

## 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  
PROGRESSION ORDER NO. 2

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

Pursuant to Commission Order dated November 13, 2019 in the above-referenced docket, Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (collectively, “CenturyLink”) hereby respectfully provide the following comments on changes to the NUSF-99 framework being considered by the Commission:

#### **The Critical Need for Ongoing Voice Support**

At base, CenturyLink strongly urges the Commission to reevaluate its voice support allocation methodology. While total available support has stabilized with the residential changes to a connections-based surcharge, universal service support has drastically and steadily decreased over the last decade. First, the FCC changed from supporting the voice network to expansion of the broadband network in 2015. Second, the Nebraska Universal Service Fund (“NUSF” or “fund”) itself declined through 2018.<sup>1</sup> Third, in that same year, the Commission allocated 80% of each price cap carrier’s support for broadband build-out, leaving only 20% for ongoing voice

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<sup>1</sup> See Legislative Audit Office Pre-audit Report, Universal Service Fund at p. 4 (January 2018), available at [https://nebraskalegislature.gov/pdf/reports/audit/usf\\_preaudit\\_2018.pdf](https://nebraskalegislature.gov/pdf/reports/audit/usf_preaudit_2018.pdf) (explaining that the fund has decreased due to bundled package rates and allocation of revenues into services not subject to the surcharge).

support. Fourth, the traditional implicit subsidy mechanisms – access, business and urban services – that supported legacy telecommunications networks over the decades are no longer available. Access has been virtually eliminated, and competition has eliminated the ability of carriers to subsidize rural networks with business and urban services. Over the past 20 years, CenturyLink has lost over 80% of its lines -- some 430,000 telephone lines – to competition and technology substitutions; nevertheless, CenturyLink remains obligated to retain voice quality networks to 100% of households and business in its service territory.

One of the core purposes for the legislature in establishing the NUSF was to “encourage the continued development and maintenance of telecommunications infrastructure.”<sup>2</sup> Although broadband build-out is critical to advance rural broadband, the 2015 framework, combined with the diminishing fund, diverts funds necessary for ongoing voice support. The costs for such services are increasing while revenues are simultaneously decreasing. Given the legislative mandate of “universal access to telecommunications services,”<sup>3</sup> providers are forced to fill the funding void and meet 100% of their carrier of last resort (“COLR”) obligations with roughly 14% of the funds.<sup>4</sup> The level of funding is not sufficient to “preserve and advance universal service” in a “specific, predictable, [and] sufficient” manner as required by Neb. Rev. Stat. § 86-323(5). Nor is it adequate to allow NUSF recipients to provide voice, or basic local exchange, services to customers.<sup>5</sup>

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<sup>2</sup> Neb. Rev. Stat. § 86-323(5)

<sup>3</sup> Neb. Rev. Stat. § 86-324.

<sup>4</sup> For example, in 2015 CenturyLink received approximately \$11,800,000 in voice support. It currently receives approximately \$1,680,000.

<sup>5</sup> 291 Neb. Admin. Code § 10-004.02A2.

## **CenturyLink's Comments on Specific Revisions Being Considered by the Commission**

### **1. Use of 25/3 Mbps as the Minimum for Price Cap Carrier Support**

CenturyLink agrees that broadband projects should meet a minimum 25/3 Mbps standard to be eligible for NUSF broadband build-out support. Further, because NUSF broadband build-out support is limited, it should be reserved, at this time, for those areas which are unserved or underserved.<sup>6</sup>

### **2. A review as opposed to an application process**

#### **a. Designation of Eligible Census Blocks and Complementing Federal Support**

At this time, the Commission should not designate eligible census blocks; rather, the Commission should rely upon the unserved and underserved criteria. Any designation of eligible census blocks would require the development of some sort of cost model, all of which have their disadvantages. Further, predetermining eligible census blocks would needlessly exhaust already limited resources and encounter many challenges. As an alternative, CenturyLink recommends the Commission continue to use existing broadband mapping with an enhanced challenge process<sup>7</sup> until such time the FCC adopts more accurate broadband mapping capabilities. The development and use of an enhanced challenge process is necessary to overcome the many limitations associated with the current Form 477 mapping process.

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<sup>6</sup> To that end, the Commission should retain its current prohibition on the use of NUSF deployment support a) in areas served by an existing unsubsidized competitor, and b) where the carrier is receiving federal universal service support.

<sup>7</sup> A more robust challenge process should be developed to, among other things, prevent carriers from claiming broadband availability in areas where customers do not have broadband services.

**b. Prioritization of Certain Areas for Broadband Deployment**

The Commission should employ caution in establishing prioritization criteria for broadband deployment based on geographical area alone. Rather, prioritization should focus on factors such as projects in unserved or underserved areas or those providing service to a greater number of residents. Finally, to the extent geography is a factor in the Commission's selection process, it is important to keep in mind that broadband infrastructure, including middle-mile and backhaul services, must be available to support the last-mile deployment.

**c. Preference for Fiber-Based Projects**

The selection process should be technology agnostic. While Fiber has certain advantages over other technologies, fiber projects are the costliest, from both an installation and maintenance standpoint, and take much longer to deploy. They require ongoing maintenance, upgrades and support. For those reasons, the FCC has accepted alternative technologies, such as fixed wireless, as acceptable broadband solutions. To ensure the most efficient use of resources, preference should be given for projects with higher speeds, providing service to unserved and underserved areas, and extending service to the greatest number of residents. To that end, CenturyLink suggests that the Commission develop a weighted scoring process similar to that of the FCC and other state broadband grant programs. Each scoring criteria must be objective and impartial. Indeed, several states employ an independent agency to evaluate and score proposed projects.

**d. Support to Supplement Deployment of Fixed Wireless; Impact of Alternative Technologies on COLR Obligations and NUSF**

Universal service support should remain technology neutral as it is limited to those projects which are uneconomical, regardless of the technology employed. The goal of NUSF is to “ensure[] that all Nebraskans, without regard to their location, have comparable accessibility to telecommunications services at affordable prices.”<sup>8</sup> Fixed wireless and other alternative technologies play a critical role in fulfilling this goal. While those technologies are less expensive and quicker to deploy than fiber, without assistance they remain uneconomical given the lack of population density in rural areas and other factors. Depending on the unique circumstances of any particular location, fixed wireless may be the best, long-term solution. Without state support for these technologies, providers may be unable to justify broadband deployment in rural areas.

The Commission also requested comments on how carrier of last resort (“COLR”) obligations should be treated if alternative technologies are deployed in place of traditional copper-based networks. CenturyLink submits that COLR obligations are associated with the carrier receiving state support, not the technology deployed to provide service. If the Commission provides NUSF support to a company, regardless of the technology supported, the resulting COLR obligations must lie with the company receiving such support. If a non-incumbent carrier is awarded NUSF support, any COLR obligations must follow the support.

Furthermore, there is no public policy rationale in providing state assistance to multiple providers in the same area. In other words, the Commission should award NUSF support to only one carrier in any given area. State law and Commission rules require any carrier receiving

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<sup>8</sup> Neb. Rev. Stat. § 86-317.

NUSF support to be a Nebraska eligible telecommunications carrier (“ETC”). Accordingly, any carrier receiving Commission awarded NUSF broadband grant funds should be the designated COLR for all supported services, regardless of the technology deployed. This follows FCC rules associated with the Connect America Fund initiative. And once a non-incumbent carrier is the designated COLR/ETC for a given area, the incumbent provider which previously received NUSF support and had associated COLR obligations should be relieved of such obligations. Finally, as explained above and regardless of the chosen technology, the designated COLR – incumbent or non-incumbent – should be relieved of any COLR obligations if state support is insufficient to foster supported services.

### **3. Specific Timeframes to Utilize Allocated Support and for Buildout**

CenturyLink recommends against the use of specific timeframes to utilize support or to build-out designated projects. While monitoring project progress is appropriate, establishing specific timelines is not feasible. Every construction project is unique and may be affected by many variables outside of the carrier’s control. These variables include necessary project components such as obtaining easements, issuance of permits, coordination with utility pole owners and power district electricity in the field for broadband electronics, railroad crossing challenges, weather delays, and fiber optic cable supply and electronic equipment shortages to name just a few. For that reason, CenturyLink suggests that the Commission monitor the construction status rather than adopting specific timeframes for buildout.

**4. Tying Ongoing Support to Census Blocks Where the Carrier is Providing Voice and Broadband Service at Speeds of 25 / 3 Mbps; Treatment of Areas Not Receiving Adequate Voice and Broadband Service; and Reporting Requirement**

First, ongoing support should not be tied to census blocks where the carrier is providing voice and broadband services at speeds of 25/3. Voice and broadband are distinct services, with separate obligations, support mechanisms, and technologies. While voice carriers are currently required to fulfill their COLR obligations, no similar requirements exist for broadband, and specifically, no requirement for the provision of 25/3 service. There is simply no reason to inextricably link the two in this fashion.

Second, by law, NUSF funds shall be used only for the provision of “supported services.”<sup>9</sup> “Supported Services” are basic local exchange services.<sup>10</sup> While certain network components can be used for both voice and broadband, the limited funding offered by NUSF cannot provide ongoing support for both voice and broadband. Indeed, CenturyLink’s access lines have been reduced by over 80% due to competition, substitution, and rural decline. Nevertheless, CenturyLink is required by law to fully maintain network availability to 100% despite its voice support has decreasing by approximately 85% over the past few years.

Third, CenturyLink recommends against the use of the EARN Form, or any similar reporting requirement. The EARN Form is an antiquated form which appears to be based on old federal rules that are no longer required at the federal level for price cap carriers. CenturyLink is no longer rate of return regulated in Nebraska, meaning that business and regulatory decisions are not dependent on any rate base or expense formulas; competition and customer needs form

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<sup>9</sup> 291 Neb. Admin. Code § 10-004.02A1.

<sup>10</sup> *Id.* at § 10-004.02D.

the basis for our decisions. For these reasons, the EARN Form would likely not provide information on which the Commission should base policy decisions.

Fourth and finally, current reporting obligations are comprehensive and sufficient to ensure that operational expenses are used for the intended purposes of maintaining and improving network facilities. No additional reporting obligations should be placed upon carriers without a specific reason or deficiency with the current reporting structure. To the extent the Commission needs additional information for a specific telecommunications company, the Commission has the authority to seek such information on a case-by-case basis.

#### **5. Revisions Based on Anticipated Future Changes in Federal Support**

Revisions based on speculative future changes in federal support for price cap areas are premature. CAF II funding support is tentatively scheduled to expire in 2020 with an option for an additional year. CenturyLink agrees that the CAF II model is likely to be transitioned for CAF III, or the Rural Digital Opportunity Fund (“RDOF”); however, the methodology, requirements, and obligations associated with RDOF are still undefined. For that reason, the Commission should not make any changes based on anticipated and speculative revisions to CAF II. Rather, CenturyLink recommends that the Commission wait until the RDOF model is finalized and reevaluate potential changes and how to leverage federal and state support at that time.



In conclusion, CenturyLink thanks the Commission for the opportunity to provide comments in this docket and looks forward to a continuing and productive dialog on the provision of NUSF.

Dated this 13<sup>th</sup> day of December, 2019.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 13<sup>th</sup> day of December, 2019, a true and correct copy of the foregoing was delivered to the following via email to the following:

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