

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public )  
Service Commission, on its Own Motion, )  
To Administer the Universal Service Fund )  
High-Cost Program. )

Application No. NUSF-99

COPY



COMMENTS OF COX NEBRASKA TELCOM, LLC

Cox Nebraska Telcom, LLC ("Cox") hereby files these comments for the Nebraska Public Service Commission's ("Commission") consideration in the above-captioned docket, NUSF-99. These comments are being filed pursuant to the Commission Orders entered in NUSF-99 on October 15, 2014 and October 29, 2014, and the Hearing Officer Order entered on December 2, 2014.

While Cox does not receive high-cost support from the Nebraska Universal Service fund ("NUSF"), developing sound processes and procedures regarding the NUSF is critical for all telecommunications companies. Furthermore, Cox is a recipient of NUSF monies as it relates to serving low-income customers through the Nebraska Telephone Assistance Program ("NTAP") and hopes to become a recipient of funds from the NUSF broadband adoption program. Finally, Cox's customers pay into the NUSF, as Cox collects the NUSF surcharge from its residential and business customers, excluding Lifeline customers. Therefore, this docket is of high interest to Cox and Cox applauds the Commission for undertaking a review to determine whether the NUSF should better align with federal policies and programs.

Cox supports the Commission's effort and believes an alignment of the NUSF with federal principles is a necessary step for the sustainability of the NUSF. Cox believes establishing a higher degree of consistency between the federal Connect America Fund ("CAF") and the NUSF would improve and optimize the NUSF.

Specifically, the fundamental underlying principles regarding CAF support should be reviewed for adoption in Nebraska.

Cox, being a company that competes against carriers that receive high-cost support strongly opposes using public funds to overbuild or fund network improvements in service areas where facilities based competitors who do not receive subsidy are present and offering comparable or substitutable services. And Cox commends the Commission for its actions that have prevented the NUSF from being used to overbuild such areas.

Since 2004, the Commission has recognized that NUSF high-cost support is not intended for use in competitive areas by saying "...the Commission finds many lower-cost parts of the state do not require Program support, specifically, areas where competition would most logically develop, such as the communities of Omaha and Lincoln".<sup>1</sup> Such actions are consistent with legislative policy<sup>2</sup> and the Federal Communication Commission's ("FCC") diligent efforts to implement its policy that funding should not flow to areas being served by unsubsidized competitors and that where subsidy may still be required, there are safeguards to ensure that the funds provided are used only for the supported services in the designated localities.

Similarly, Cox supports the general CAF principle that universal service support should be eliminated in areas where an unsubsidized competitor offers comparable service. In such cases, the competitor has demonstrated that service can be provided absent the need for financial assistance. As such, existing support is no longer necessary and should be eliminated.

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<sup>1</sup> *In the Matter of the Nebraska Public Service Commission, on its own Motion, seeking to establish a long-term universal service funding mechanism*, Application No. NUSF-26 at 7 (Nov. 3, 2004).

<sup>2</sup> Neb. Rev. Stat. §86-323.

Further, an alignment of the CAF with the NUSF would help ensure carriers cannot 'double-dip' by receiving funding from both programs for the same area. Carriers should not be able to receive NUSF money where CAF money has been awarded to support an area. CAF money is designed to provide carriers with high-cost support sufficient to produce a viable business case to provide the supported service in areas where the business case would otherwise not exist, thereby presumably negating the need to also receive NUSF high-cost support. If a carrier believes NUSF funding is necessary in an area that has been awarded CAF funding, the carrier should be required to demonstrate why NUSF funding is necessary. NUSF support should only be awarded in a CAF-supported area upon a demonstration that the CAF funds do not adequately support the needs of the high-cost area.

Finally, Cox advocates the Commission align its audit requirements with the CAF by requiring explicit documentation showing funds are being used for their intended purposes. In fact, last month the FCC strengthened the need for accountability and oversight related to the CAF to ensure federal funds are being used appropriately and for their intended purpose.<sup>3</sup> Related steps should be taken in Nebraska, otherwise the Commission cannot be assured that NUSF support is being spent as intended. While the Commission has made it clear since the NUSF's inception that funds are to be used for their intended purpose, receiving specific documentation that indicates how funds have been used would enhance the fund's transparency and provide accountability. Such documentation could be similar to the procedures the Commission has established for

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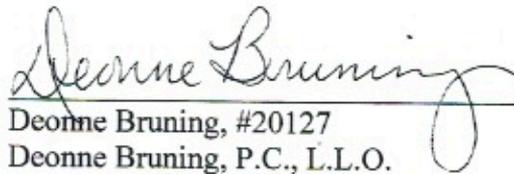
<sup>3</sup> See *Connect America Fund*; WC Docket Nos. 10-90, *et al.*, Report and Order, paras 124-128, Adopted Dec. 11, 2014.

carriers to recover support from Docket NUSF-69 (Dedicated Wireless Fund) and Docket NUSF-92 (Nebraska Broadband Program).

In closing, Cox reiterates its appreciation for the Commission opening this docket. Cox supports the Commission's investigation and harmonizing the NUSF with federal policies and procedures.

Respectfully submitted this 13<sup>th</sup> day of January, 2015.

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