ‘broke’ to such an extent that it needs to be ‘fixed’. ... [T]he current hybrid framework ... is working and generating sufficient support for the NUSF to fulfill its obligations. Frontier does not see a need to implement a connections-based framework for business and government services at this time.<sup>10</sup>

7. In addition to the complexity of the issues and questions involved in making a conversion to a connection-based methodology, AT&T agrees with the comments of both CenturyLink and Windstream, highlighting the uncertainty of the current COVID-19 pandemic and its unknown, long-term impact as yet another reason weighing against making any change to the NUSF methodologies.<sup>11</sup> With all of the economic uncertainty of the pandemic, now is simply not the time to undertake a major change that will impose additional, unrecoverable costs on telecommunication service providers, as well as potentially increased and largely unanticipated fees on business and government services customers.

8. As commenters in this proceeding in addition to AT&T have made clear, the issues involved in structuring a connections-based methodology will be difficult for carriers to implement

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<sup>9</sup> Comments of Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska, *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, filed Aug. 26, 2020 at p. 2, (hereinafter “Frontier Comments”).

<sup>10</sup> *Id.* at p.3.

<sup>11</sup> Comments of Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink, *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, filed Aug. 31, 2020 at p. 2 (hereinafter “CenturyLink Comments”); Comments of Windstream, *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, filed Aug. 31, 2020 at pp. 2-3 (hereinafter “Windstream Comments”).

based on the variety of services potentially impacted.<sup>12</sup> For that reason AT&T opposes RCTN's suggestion that the Commission engage "enterprise and other users of many connections" in the Nebraska business community for ideas and assistance in designing a surcharge that applies to the services they use.<sup>13</sup> The end-user customers of business and government type services may undoubtedly have an understanding of how they use their services; they may also have no practical understanding of how those services work, connect, are billed, counted or reported by the carriers providing the services. They most likely will also not understand the jurisdictional issues the services may raise or how the entire system of counting and reporting the "connections" can be gamed. What these business and government service end-users will understandably most likely care about is the amount of any increased cost or "fee" they will be required to pay as a result of a proposed change in methodology. While RTCN places great faith and reliance upon the altruistic character of Nebraska businesses to "agree to pay their fair share of the cost of broadband infrastructure,"<sup>14</sup> AT&T suggests that in the midst of a pandemic, which has induced great anxiety and economic uncertainty, is not the time for the Commission to test that theory for the design of a new connection-based NUSF assessment.

9. As is also further and repeatedly indicated by the initial comments of RIC in this proceeding, there is insufficient, available data to address many, if not most, of the questions posed by the Commission to assist in the development of any business connection NUSF surcharge framework.<sup>15</sup> This apparent lack of information buttresses the concerns previously expressed and

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<sup>12</sup> Frontier Comments at p. 3.

<sup>13</sup> Comments of the Rural Telecommunications Coalition of Nebraska, *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, filed Aug. 31, 2020 at p. 8 (hereinafter "RTCN Comments").

<sup>14</sup> *Id.* at p. 7.

<sup>15</sup> Comments of the Nebraska Rural Independent Companies, *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*

noted above concerning the need to understand the Commission’s goals with regard to the NUSF and its size. It also underscores the complex nature of the business and government-related services being discussed.

10. AT&T does oppose RIC’s suggestion that – in the event the Commission determines to pursue a connection-based methodology in this proceeding – the existing revenues-based assessment mechanism be retained for “Toll” revenues.<sup>16</sup> A connections-based methodology with a retained revenue-based assessment for “toll” would result in the affected end-users being assessed at least twice for toll – once for the connection and a second assessment for the intrastate toll revenue – a “double dip”, as the toll is provided over the assessed connection. To the extent the business or government end-user customer incurs a federal USF charge on interstate toll related revenues, that end-user will have been assessed a total of three times under RICs proposal. AT&T opposes any proposal that results in a “double dip” NUSF assessment.

11. Finally, in its initial comments, AT&T voiced its support for a rebalancing of remittance percentages for a more equitable distribution of the contribution burden.<sup>17</sup> While several of the commenters agree that the contribution percentage should be rebalanced<sup>18</sup>, AT&T urges the Commission to consider any rebalancing only at the current size of the NUSF. The Commission should not use “rebalancing” to increase the size of the fund. AT&T is opposed to RTCN’s suggestion in this regard which would appear to increase the fund size to \$54 million.<sup>19</sup> The Commission should strive to make the contribution percentages fair and equitable and can do

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*for services currently subject to a revenues-based surcharge*, Application No. NUSF-119/PI-233, filed Aug. 31, 2020 at pp. 11-14 (hereinafter “RIC Comments”).

<sup>16</sup> *Id.* at p. 4.

<sup>17</sup> Comments of AT&T, *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, filed Aug. 31, 2020 at p. 5 (hereinafter “AT&T Comments”).

<sup>18</sup> RTCN Comments at p. 7; RIC Comments at p. 9.

<sup>19</sup> RTCN Comments at p. 9.

so by increasing the percentage contributed by business and government end-users, while providing some assessment relief to residential end users, without increasing the size of the fund and burdening business and government end-users with a sizeable and unanticipated assessment increase.

Respectfully submitted this 30th day of September 2020.

AT&T



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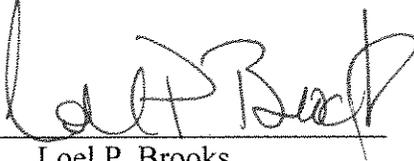
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 30th day of September, 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](mailto:psc.nusf-filings@nebraska.gov)



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Loel P. Brooks

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of September, 2020, an copy of the Comments of CTIA – The Wireless Association in Application No. NUSF-119/PI-233 was sent to the following:

<p><b>CTIA – The Wireless Association</b></p> <p>Matthew DeTura Benjamin Aron <a href="mailto:mdetura@ctia.org">mdetura@ctia.org</a> <a href="mailto:baron@ctia.org">baron@ctia.org</a></p>	<p><b>Rural Telecommunications Coalition of NE</b></p> <p>Andy Pollock Rembolt Ludtke, LLP <a href="mailto:apollock@remboldtlawfirm.com">apollock@remboldtlawfirm.com</a></p>
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