

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-2
Public Service Commission, on its)	Progression Order No. 11
own Motion, seeking to establish)	
guidelines for the administration)	
of the Nebraska Telephone)	
Assistance Program.)	

COMMENTS OF THE RURAL INDEPENDENT COMPANIES

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Comments in response to the Commission’s Order entered in this proceeding on October 12, 2016 (the “*Order*”). RIC appreciates the opportunity to provide the following Comments to the Commission.

On April 27, 2016 the Federal Communications Commission (“FCC”) released its Third Report and Order, Further Report and Order, and Order on Reconsideration (“*Third Report and Order*”) relative to Lifeline and Link Up reform and modernization.² In the *Third Report and Order*, the FCC adopted a number of significant changes affecting eligibility and verification of Lifeline recipients. The Commission has issued the *Order* to adopt the necessary changes to its Nebraska Telephone Assistance Program (“NTAP”) eligibility requirements and to seek comments from interested parties with regard to discretionary changes to the NTAP.

¹ Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., 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, Stanton Telephone Co., Inc. and Three River Telco.

² See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking (rel. April 27, 2016) (“*Third Report and Order*”).

The Commission plans to continue to support eligible Lifeline subscribers through its NTAP support mechanism. The Commission proposes to continue to supplement the Lifeline program when a standalone voice service is offered or when voice service is offered in combination with a broadband internet access service (“BIAS”).

Issues for Public Comment

The Commission seeks comments on supplemental support for standalone BIAS offered by eligible telecommunications carriers (“ETCs”) designated by the Commission and those designated by the FCC. The *Third Report and Order* transitions Lifeline support to BIAS and phases out the support of voice service.

The Commission seeks comment on whether to apply the additional state support of \$3.50 per eligible subscriber to standalone BIAS.

The Commission must determine whether it has the statutory authority to provide NTAP support for standalone BIAS. Section 86-329 of the Nebraska Statutes specifically addresses and directs the Commission to establish the NTAP. Section 86-329 states that “[s]upport provided by the program *shall be specifically targeted to maintain affordable rates for residential basic local exchange services* supported by federal and state universal service mechanisms.” (emphasis added) Thus, it is reasonable to conclude that Section 86-329 would need to be modified in order to authorize the Commission to provide NTAP for standalone BIAS.

Should the Commission distinguish between ETCs designated by the Commission versus ETCs designated by the FCC?

The Commission should distinguish between ETCs designated by the Commission versus ETCs designated by the FCC. The FCC has stated that states retain the authority to designate ETCs other than Lifeline Broadband Providers (“LBPs”) even if the ETCs seeks Lifeline reimbursement from the Federal Lifeline program for BIAS provided to qualifying low-income consumers. The creation of LBPs by the Lifeline Modernization Order does not affect the

authority states previously exercised over the Lifeline marketplace.³ The Lifeline Modernization Order preserved the traditional role states have played in the Lifeline program and recognized states' ability to regulate ETCs subject to the state jurisdiction and applicable state laws. Thus, RIC recommends that the Commission retain its role in designating ETCs eligible for NTAP support.

How would any distinction impact consumers?

The Commission will designate ETC status to carriers meeting the Commission's ETC requirements. This will provide consumer protection since only ETCs designated by the Commission will be eligible to receive NTAP support.

How will the Commission determine whether voice or broadband services are provided to the subscriber?

The Commission can request verification from the ETC and thereby require that the ETC provide any necessary records to confirm the services for which the consumer has subscribed.

Given the decision in the *Third Report and Order* to preempt states from designating ETCs seeking Lifeline support for broadband service, should the Commission continue to determine eligibility of the Lifeline subscribers in the same manner?

In the *Order*, the Commission concludes that states are now required to use the federal criteria to determine Lifeline eligibility.⁴ Further, while the FCC had traditionally allowed states to establish eligibility for the federal program, the FCC has amended its rules to remove state-specified eligibility criteria for Lifeline support. The Commission thus concluded that its Lifeline eligibility criteria must be modified to be consistent with 47 C.F.R. § 54.409. Therefore, it is reasonable for the Commission to use the same eligibility criteria to determine Lifeline eligibility as the criteria adopted by the FCC.

³ See *Third Report and Order* at para. 218.

⁴ *Order* at pp. 1-2.

Should the Commission continue to oversee the recertification process for ETCs designated by the FCC?

The FCC has established rules whereby ETCs, including Lifeline Broadband Providers, must certify and recertify subscribers' eligibility in accordance with FCC rules. Thus, the Commission, consistent with FCC rules, will not be responsible for recertification of ETCs designated by the FCC. Consistent with the FCC rules, ETCs designated by the FCC will be responsible for certification and recertification of their subscribers for Lifeline service. The Commission staff will only need to recertify subscribers of ETCs designated by the Commission and eligible for NTAP.

Does the Commission need to change the manner in which subscribers are de-enrolled from the program? If so, how?

RIC does not believe the Commission needs to change the manner in which subscribers are de-enrolled from NTAP. The Commission can continue to notify ETCs if a subscriber fails to re-apply for NTAP during recertification. In addition, ETCs may continue to provide the Commission with requisite information regarding a subscriber's discontinuance of service which would de-enroll the subscriber from the NTAP.

Who should be responsible for educating consumers [about FCC rule changes which will impact their provider choice or eligibility? Does the Commission need to assume this responsibility? If so, how should this education be conducted?

The Commission is correct in its position that ETCs will bear the responsibility to educate consumers regarding rule changes that result from adoption of the *Third Report and Order*. The Commission may assume the responsibility to educate consumers to the extent it has the necessary resources to do so. The Commission could, for example, continue to provide ETCs with instructions directing consumer education regarding NTAP, and continue to provide standard information on its Website (http://www.psc.nebraska.gov/ntips/ntips_ntap.html).

In addition, the Commission could also consider developing frequently asked questions (“FAQs”) regarding the FCC rule changes to be included on its Website. ETCs and the Commission could direct consumers to the FAQs located on either the ETC or Commission websites or could mail this information to consumers who have questions regarding the program and relevant changes.

As stated above, the Rural Independent Companies appreciate the opportunity to provide Comments in response to the questions posed by the Commission, and look forward to providing reply comments for consideration by the Commission.

Dated: November 8, 2016.



Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Co., Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., 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, Stanton Telephone Co., Inc., and Three River Telco (the “Rural Independent Companies”)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 8th day of November, 2016, an electronic copy of the foregoing pleading was delivered to:

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