

**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

ORDER SEEKING COMMENT

Entered: November 13, 2019

**REPLY 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 reply comments on revisions to the NUSF-99 framework being considered by the Commission.<sup>1</sup>

**Question 2: Whether to make the broadband deployment support available similar to the mechanism adopted in NUSF-108, Progression Order No. 2 where projects would be filed for review but not necessarily through an application process.**

The Commission seeks comment on whether to align the review process for price-cap ("PC") carriers and rate-of-return ("RoR") carriers such that PC carriers would file projects for review but not file applications. Rather than addressing the narrow issue presented by the Commission, several parties use this as an opportunity to attack PC carriers and propose wholesale and self-serving amendments to the NUSF program. The Rural Telecommunications

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<sup>1</sup> Rather than offer a reply to all comments filed by parties in NUSF-99, Progression Order No. 2, CenturyLink replies only to those topics where additional commentary is necessary to aid the Commission or rebut arguments made by other parties. The absence of reply to specific comments should not be considered an acquiescence or agreement thereto.

Coalition of Nebraska (“RTCN”) urges the Commission to “fundamentally alter its approach” for PC carriers and utilize the reverse auction process currently proposed by the Commission to reallocate support.<sup>2</sup> Similarly, the Nebraska Rural Independent Companies (“RIC”) recommends that the Commission reallocate NUSF funds away from PC carriers and for use by RoR carriers.

The purpose of NUSF is not to support RoR carriers. Rather, the purpose is to support service to residents of Nebraska, regardless of the ETC that provides the service. Historically, the level of voice support was determined by required service parameters and estimated costs to meet those requirements. These support amounts allowed the ongoing provision and maintenance of required voice service to Nebraskans at affordable rates. Subsequently, these support amounts were divided, such that only 20% of the funds may be used for their original purpose: the ongoing support of voice services without any corresponding reduction in carrier of last resort (“COLR”) obligations. The remaining 80% has been allocated to qualifying broadband projects within the PC carrier’s service area.

The RoR carriers now seek to further reduce or eliminate these funds through reallocation in their favor. Despite such suggestions, support allocated to PC carriers cannot and should not be diverted to RoR carriers. First, application of the reverse auction process is limited to a “telecommunications company that has not served, to the commission's satisfaction, those areas with service that meets the criteria for successful investment of funding from the Nebraska Telecommunications Universal Service Fund.”<sup>3</sup> No authority allows the reallocation of NUSF funds from PC carriers to RoR carriers, and it would be fundamentally unfair to the residents and business within the high cost areas served by PC carriers to do so.

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<sup>2</sup> RTCN Comments at 5.

<sup>3</sup> Neb. Rev. Stat. § 86-330.

Second, unlike RoR carriers, PC carriers, in most areas, are subject to significant competition without guaranteed ongoing federal support or a set rate of return. As such, access to NUSF funds to maintain and upgrade service to rural areas is critical. CenturyLink, for example, has been a good steward of state support. It has maintained and answered the demand for new voice service across its Nebraska footprint and, likewise, has maintained and expanded the availability of broadband services.

Third, the types and level of funding available to PC carriers and RoR carriers fundamentally differ. Using federal high cost support as an example, the Universal Service Administrative Company (“USAC”) fourth quarter HC01<sup>4</sup> shows that CenturyLink receives \$574,035 per month in CAF II support with which it is obligated to meet the specific CAF II obligations in its eligible areas while being expected to meet its ETC obligations through its service area. By contrast, the RoR carriers receive more than \$7.6M monthly. Stated differently, CenturyLink receives about \$1.11 monthly per housing unit in its service area while Nebraska’s RoR carriers receive on average approximately \$66.65 per month per housing unit.<sup>5</sup>

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<sup>4</sup> Available at <https://www.usac.org/about/reports-orders/fcc-filings/#results>.

<sup>5</sup> To use comparable data and to approximate the broad obligations associated with federal funding, CenturyLink used Housing Units from US Census data and assigned those housing units to the provider based on exchange boundaries to produce the given estimates. Other measures may change the per unit amount but likely would not change the magnitude of the difference in funding.

**Question 2a: Should the Commission designate eligible census blocks? How can the Commission complement support received from federal universal service program to extend existing broadband-based networks further out to rural areas that have no broadband service?**

Several parties advocate for the Commission’s designation of eligible census blocks; however, as explained in CenturyLink’s initial comments, this process would require significant Commission resources due to the sheer number of PC carrier census blocks. As such, CenturyLink recommends maintaining the status quo until the FCC develops a new, and more accurate, broadband reporting database. At that time, the Commission can reevaluate whether to designate eligible census blocks for PC carriers.

Additionally, RIC recommends PC carriers make an additional showing in Rural Digital Opportunity Fund (“RDOF”) areas that NUSF support is needed in conjunction with federal support.<sup>6</sup> First, PC carriers cannot receive broadband grant funding from the NUSF in CAF II areas. As for voice support, as noted in CenturyLink comments, the voice portion of NUSF is inadequate regardless of any amounts received from the FCC. Second, such a requirement is premature and should be the subject of a future docket as final RDOF rules and the reverse auction process are likely several years in the future. Third, the FCC in its Notice of Proposed Rulemaking has encouraged states to partner with and leverage federal RDOF funding.<sup>7</sup>

RIC also recommends caution in the application review process for approval of current and upcoming PC carrier capital expenditure projects. Its purported concern is that PC carriers will receive NUSF funds to deploy alternative technologies and thereby disqualify the census

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<sup>6</sup> RIC Comments at 8.

<sup>7</sup> *Rural Digital Opportunity Fund*, WC Docket No. 19-126, *Connect America Fund*, WC Docket No. 10-90, Notice of Proposed Rulemaking (rel. Aug. 2, 2019), 34 FCC Rcd 6778(8) at 6782 (“Moreover, the Universal Service Fund is a federal-state partnership. Are there ways the Rural Digital Opportunity Fund can facilitate that partnership?”).

block from receiving RDOF for deployment of fiber. RIC fails to consider the founding principle of NUSF: the availability of service to rural Nebraskans. Whether this service is provided by fiber or fixed wireless, funded through NUSF or RDOF (or a combination of the two), or provided by a PC carrier or RoR carrier should not matter as long as Nebraskans, who would otherwise be without service, are served.

**Question 2(b): Should the Commission prioritize certain areas for broadband deployment. If so, what criteria should the Commission utilize to make those decisions?**

Similar to Question 1 above, rather than addressing the narrow issue presented by the Commission, several parties use Question 2(b) as an opportunity to advocate against PC carriers and for the diversion of NUSF funds to RoR carriers. While CenturyLink recognizes that a PC carrier that fails to provide service in accordance with the NUSF rules may be subject to penalties, those penalties and any action taken against the carrier must be in accordance with Nebraska law. The reallocation of uncommitted fund balances simply is not a remedy afforded by Nebraska law.<sup>8</sup>

Additionally, RTCN suggests that support should be tied to areas and that project prioritization be driven by community-based proposals for support to address local needs.<sup>9</sup> As suggested by RTCN, local factors would include number and duration of outages and service interruptions caused by plant failures, number of subscriber complaints and customer requests of adjacent providers for service.

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<sup>8</sup> See RIC comments at 9.

<sup>9</sup> RTCN comments at 6.

Historically, NUSF support has been tied to both area and carrier. Without a specific finding by the Commission that the carrier is failing to perform, the link between carrier and NUSF support cannot be severed. Further, to the extent the Commission considers community-based proposals, CenturyLink suggests that such proposals undergo the same review process and analysis as all other grant proposals. Specifically, if an existing provider already offers 25/3 broadband service, the area should be considered ineligible. In assessing which local factors to consider, customer requests of adjacent providers for service should not be included as such requests are very location-specific and often occur where an existing provider has already built service within another ILEC's service area.

**Questions 2(c): Consistent with past strategic plan principles should the Commission design the process around support preferences for fiber-based projects?**

Several parties ask the Commission to show preference for fiber-based projects. Although ubiquitous fiber deployment would indeed be the ultimate standard for broadband, the economics for fiber-to-the-home for every single Nebraska citizen is not supportable. To the extent that the Commission adopts a fiber-only policy, it must recognize that this policy will continue to leave some Nebraskans behind, as fiber is not financially viable for 100% of locations. As such, CenturyLink urges the Commission to weigh the value and benefits of fixed wireless solutions and adopt a weighting and scoring approach similar to that deployed successfully by the FCC and many other states.

**Question 3: Should the Commission adopt specific timeframes to request to utilize allocated support, and for buildout once projects are approved? What should the timeframe be?**

CenturyLink urges caution in establishing firm timeframes for requests to utilize allocated support and for buildout once projects are approved. Although CenturyLink agrees

with other commenters that an initial filing within one year and construction completion within two years appear reasonable, flexibility must be maintained. These timeframes may be appropriate for small construction projects; however, establishing a one-size-fits all rule is not necessarily the best option. Many unforeseen and uncontrollable factors may insert themselves in the process, including but not limited to fiber availability, flooding and other weather-related events, and permitting, such as railroad crossings and right of ways. CenturyLink suggests the Commission consider setting the initial filing within one year and construction completion within two years as the baseline but allowing for special circumstances as warranted

**Question 4: Should the Commission tie ongoing support to census blocks where the carrier is providing voice and broadband service at speeds of 25/3 Mbps? How should the Commission treat areas that are not receiving adequate voice and broadband service? Should the Commission impose reporting requirements, such as the EARN Form, to ensure that operational expense are being used for the purpose of maintaining and improving the network facilities in Nebraska specific high-cost exchanges for which they were intended and in support of services offered to Nebraska Consumers in high-cost exchanges?**

RTCN's position is that ongoing support should continue only where the carrier meets quality of service standards and that failure to do so will result in revocation of ETC status.

RTCN also advocates for the use of an earnings test and reporting beyond EARN for PC carriers.

These recommendations combined with the RoR carriers' thinly veiled demand for a two-level set of rules with the higher hurdle only applied to PC carriers are misguided. In most areas, PC carriers are highly competitive, and NUSF support for voice services is already a fraction (20%) of what was previously allotted. To add a broadband requirement to the existing COLR obligations as a requirement to retain support is illogical and will yield an outcome opposite of that ostensibly sought by the Commission. Further, unproven allegations related to the use of remaining NUSF voice support are insufficient to trigger an EARN form process. Both the

reduced level of funding as well as other means for determining whether the goals of NUSF voice support are being met should be sufficient.

Dated this 10<sup>th</sup> day of January, 2020.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10<sup>th</sup> day of January, 2020, an original of the Reply Comments of CenturyLink in foregoing matter were hand-delivered to the Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln, NE 68508 and a copy of the same was emailed to the following interested party service list:

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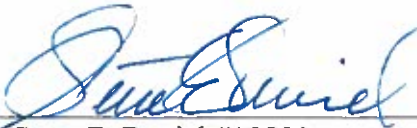
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