

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)
Public Service Commission, on) Application No. NUSF-50
its own motion, seeking to make)
adjustments to the universal)
service fund mechanism)
established in NUSF-26.)

**COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES IN
RESPONSE TO ORDER SEEKING COMMENTS**

**I.
INTRODUCTION**

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Comments in response to the Order Seeking Comments entered by the Nebraska Public Service Commission (the “Commission”) in this proceeding on October 20, 2015 (the “*Order*”). RIC has participated in this docket since its inception and RIC appreciates the opportunity to continue its participation and to provide the following Comments in response to the *Order*.

**II.
DISCUSSION**

In the *Order* the Commission requested comments on a series of issues. Set forth below are the questions posed by the Commission (in italicized text) followed by RIC’s comments in response thereto.



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, Stanton Telephone Co., Inc. and Three River Telco.

[T]he Commission seeks comment on whether to require carriers receiving high-cost support to file the following information on or before July 1st each year:

1. *An affidavit by an officer or authorized representative of the company certifying that high-cost support is being used to deploy and maintain networks capable of providing broadband services in Nebraska.*

Response: RIC does not oppose the implementation of this reporting requirement.

However, given that the Federal Communications Commission's definition of broadband has been and is a moving target and that this Commission may choose to revise its current definition of broadband, it is essential that the Commission advise all NUSF High-Cost Program ("High-Cost Program") recipients of the broadband speeds associated with the terms "broadband services" at the time this certification is required. This clarification will assure that the representative of the High-Cost Program support recipient who is providing the requested affidavit fully understands the network capability level that he/she is certifying to exist.

Since High-Cost Program support used for a carrier's network maintenance cannot be segregated by the recipient between support for broadband-capable and non broadband-capable portions of the recipient's network, if a recipient's network is not 100% broadband-capable, is the person providing the affidavit permitted to condition his/her statements in the certification? If so, what are the consequences of such qualification on the recipient's right to receive its full High-Cost Program support entitlement? To date, Nebraska Eligible Telecommunications Carrier status and qualification to receive High-Cost Program support have not been conditioned on a carrier's deployment of a 100% broadband-capable network in Nebraska.

As stated in response to Question 3 below, carriers should be able to request and receive confidential treatment of proprietary information supplied in this certification.

2. *A list of broadband infrastructure projects being deployed with the use of NUSF high-cost support which includes the following:*

- a. *A list of census blocks in which broadband is being deployed. The Commission proposes carriers utilize 2010 census block data.*
- b. *The upload/download speeds being advertised;*
- c. *The price of the broadband service at the advertised speeds; and*
- d. *An estimate of Nebraska households benefiting from new broadband infrastructure deployed by the carrier in the previous calendar year.*

Response: Similar to RIC's position regarding the certification requirement discussed above, RIC does not oppose the implementation of this proposed requirement for High-Cost Program support recipients to provide information to the Commission regarding broadband infrastructure projects. However, RIC does seek clarifications relating to certain aspects of these proposed reporting requirements.

First, is the reporting entity required to include in the report any broadband project either completed or in progress during a given calendar year period? Second, are broadband projects supported by NUSF-92 grants as well as projects supported by High-Cost Program funding to be reported? Third, are broadband projects to be included in this report that are funded partly with NUSF support and partly with capital provided by the reporting entity? Finally, is the report to include broadband projects that are at any stage of deployment for the reporting period, for example, a project that is only in a planning stage during a particular calendar year and that will be built in a subsequent calendar year?

Regarding Question 2.a, RIC does not deem it burdensome to relate the projects to the census blocks that will be impacted by each project.

Regarding Questions 2.b and c, RIC similarly does not regard the reporting to the Commission of advertised speeds and the pricing for the speeds to be burdensome.

Regarding Question 2.d, it does not appear to RIC that it will be difficult to report to the Commission the households that will benefit from broadband projects deployed in the previous calendar year.

3. *Carriers would be able to request and receive confidential treatment of proprietary information supplied through the proposed supplemental reporting requirements.*

Response: RIC appreciates the Commission's recognition that the above-discussed supplemental reports will likely include confidential information, and that the reporting carrier may request and receive confidential treatment of proprietary information provided to the Commission in such reports.

III.

CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Comments in response to the questions posed by the Commission in the *Order* and look forward to further participation in this docket.

Dated: December 10, 2015.

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, Stanton Telephone Co., Inc., and Three River Telco (the "Rural Independent Companies")

By: Paul M. Schudel

Paul M. Schudel, NE Bar No. 13723
pschudel@woodsaitken.com
James A. Overcash, NE Bar No. 18627
jovercash@woodsaitken.com
WOODS & AITKEN LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508
Telephone (402) 437-8500
Facsimile (402) 437-8558

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th day of December, 2015, an electronic copy of the foregoing pleading was delivered via electronic mail to:

Nebraska Public Service Commission

Sue.Vanicek@nebraska.gov

Brandy.Zierott@nebraska.gov

All Other Commenting Parties

Paul M. Schudel
Paul M. Schudel