BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund High Cost Program.	Application No. NUSF-99

COMMENTS OF QWEST CORPORATION d/b/a/ CENTURYLINK QC AND UNITED TELEPHONE COMPANY OF THE WEST d/b/a CENTURYLINK

On October 15, 2014, the Nebraska Public Service Commission ("Commission") issued an Order Opening Docket, Seeking Comment and Setting Hearing in the above referenced proceeding. In this docket, the Commission is considering whether modifications to the Nebraska Universal Service Fund ("NUSF") high-cost funding mechanism should be made. In particular, the Commission is seeking to determine whether distributions from the fund should be modified for price cap carriers to make the fund complementary to the Federal Communications Commission's ("FCC's") Connect America Fund ("CAF") Phase II program. Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (collectively "CenturyLink") appreciate the Commission's desire to ensure all Nebraska citizens have access to affordable voice and broadband service at sufficient speeds and respectfully submit these comments for the Commission's consideration.

Before the Commission considers whether to create a separate fund for price cap carriers, it should first clearly identify its policy objectives. CenturyLink submits that the following principles should guide the Commission: *First*, voice service for consumers living in high cost rural areas needs to be supported to maintain reliability, quality, and affordability, regardless of whether the area is served by a price cap carrier or a rate of return carrier; *second*, high cost voice and/or broadband support should be determined in the same manner for all companies because consumers, not carriers, need to be the focus of the support calculations; *third*, where support is needed, all qualified companies should receive a sufficient and predictable amount of high cost support each year; and *fourth*, there should be equitable contributions to the NUSF from all communications providers.

CenturyLink believes the creation of a separate fund for price cap carriers would not support the guiding principles articulated above. In fact, separate regimes for NUSF support likely will lead to disparate mechanisms, and will disenfranchise consumers based on the identity of their carrier, not on the need for support.

The NUSF exists to support communications services provided to rural Nebraskans. As such, the fund should treat all rural Nebraskans equally, and not differentiate support based on the size of the service provider or the arcane federal rate making distinctions the FCC makes among providers. The Commission can continue to maximize the positive consumer impacts that NUSF provides, while minimizing the demands on scarce Staff resources, by maintaining a single fund.

The Commission's announced purpose in this docket, which is to coordinate state high-cost support with federal universal service reform, is a legitimate policy principal which should guide the Commission's examination of the proposals put forward. At its foundation, the FCC CAF Phase II initiatives seek to transform federal USF focus to expanding and supporting broadband-capable networks that also provide voice service to consumers. CenturyLink submits that the current proposal, which pertains to only three of the nearly 40 incumbent local exchange carriers in the state, will treat rural consumers unequally and will mistakenly change the focus of the support from consumer to carrier. Focusing NUSF support on broadband and voice service in high cost areas *for all high cost rural customers, whether served by a price cap and rate-of-return carrier*, would best align the NUSF with the overarching national broadband objectives.

1. **Should the Commission consider revising the manner in which high-cost support is allocated to the price cap carriers? Why or why not?**

CenturyLink does not believe the Commission should consider revising the manner in which high-cost support is allocated to price cap carriers. The structure of the high cost fund allocation methodology is not as important as the need to focus support on consumers in high-cost areas, regardless of whether the carrier providing the service is price cap or rate-of-return. Customers of both categories of carriers should be funded sufficiently to provide quality voice and broadband service at reasonable rates in high cost areas of the state. It is not necessary to create a separate fund for price cap carriers to accomplish this objective.

2. **As it pertains to price cap carriers only, should the Commission stop utilizing the current method to allocate and distribute support? How should the level of support for price cap carriers be determined?**
    a. **If so, how should the level of support for price cap carriers be determined?**

Any allocation methodology requires the Commission to allot limited funds, and because of the steadily decreasing NUSF contributions, becomes a method to distribute insufficient support. The creation and application of a different support allocation and distribution method for customers of price cap carriers versus rate of return carriers would inevitably result in disparate treatment for Nebraska consumers.

The CAF Phase II model developed by the FCC also establishes a methodology for the allocation of available resources, that results in "haves" and "have nots." The funding from CAF Phase II will be insufficient to deploy broadband service to all Nebraskans in price cap service areas at the FCC mandated baseline speed of 10 Mbps download and 1 Mbps upload ("10/1") and provides no funding for voice service where broadband is not supported (e.g. the ultra high cost areas included in the Remote Areas Fund that will likely receive broadband through satellite service). The shortfall in federal funding makes the provision of NUSF funding more critical to provide rural Nebraskans with comparable service in areas ineligible for CAF Phase II support.

b. **Should the Commission create two separate budgets, one for price cap carriers and one for rate of return carriers?**
   i. **If so, how should the budgets be determined?**
   ii. **Should the Commission freeze current support levels in terms of the relative support allocated to price cap carriers and rate-of-return carriers (and going forward maintain the relative level of support)?**

For the reasons stated above, it will be counter-productive to create a separate NUSF high-cost program for price cap carriers. With a single fund, the Commission will avoid the time consuming and fact intensive process of investigating and creating separate funds, as well as the future workload of regularly reviewing the separate funds, making relative judgments of fund size and the potentially difficult decisions of reallocating dollars from one fund to the other. A single fund also reduces the potential for treating similarly situated Nebraskans differently based only on their underlying carrier. CenturyLink strongly believes that a single fund is the right outcome for rural Nebraskans.

3. **How can the Commission revise the Nebraska universal service high-cost support mechanism for price cap carriers that would be complementary to the FCC's CAF Phase II funding for the same carriers?**
   a. **Should the Commission utilize a process similar to the NUSF-92 broadband grant process to allocate support?**
      i. **Why or why not?**
      ii. **How should the methodology be designed to ensure support is allocated to areas in need of broadband investment?**
      iii. **Should price cap carriers continue to be eligible for NUSF-92 support if Nebraska price cap model support is allocated to broadband investment? Why or why not?**

As noted above, CenturyLink does not believe the Commission should create a separate universal service high-cost support mechanism for price cap carriers. While CenturyLink would be in favor of ultimately using a funding mechanism complementary to CAF Phase II, the smaller carriers are not currently included in the CAF Phase II support calculations, so revising the NUSF support mechanism at this time would appear to be premature. In addition, it has been less than 30 days since the FCC released its Report and Order setting forth the final public interest requirements and other parameters for the CAF II program, but key elements such as the actual funding level by state and the final rules for the competitive auction process will not be known for several months. Therefore, it is too early to provide detailed recommendations regarding how best to create an NUSF that is complementary to the FCC's CAF II. In determining the overall level of funding to be made available in CAF II, the FCC notes that crucial roles states must play in accomplishing universal service:

> We thus are not persuaded to increase high-cost universal service support further. Instead, we advance our broadband universal service goals through the high-cost fund to the extent we are able within the existing budget. We also note that the states have an important role to play in advancing universal service goals. We welcome and encourage states to supplement our federal funding, whether through state universal service funds or other mechanisms.[1]

The Commission is right to begin the dialogue about how best to make certain that the NUSF continues to supplement where necessary the Federal high cost support programs to ensure universal service goals are met for all rural Nebraskans. One way that Nebraska has moved forward is the broadband grant program. Nebraska has properly designed a broadband grant program that works very well for consumers in areas that that are uneconomic to build, but economic to operate. However, many broadband projects will be large scale, long-term and costly. CenturyLink recommends the Commission maintain both a grant program and the NUSF.

b. Should the Commission use the FCC's CAF II model to determine the areas that need support?

- **i. Should those CAF II areas be the areas that are/are not eligible for state support?**
- **ii. Should the CAF II model output also be used to determine the level of support needed?**
- **iii. If not, how should this be determined?**
- **iv. If not, how should the Commission make sure that support to a carrier is based upon a reasonable cost for voice and broadband service?**

[1] *See* December 18, 2014 *Connect America Fund, Report and Order,* FCC 14-90, Paragraph 28 (footnote omitted)

Even within a single NUSF plan, CenturyLink agrees that some updates to support areas could be accomplished. Once CAF Phase II funding is implemented, state funding could be provided in a manner that complements the federal funding, without making wholesale changes to the NUSF. As noted in the response to 2.a, CAF Phase II funding will be targeted to specific census blocks, and no funding whatsoever will be provided to offset the high costs of providing voice (or broadband) service to Nebraskans included in the Remote Areas Fund locations. Regardless of the method used to determine support, distributions to all carriers should be complementary to federal support, and should be based on the cost characteristics of the areas served. And since the NUSF will not be adequate to meet consumers' needs for advanced network services, a consistent and equitable allocation method must be used to distribute available support.

c. **Should the Commission require broadband obligations, similar to those established by the FCC, as a condition of a price cap carriers accepting Nebraska support?**
   i. **If broadband obligations are made a condition to accepting support, what should be required?**
   ii. **How can the Commission ensure that rates for comparable services remain affordable?**
   iii. **What should the Commission do if a carrier refuses to apply for or accept support in a given area?**
   iv. **How can the Commission structure a mechanism so that broadband is built out in the urban areas as well as the rural areas?**
   v. **Should there be a specific time period for making the broadband investment?**
   vi. **How should broadband obligations be reported?**

The NUSF was established to ensure that all Nebraskans have access to telecommunications service that is comparable to that provided in urban areas. The FCC struggled for more than a decade with the question of converting support from voice to broadband, and ultimately decided that they could not fund comparable broadband service for all consumers. Therefore, the FCC identified the desired result, and created a process to allocate available funding to fewer locations, and has recently identified the required obligations. The locations not included in FCC support will be left out of funding altogether, be included in the Remote Areas Fund, or be funded by the state. The NUSF could be structured to provide support for broadband-capable networks, but CenturyLink is extremely concerned that, due to declining contributions into NUSF, funding for even voice service is at risk, and many rural Nebraskans would be left behind if the fund is converted to broadband support.

Prior to establishing any obligations for broadband, the Commission must identify the costs of building and maintaining the broadband network desired. If building and maintaining broadband networks in rural areas is desired, the Commission could incent companies to build and operate networks where they currently do not exist.

d. The FCC's CAF support is based upon an existing cost model to determine per location support amount.

  i. Does the Commission need to make a similar per location determine to ensure that support amounts per subscriber/household remain reasonable?

  ii. Should it be based upon the CAF Phase II output? Should the Commission continue to require NUSF-EARN forms from price cap carriers?

As noted above, CenturyLink does not believe the Commission should create a separate universal service high-cost support mechanism for price cap carriers. Since any model used by the Commission will be one that allocates limited funding to high cost areas, the Commission should use a model that equitably allocates the funding to allow all rural Nebraskans to benefit from the availability of comparable services.

e. Should the Commission continue to require NUSF-EARN Forms from price cap carriers?

  i. If the price cap carriers no longer receive SAM model support, would the filing NUSF-EARN Forms be relevant and/or necessary?

  ii. Is the Commission required to have a third party audit performed on each price cap carrier's information if it does not use this information to calculate the level of support going forward?

iii. **Does the Commission need a certain level of financial information from each price cap carrier to ensure that the support is being used for its intended purpose?**

iv. **Is there another form of oversight that should be used in its place?**

CenturyLink reiterates that a separate fund is not necessary, and that all consumers in areas eligible for support should be treated similarly, regardless of whether the carrier providing the service is price cap or rate-of-return.

CONCLUSION

CenturyLink appreciates the Commission's desire to ensure that all rural Nebraskans have access to quality advanced telecommunications services at reasonable rates. However, CenturyLink does not believe that a separate high cost universal service program is needed to accomplish this objective. Creating a separate funding mechanism for price cap carriers will mean the rural customers of the price cap carriers will be treated differently than those of the rate of return carriers. As the customer is the ultimate beneficiary of NUSF support, the Commission should not differentiate the support that is provided to that customer simply based on the federal rate making methodology utilized by the carrier.

Dated: January 14, 2015.

Respectfully submitted,

By: ______________________

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of January, 2015, a true and correct copy of the foregoing was delivered via email and hand-delivery to the following:

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