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

REPLY COMMENTS OF THE RURAL INDEPENDENT COMPANIES

I.
INTRODUCTION

The Nebraska Rural Independent Companies ("RIC")[1] submit these Reply Comments in response to the Order Opening Docket, Seeking Comment and Setting Hearing entered by the Nebraska Public Service Commission (the "Commission") in this proceeding on October 15, 2014 (the "*Order*") and to the comments filed in this docket by other interested parties. RIC appreciates the opportunity to provide the following Reply Comments to the Commission.

II.

DISCUSSION

A. Differentiation of Price Cap Carriers and Rate-of-Return Carriers in Nebraska

The Commission, in the *Order*, recognized that price cap ("PC") carriers will be treated differently than rate-of-return ("ROR") carriers based on differences in their federal universal

[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.

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service funding mechanisms.[2] The Commission therefore sought comment on how it can coordinate the use of Nebraska Universal Service Fund ("NUSF") High Cost Program support with PC carrier Connect America Fund ("CAF") Phase I frozen high-cost support and CAF Phase II funding. The Commission additionally stated its desire to ensure that broadband deployment is targeted efficiently with CAF broadband-centric support.

Although CenturyLink states that it would be in favor of using a funding mechanism complementary to CAF II, it asserts that since the ROR carriers are not currently included in the CAF Phase II support calculations, revising the NUSF High Cost Program support mechanism at this time would be premature.[3] Like CenturyLink, Frontier recommends against the Commission moving forward with any changes in the NUSF High Cost Program at this time absent a showing that the existing allocation model is flawed and a clear understanding of both the framework and funding outcomes of the CAF II program.[4]

RIC believes that that comments of CenturyLink and Frontier do not take into account the differences in federal funding mechanisms, the timing in which changes to the federal funding mechanisms are likely to occur, and the significant operational differences that currently exist between PC carriers and ROR carriers.

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[2] In the FCC's *USF/ICC Transformation Order*, (*In the Matter of Connect America Fund, et al.*, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., 26 FCC Rcd 17663 (2011), *aff'd* In Re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014), *pet. for cert. pending* ("*USF/ICC Transformation Order*")) the FCC comprehensively reformed and modernized the high-cost program within the Federal Universal Service Fund and the intercarrier compensation system to focus federal support on networks capable of providing voice and broadband services in areas served by PC carriers. The FCC created the Connect America Fund ("CAF") for areas served by PC carriers. For ROR carriers, the FCC largely maintained the existing legacy Federal Universal Service Fund support mechanisms.

[3] CenturyLink Comments at 4.

[4] Frontier Comments at 3.

Differences in the federal funding mechanisms exist, at least in part, in recognition that over half of the households in the United States that are unserved by broadband are located in territories served by the largest PC carriers, which include AT&T and Verizon, while 15% are located in territories served by mid-sized PC companies such as CenturyLink, Windstream, and Frontier.[5] The FCC established the Connect America Fund in order to establish a mechanism to ensure that federal support is targeted toward extending broadband service to unserved households. In the *USF/ICC Transformation Order,* the FCC established CAF Phase I that provided an opportunity for PC carriers to begin to extend broadband service to unserved locations in their territories.[6] In the second phase of the CAF, the FCC will use a forward-looking broadband cost model, (the "Connect America Cost Model" or "CACM") to determine support levels needed for the deployment of networks providing both voice and broadband. CenturyLink's argument that high cost voice and/or broadband support should be determined in the same manner for all carriers ignores the fact the federal support will not be calculated in the same manner for PC and ROR carriers.

CenturyLink's argument that revising the NUSF High Cost Program at this time is premature since "smaller" carriers are not currently included in CAF Phase II ignores the Commission's goal of coordinating state high cost support with CAF Phase II funding. The FCC has not issued any timeline for voluntary conversions to CAF Phase II for ROR carriers let alone any timelines for mandatory conversions. Waiting until all carriers are under CAF Phase II will simply delay the accomplishment of the Commission's goal of coordinating state and federal USF funding for an indeterminate period of time.

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[5] *See* National Broadband Plan, at 141.

[6] *See USF/ICC Transformation Order* at para. 127.

CenturyLink's argument that high cost voice and/or broadband support should be determined in the same manner for all carriers also disregards the fact that there are operational differences that exist between PC carriers and ROR carriers. PC carriers have a much higher proportion of their subscriber base located in high-density, lower-cost areas. This allows PC carriers to realize economies of scale that do not exist for ROR carriers, as well as the ability to benefit from higher revenues per subscriber and lower costs per subscriber than ROR carriers.

Based on the significant differences that exist between PC and ROR carriers' federal funding mechanisms, the Commission's desire to coordinate NUSF High Cost Program support with PC carrier CAF II support and the estimated additional $15 to $18 million annually in federal support that will be made available for PC carrier service areas in Nebraska, RIC continues to believe it would be reasonable and appropriate for the Commission to discontinue use of the current method to allocate and distribute NUSF High Cost Program support to PC carriers and to create separate NUSF High Cost Program support budgets for PC and ROR carriers.

B. Separate Budgets for PC and ROR Carriers in NUSF High Cost Program

Consistent with RIC's Comments in this docket, Windstream states that the FCC will not provide CAF II funding for any remote locations with extremely high costs to serve,[7] and recommends that the Commission should focus state funding on addressing high-cost locations not supported by CAF II.[8] RIC previously recommended that the Commission consider focusing the allocation of NUSF High Cost Program support to PC carriers in areas of the State that are not eligible for CAF II support, that is, the limited number of locations with a cost to serve that is

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[7] Windstream Comments at 4.

[8] *Id.* at 1.

above the so-called "Alternative Technology Threshold" in the CACM.[9] RIC recommends that the Commission establish separate budgets for PC and ROR carriers so it can focus the PC carrier NUSF budget on those PC areas not supported by CAF II.

C. <u>PC Carriers' High Cost Program Support Should Be Provided on a Grant Basis Similar to NUSF-92 to Better Coordinate such Support with CAF II Support and to Establish a Mechanism to Target and Track Use of NUSF High Cost Program Funding by PC Carriers for Its Approved Purposes</u>

The Commission, in its Order Opening this docket, sought comment on how it should modify PC carrier support to ensure that such support is: (1) Targeted efficiently with CAF broadband centric support;[10] (2) allocated to areas in need of broadband investment;[11] and (3) used for its intended purpose.[12] RIC submits that the Commission can address each of these issues by providing PC carrier support on a grant basis similar to NUSF-92. In the NUSF-92 grant program, the applicant seeking funding must commit to: (1) Offer the supported broadband service upon completion of the deployment to all households within the area defined by the application for a minimum of five (5) years; (2) offer a voice grade service to customers within the service area of the broadband deployment; (3) use broadband support only for authorized purposes which have been approved by the Commission through the application process; and (4) fulfill reporting and audit requirements adopted by the Commission for oversight of the program. After an applicant's project is approved, the Commission reimburses the applicant for reasonable expenditures related to project specifications detailed in the application. RIC believes that the Commission's provision of support through this grant process

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[9] RIC Comments at 5.

[10] *See Order* at 1

[11] *Id.* at 4.

[12] *Id.* at 5.

will produce not only the Commission's desired outcomes for broadband build out, but will also address accountability concerns as to PC carriers' use of funding received.[13] This revised mechanism for provision of NUSF High Cost Program support to PC carriers would more effectively target support to capital investments to establish broadband availability to the most sparsely-populated, high cost PC carrier service areas that are currently unserved or underserved from a broadband access standpoint,[14] and would address the Commission's desire to ensure that support is allocated to areas in need of broadband investments.[15]

The Commission also raised concerns that PC carriers may not be taking advantage of CAF opportunities.[16] To address these concerns, RIC suggests that the Commission should carefully consider Sprint's recommendation that if a PC carrier does not take full advantage of CAF II funding for Nebraska, the Commission should restrict or eliminate that PC carrier's award of NUSF High Cost Program support.[17]

III.

CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Reply Comments in response to the questions posed by the Commission in the Order and to the comments filed by interested parties, and look forward to further participation in this docket.

Dated: February 9, 2015.

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[13] Sprint Comments at 2.

[14] RIC Comments at 5-6.

[15] *See Order*, Question 3(a)(ii).

[16] *Id.* at 1.

[17] Sprint Comments at 2-3.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 9th day of February, 2015, an electronic copy of the foregoing pleading was delivered via electronic mail to:

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