

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to increase broadband adoption among low-income consumers through the development of a Nebraska broadband telephone assistance program.

) Application No. NUSF-91
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REPLY COMMENTS OF THE RURAL INDEPENDENT COMPANIES

**I.
INTRODUCTION**

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Reply Comments in response to comments filed in this docket by other interested parties on September 30, 2013 regarding the questions presented in the Commission’s Order Seeking Comment entered in this proceeding on August 13, 2013.² RIC’s Reply Comments will focus on responses to the Commission’s questions set forth below.

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 In addition to RIC, comments were submitted on behalf of the following parties: the City of Lincoln, Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (“CenturyLink”), Cox Nebraska Telcom, LLC (“Cox), the Center for People in Need, Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska (“Frontier”), the Rural Telecommunications Coalition of Nebraska (“RTCN”), the Satellite Broadcasting & Communications Association, MCIMetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. d/b/a Verizon Business Services (“Verizon”), and Windstream Nebraska, Inc. (“Windstream”).



1. The Commission is composed of five members, three of whom are appointed by the Governor and two by the Legislature. The Commission is authorized to investigate and report to the Governor and the Legislature on the operations of the public utilities in this State.

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The Commission is authorized to investigate and report to the Governor and the Legislature on the operations of the public utilities in this State. The Commission is also authorized to hold public hearings and to receive testimony from interested parties. The Commission may also conduct such other and such further investigations as it may deem necessary and proper.

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II.

ISSUES FOR COMMENT

- 1. Should the Commission consider implementing a Nebraska-specific broadband lifeline program by adding a broadband component to its existing NTAP program to increase adoption among low-income consumers in Nebraska? Please explain.**

While RIC continues to believe that it is reasonable for the Commission to give consideration to possible implementation of a Nebraska Broadband Adoption Lifeline Pilot Program (the “Broadband Adoption Program”), review of the filed comments reveals a number of important points that must be carefully considered by the Commission prior to implementing a broadband component for the existing NTAP program. In addition to the reservations concerning implementation of the Broadband Adoption Program that are stated in RIC’s Comments, RIC wishes to focus the Commission’s attention on the following considerations.

In RIC’s Comments filed in response to the *NUSF-91 Order*, RIC provided a description of the Federal Communications Commission’s (“FCC”) Low-Income Pilot Program, initiated in the *Lifeline Reform Order* that examined how the existing federal Lifeline program could be restructured to include broadband as a supported service to increase broadband adoption among Lifeline-eligible consumers. This Pilot Program was commenced in February 2013 and includes a 3-month period for the selected eligible telecommunications carriers (“ETCs”) to implement any administrative functions required in connection with the funded programs, a 12-month period during which subsidized broadband service offerings will be provided to eligible program participants, and a 3-month period for data collection and analysis.³ ETCs involved in the Low-Income Pilot Program are required to participate in workshops and discuss interim and final

³ 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. Feb. 6, 2012) (the “*Lifeline Reform Order*”), at para 325.

results of the individual projects during the course of the 18-month trial and have been strongly encouraged by the FCC to submit a report describing in detail any data collected.⁴ It is therefore reasonable to conclude that data collected from the Low-Income Pilot Program will be available beginning in August 2014 to assist the Commission with its consideration of the variables that have a positive impact on broadband adoption.

In comments submitted to the Commission, Frontier discussed its current participation in the FCC's Low-Income Pilot Program in its Ohio service territory.⁵ According to Frontier, up to this point, the results from the Ohio project have not lived up to Frontier's expectations.⁶ Therefore, Frontier cautioned that it is not confident that the proposal put forth in the *NUSF-91 Order* will produce the hoped for results and recommended that the Commission not move forward with adding a broadband component to the Nebraska Telephone Assistance Plan ("NTAP") at this time.⁷ Alternatively, Frontier recommended that the Commission should await availability of data from the Low-Income Pilot Program and re-evaluate implementation of a Broadband Adoption Program following analysis of the data produced from the Pilot Program.⁸ Similarly, Verizon recommends that the Commission should allow the FCC to complete its Low-Income Pilot Program, and thereafter reach informed conclusions as to whether subsidizing

⁴ *In the Matter of Lifeline and Link up Reform and Modernization et al.*, WC Docket No. 11-42, Order (rel. Dec. 19, 2012) at para. 21.

⁵ Frontier Comments at 2.

⁶ *Id.* at 3.

⁷ *Id.*

⁸ *Id.*

broadband for low-income households actually has the desired effect of increased broadband adoption.⁹

Although not participating in the FCC's Low-Income Pilot Program, CenturyLink reported in its comments that it has implemented a low-income broadband assistance program aimed to increase broadband adoption for low-income consumers.¹⁰ CenturyLink questioned whether there is a need at this time for the Commission to establish a low-income broadband program in an attempt to increase the broadband adoption rate for low-income consumers and whether the Commission's proposed program would even modestly increase the number of low-income customers that subscribe to broadband service to access the Internet or simply provide a discount to those low-income customers that already have broadband access.¹¹ Citing a Pew Research Center report, both CenturyLink and Verizon question whether implementation of a low-income broadband program would significantly increase the number of low-income broadband service subscribers since almost half of non-Internet users state that the main reason for non-use of online services is because the Internet is not relevant to them.¹² CenturyLink suggests that the Commission consider partnering with CenturyLink and other providers that already offer low-income broadband adoption programs as a way to increase broadband

⁹ Verizon Comments at 5.

¹⁰ CenturyLink Comments at 1.

¹¹ *Id.*

¹² *Id.* at 3; Verizon Comments at 4.

subscribership among low income consumers.¹³ Verizon concludes that the Commission should not expand NTAP to subsidize broadband.¹⁴

Cox reports that it participates in the National Connect 2 Compete program.¹⁵ Cox states that based upon its experience, a successful broadband adoption program must involve more than just low-cost service. In addition, an adoption program must address computer literacy and access to low cost computer equipment which Cox acknowledges may be beyond the scope of the Commission's mission.¹⁶ Cox recommends that the Commission should implement a program aimed at increasing Internet subscribership among low-income consumers in Nebraska while ensuring that the program provides enough flexibility to work with a federal broadband adoption program once it is implemented.¹⁷

In addition to the foregoing comments expressing reservations regarding implementation of the proposed Broadband Adoption Program as an addition to NTAP, all responding commenters stated that they are not aware of any similar broadband adoption initiatives or programs in any other state.¹⁸ Since the Commission's investigation of possible implementation

¹³ CenturyLink Comments at 4.

¹⁴ Verizon Comments at 4.

¹⁵ Cox Comments at 7.

¹⁶ *Id.* CenturyLink also argues that without providing the low-income consumer with a method to obtain the necessary computer equipment to access the Internet, the Commission may find that there is little demand for a program that provides only a discount on the monthly recurring cost of broadband service. CenturyLink Comments at 13.

¹⁷ Cox Comments at 1-2.

¹⁸ CenturyLink Comments at 12; Cox Comments at 8; Frontier Comments at 5; Verizon Comments at 6; Viaero Comments at 4; Windstream Comments at 8; and RIC Comments at 16-17.

of a state Broadband Adoption Program appears to be a “first”, and given the current lack of data from the FCC’s Low-Income Pilot Program that would provide guidance as to which variables are most likely to have a positive effect on broadband adoption, NRIC respectfully recommends that rather than proceeding with implementation of a Broadband Adoption Program at this time, the Commission should consider one of the following alternative courses of action:

1. As recommended by Frontier and Verizon, suspend further activities in this docket until the FCC issues its finding in connection with the in-progress Low-Income Pilot Program following which the Commission would request and receive comments on such findings from interested parties and thereafter evaluate the FCC’s findings and the comments submitted in connection with potential implementation of a Nebraska Broadband Adoption Program; or
2. Formulate and implement a series of broadband adoption pilot projects specific to the State of Nebraska funded by a one-time grant of NUSF support for the purpose of gathering data to assist the Commission’s efforts to determine the most effective and efficient Broadband Adoption Program for this State;¹⁹ or
3. Schedule and hold one or more workshops to gather data and proposals regarding implementation of a Broadband Adoption Pilot Program for Nebraska.

2. Does the Commission have the authority under its current statutory framework to implement a broadband component to its NTAP program? Why or why not?

Of the eleven parties that submitted comments in response to the *NUSF-91 Order*, eight parties provided a response to this question. Five of the eight commenters observed that it is unclear whether the Commission possesses legal authority to implement a broadband component of the NTAP. Two commenters advocated that the Commission possesses authority and one commenter concluded that the Commission lacks authority to implement a Broadband Adoption Program.

¹⁹ RTCN Comments at 3. Further, in the comments filed by the City of Lincoln support for identification and implementation of pilot projects was presented. City of Lincoln Comments at 5-6.

RIC reiterates the conclusion set out in its Comments in response to this question that primarily based upon the specific wording of *Neb.Rev.Stat.* Section 86-329, it seems that there is at least some question as to whether the Commission has existing legal authority to institute an NUSF-supported addition to NTAP for the purpose of providing support for broadband adoption. However, legal arguments can be made on both sides of this issue.

III.

CONCLUSION

To the extent that RIC has not specifically responded to questions presented by the Commission in the *NUSF-91 Order* through the foregoing Reply Comments, RIC respectfully directs the Commission's attention to the responses to those questions as set forth in RIC's Comments filed in this docket on September 30, 2013.

Dated: October 25, 2013.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 25th day of October, 2013, an electronic copy of the foregoing pleading was delivered to:

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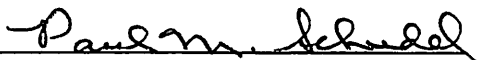
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