

**Before the
NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public Service)
Commission, on its own motion, to consider)
appropriate modifications to the high-cost) Application No. NUSF-139
distribution and reporting mechanisms in its)
Universal Service Fund program in light of)
federal and state infrastructure grants.)

SECOND COMMENTS OF CTIA

CTIA respectfully submits the following comments in response to the Nebraska Public Service Commission’s (“Commission’s”) August 29, 2023 Order Opening Docket Seeking Comment and Setting Hearing in the present proceeding (“Order”).¹

As stated in its previous comments in this proceeding, CTIA strongly supports the Commission’s decision to investigate all aspects of the Nebraska Universal Service Fund (“NUSF”) holistically.² There have been significant changes in the telecommunications landscape in the past twenty-five years since the NUSF Act was adopted, and this is a wholly appropriate time to reassess the overarching goals and objectives of the NUSF.

As the Commission looks at modernizing the NUSF, it should do so with three important principles in mind. First, the Commission should look for ways to minimize the impact of the NUSF on the consumers who support it. Second, the Commission should strive to continue its efforts to make the NUSF technology-neutral. And third, the Commission should ensure that the NUSF does not distort competition, robbing Nebraska of the benefits a competitive telecommunications landscape has brought to consumers over the past three decades.

¹ Per the Commission’s October 12, 2023 Order Bifurcating Schedule for Comments and Extending Comment Deadline in Part in this proceeding, CTIA responds herein to Section II.B of the Order as well as issues 1, 2, and 6 of Subpart II.C of the Order, reserving comment on the remaining issues for the comments due December 22, 2023.

² Initial Comments of CTIA, Application No. NUSF-139 (Sept. 29, 2023) (“CTIA Initial Comments”) at 1.

The Commission should take advantage of this opportunity to take a fresh and holistic look at the NUSF. As it sets out its goals and strategic plan, it should first determine what “universal service” ought to mean going forward, and then determine what steps the Commission can take to implement that vision.

I. THE COMMISSION SHOULD MINIMIZE THE NUSF’S IMPACT ON CONSUMERS.

Any reforms to the NUSF program should first and foremost be mindful of the consumers who bear the burden of funding the program via surcharges on their service bills.

As of 2022, Nebraska’s NUSF surcharge remains one of the five highest in the nation, at an average of 20.04% in state and local fees on consumers’ wireless bills.³ While accounting for this fact, the Commission should also remember that consumers’ support for the NUSF comes on top of their support for federal universal service programs, which is significant – over the past ten years, the federal USF contribution factor has more than doubled, leaving consumers paying another 10.8% on top of their bills to the federal program as of 2023.⁴

Any successful universal service reform needs to consider both the inputs *and* outflows in the fund to prevent it from growing out of control and excessively burdening consumers. Therefore, a fundamental guiding principle to maximize consumer welfare despite considerable USF obligations at the state and federal level is for the Commission to ensure that limited NUSF funding is put to its highest and best use. In particular, the Commission should seek to phase out support for legacy networks, modernizing Nebraska telecommunications. Support for outdated copper networks should be phased out and eventually eliminated altogether, drawing down

³ Mackey, Scott and Hoffer, Adam, “Excise Taxes and Fees on Wireless Services Drop Slightly in 2023,” The Tax Foundation (Nov. 2, 2023) *available at* <https://taxfoundation.org/data/all/state/wireless-taxes-cell-phone-tax-rates-by-state-2023/>.

⁴ Federal Communications Commission, <https://www.fcc.gov/document/omd-announces-4th-quarter-usf-contribution-factor-345-percent> (Sep. 13, 2023).

funding gradually to give recipients time to adjust their business models. The Commission should also avoid duplicating federal funding with NUSF funding. The Commission appropriately inquires about this in Issue 6 of the Order. The Commission should ensure that grants from the NUSF require affirmation from recipients that the money is not duplicative of other state or federal support. Additionally, the Commission should also be sure to target new deployment money to unserved and underserved areas that will continue to exist *after* the BEAD program concludes. While it will take some time to determine the impact of BEAD funding, it is important to identify post-BEAD unserved and underserved areas before committing deployment dollars from the NUSF. In all instances, CTIA urges the Commission to ensure that NUSF funding is not used to build networks where any unsubsidized competitor is already meeting the BEAD standards for reliable service.

Finally, while the Commission is looking at the NUSF with fresh eyes, it should consider using this opportunity to consider a recommendation to the Legislature that the NUSF be funded out of general revenues rather than a surcharge on telecommunications consumers. Such a change will ensure the broadest possible contribution base for the NUSF and will better align those who support the fund with those who benefit from the fund - *i.e.*, all Nebraskans.

II. THE COMMISSION SHOULD CONTINUE TO STRIVE TO MAKE THE NUSF TECHNOLOGY-NEUTRAL.

As the Commission continues to work to close the digital divide, it should focus on ensuring that the NUSF is technology-neutral, making the best use of limited funding by allowing multiple technologies to serve where their characteristics make them the most appropriate option for broadband service.

One significant recent development that has led to major competition in the broadband market is consumers' embrace of fixed wireless access ("FWA"), or 5G Home Broadband, to

meet their broadband access needs. FWA subscriptions outpaced cable broadband subscriptions in 2022, accounting for 90% of net broadband subscription additions in the U.S. in the past year, accompanied by high consumer satisfaction ratings.⁵ Fixed wireless access is considered a “Reliable Broadband Service” under the federal guidelines,⁶ capable of 100/20 Mbps speeds across the country, and continuing to get faster as technology evolves. Fixed wireless access deployments also offer multiple advantages when it comes to establishing broadband access in unserved and underserved areas. They are fast to deploy, with superior economics and network efficiencies for deployment. Moreover, fixed wireless buildouts benefit surrounding areas by expanding voice coverage and providing higher speeds for mobile users.

CTIA commends Nebraska for being one of the very few states that allows its state universal service fund to support wireless broadband deployments. As it proceeds with reforms, the Commission should ensure that NUSF funding continues to go to qualified broadband providers meeting consumers’ needs, regardless of the underlying technology used.

III. THE COMMISSION SHOULD ENSURE THE NUSF DOES NOT DISTORT COMPETITION.

Much of the success and innovation in the telecommunications market in the past decades has stemmed from regulatory policies that focus on allowing for competition. The Commission should take care to ensure that USF reforms do not distort the competitive marketplace. In particular, the Commission should not support broadband projects in areas where there is already a reliable option for broadband service. Such subsidized projects receive a competitive advantage, and limited NUSF money is better invested elsewhere.

⁵ See, e.g. Mike Dano, “FWA Captures 90% of All New US Customers, Pleasing Around 90% of Them,” Light Reading (March 3, 2023), [https://www.lightreading.com/broadband/fixed-wireless-access-\(fwa\)/fwa-captures-90-of-all-new-us-customers-pleasing-around-90-of-them/d/d-id/783658](https://www.lightreading.com/broadband/fixed-wireless-access-(fwa)/fwa-captures-90-of-all-new-us-customers-pleasing-around-90-of-them/d/d-id/783658)

⁶ See Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60101 *et seq.* (2021), at § 60102(a)(2)(L).

IV. CONCLUSION

CTIA appreciates the Commission's decision to take a comprehensive look at issues surrounding the Nebraska USF, and looks forward to working with the Commission and stakeholders toward developing a set of goals and objectives for universal service in Nebraska as this proceeding continues.

Respectfully submitted,

By: 

Loel P. Brooks, #15352
Brooks, Pansing Brooks, PC, LLO
1314 O Street, Suite 104
Lincoln, NE 68508
(402) 476-3300
lbrooks@brookspanlaw.com

and

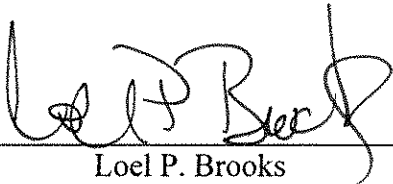
Matthew DeTura
Benjamin Aron
CTIA
1400 16th Street NW
Suite 600
Washington, D.C. 20036
(202) 736-3683

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of November, 2023, one electronic copy of the Comments of CTIA – The Wireless Association in Application No. NUSF-139 were emailed to the Nebraska Public Service Commission, to the following:

psc.nusf@nebraska.gov



Loel P. Brooks