

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 IN RESPONSE
TO ORDER SEEKING FURTHER COMMENTS**

**I.
INTRODUCTION**

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Reply Comments in response to the Comments filed by other interested parties on June 30, 2015, and in response to the Order Seeking Further Comment entered by the Nebraska Public Service Commission (the “Commission”) in this proceeding on June 16, 2015 (the “Order”).² RIC appreciates the opportunity to continue to participate in this docket and to provide the following Reply Comments in response to the *Order*.

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.

² RIC has previously filed Comments and Reply Comments on January 14, 2015 and February 9, 2015, respectively, addressing issues raised by the Commission in its Order Opening Docket entered on October 15, 2014.

REPORT THE APPOINTMENT OF THE DIRECTOR

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TO DIRECTOR GENERAL HEALTH SERVICES
TO DIRECTOR GENERAL HEALTH SERVICES

MEMORANDUM

The Director, Health Services Commission (HSC), advised the HSC Commission
that the HSC Commission has approved the appointment of the Director
of the Health Services Commission by the Health Services Commission
on June 14, 2012. The HSC Commission has approved the appointment
of the Director of the Health Services Commission to provide the following
services to the HSC Commission.

Services to be provided to the HSC Commission.

The HSC Commission has approved the appointment of the Director
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II.

DISCUSSION

1. *Freeze the amount of support allocated to all price cap carriers at the 2015 calendar year level with adjustments based upon overall NUSF remittance receipts.*³

It is unclear to RIC whether footnote 2 of the Price Cap (“PC”) Carriers’ Comments dated June 30, 2015 (the “PC Comments”) that acknowledges that “[t]he frozen amount [of NUSF High Cost Program support for PC carriers] would be subject to *annual pro-rata adjustments based on any changes in the overall size of the fund*” (emphasis added), is an expression of agreement with the Commission’s Proposal #1 set forth above. To the extent that the PC Carriers do not accept Proposal #1, RIC takes exception to such position.

To clarify through use of a hypothetical example, if the PC Carriers’ aggregate NUSF High Cost Program support for 2015 is \$15 million, and if NUSF remittance receipts for 2016 are 2% less than such receipts in 2015, RIC understands that the frozen NUSF support for the PC Carriers in 2016 would be \$15 million less \$300,000 = \$14.7 million of aggregate PC Carrier support.⁴

RIC supports this result, subject to the positions regarding this Proposal set forth on page 2 of RIC’s Comments dated June 30, 2015 (the “RIC Comments”).

2. *Make an allocation of ongoing support to price cap carriers for continued maintenance of existing voice and broadband networks.*
 - a. *The Commission proposes to set aside 50 percent of each price cap carrier’s frozen support for ongoing costs of provisioning service in Nebraska. The Commission would permit price cap carriers to make a showing to the Commission for an alternative allocation of the frozen high-cost support*

³ The questions presented by the Commission in the *Order* for which comments were requested are set forth in italicized text.

⁴ The \$300,000 reduction is calculated by multiplying the \$15 million assumed frozen support amount by the assumed 2% reduction.

needed in connection with the continued provision of voice service upon request and thereby potentially adjust the allocation for broadband support set forth in paragraph 3 below.

RIC reaffirms its positions stated in response to Commission Proposal 2.a as set forth on pages 2-3 of the *RIC Comments*.

- b. The Commission proposes the allocation of ongoing support would be subject to continued investment by the carriers in their network.*

RIC reaffirms its positions stated in response to Commission Proposal 2.b as set forth on page 3 of the *RIC Comments*.

- c. The Commission proposes to relieve price cap carriers from the NUSF-EARN Form filing requirement.*

RIC reaffirms its positions stated in response to Commission Proposal 2.c as set forth on page 4 of the *RIC Comments*. RIC notes that Sprint also commented favorably with regard to the elimination of the EARN form filing requirement for the PC Carriers. See Sprint Comments dated June 30, 2015 (the “*Sprint Comments*”).

- d. The Commission proposes to establish an alternative approach for determining whether the NUSF support used by price cap carriers was used for its intended purpose, keeping in mind the statutory requirement to audit, on an annual basis, the use of NUSF high cost support received.*

RIC notes that on page 4 of the *PC Comments* that the PC Carriers advocate that current reporting pursuant to NUSF-25/66, together with provision of invoices and other relevant documentation that demonstrates the expenditure of NUSF funding for approved purposes should be sufficient to assure accountability for the use of NUSF funding. RIC agrees with this position.

3. Make an allocation for broadband support in price cap areas.

- a. The Commission proposes to establish a streamlined process for price cap carriers to annually present a list of the projects for which broadband funding is desired and have the Commission review, and approve or deny the projects.*

RIC reaffirms its positions stated in response to Commission Proposal 3.a as set forth on page 4 of the *RIC Comments*.

- b. The Commission proposes to permit price cap carriers to coordinate the use of state high-cost support with their CAF Phase I frozen high-cost support and CAF Phase II support.*

The “nub” of this Proposal 3.b is for the Commission to determine what is required of the PC Carriers “to coordinate” NUSF support with CAF support. Each of the five sets of Comments submitted on June 30 contain advocacy regarding this Proposal 3.b. RIC reaffirms its positions stated in response to Commission Proposal 3.b as set forth on pages 4-5 of the *RIC Comments*.

- c. Consistent with the position of a number of commenters, the Commission proposes to disallow broadband support in areas that already have an unsubsidized carrier providing comparable broadband service.*

RIC reaffirms its positions stated in response to Commission Proposal 3.c as set forth on page 5 of the *RIC Comments*.

In addition, the Commission seeks comments on issues raised by the commenters in this proceeding not specifically listed above. The Commission solicits comments on whether to restrict or eliminate a price cap carrier’s ability to take NUSF support if the carrier declines to take advantage of the CAF II funding for Nebraska. If so, what should the threshold be? How would that coincide with the Commission’s separate requirement to fulfill the goals of the NUSF Act, specifically in the voice service context?

In addition to the foregoing reply comments relating to each of the Commission’s listed proposals, RIC offers the following reply comments in response to selected points made in the comments filed by AT&T Corp. and its affiliates (“AT&T”). First, however, RIC provides the following general comments on the scope of this docket.

Non-Precedent Setting for RoR Carriers. In the Commission’s October 15, 2014 Order Opening Docket (the “*Initial Order*”), the Commission expressly stated that in this docket it

would only “consider certain modifications to the high-cost funding mechanism in the universal service fund program . . . *affecting the carriers classified federally as price cap carriers.*” (emphasis added)⁵ This focus of the docket was reiterated in the *Order* by the Commission’s statement that it is seeking further comment “on a proposal to separately determine price cap carrier support.”⁶ Thus, any modifications or restructuring of the PC carriers’ participation in the NUSF High Cost Program must be regarded as non-precedent setting for the rate-of-return (“RoR”) carriers’ participation in the Program.

Although “the policy goals of extending access to advanced information (broadband) service to consumers in all regions of the State while at the same time maintaining universal availability of voice services”⁷ apply to all Nebraska carriers, the facts and circumstances that apply to RoR carriers’ abilities to accomplish these goals differ materially from those that apply to PC carriers. The Commission’s policies and practices relating to the NUSF High Cost Program must continue to take these differences into account.

Commission Action Should Not Be Delayed. AT&T advocates that the Commission should delay any action in this Docket until the Federal Communications Commission (“FCC”) completes the process of awarding CAF II support to Nebraska PC carriers and conducting an auction of any CAF II support that the PC carriers decline to take. The Commission should reject this suggestion.

From the inception of the Nebraska Universal Service Fund this Commission has been a leader in the implementation of universal service support for delivery of advanced voice and

⁵ Application No. NUSF-99, *Initial Order*, p. 1.

⁶ *Order*, p. 5.

⁷ Comments of the Rural Independent Companies, p. 1 (Jan. 14, 2015).

information services to rural, high-cost areas of Nebraska. The continuation of this proactive administration of the NUSF High Cost Program is further evidenced by the Commission's opening of this docket. In the event that the Commission's final disposition of the issues in this docket is impacted by future orders of the FCC, the Commission can certainly take steps to modify NUSF policies or procedures as necessary.

Broadband Availability in Nebraska. In its comments, AT&T provides aggregated wireless and wireline National Broadband Map statistical data.⁸ According to the data provided, the aggregated data reflects broadband availability in Nebraska from *all* technologies and shows the percentage of rural and urban populations in Nebraska that have access to some form of broadband at various speeds.⁹ Although the National Broadband Statistical Report provides data as reported by AT&T, RIC believes this information is not relevant in the Commission's consideration of modifications to the PC carriers' participation in the NUSF High Cost Program for the following reasons.

⁸ Consistent with the Commission's policy that a given geographic area is not fully served with broadband unless at least one fixed point and one mobile provider offers broadband (as defined by the Commission), RIC does not agree that AT&T's aggregation of both technologies to establish broadband availability levels is proper. Further, from a consumer perspective, the relative costs of equivalent data amounts for mobile and fixed services are not comparable or interchangeable. AT&T's wireless plan that includes 40 GB per month of data usage is priced at \$300 per month and the AT&T plan for 50 GB per month of data usage is priced at \$375 per month. See www.att.com/shop/wireless/plans/mobileshare.html. This contrasts to fixed broadband plans such as CenturyLink's bundled plan that provides High-speed Internet (12 Mbps with no data usage limit) plus unlimited home phone usage for \$64.95 per month. See www.centurylink.com/home/bundles/.

⁹ Data as reported on the National Broadband Map uses Urban/Rural definitions based on 2010 US Census block geography. The Census Bureau identifies two types of urban areas: Urbanized Areas of 50,000 or more people; and Urban Clusters of at least 2,500 and less than 50,000 people. "Rural encompasses all population, housing, and territory not included within an urban area."

First, providing data that combines the availability of both fixed and mobile broadband into a single statistical presentation is inconsistent with the FCC's findings in the *Transformation Order* wherein it recognized differences between fixed and mobile technologies and established separate funds for fixed versus mobile technologies.¹⁰ The FCC created the Connect America Fund for PC carriers and created the Mobility Fund dedicated to ensuring availability of mobile broadband networks in areas where a private-sector business case is lacking.

PC carriers accepting CAF will be obligated to meet rigorous broadband service requirements which are not required of the Mobility Fund recipients, such as a 100 gigabyte minimum usage allowance for CAF Phase II funding areas and pricing of broadband service in rural areas at reasonably comparable rates charged for reasonably comparable broadband service in urban areas. The FCC stated that it would not expect PC carriers to impose usage allowances that typically exist today for many wireless and satellite offerings as such usage allowances would be incompatible with the fiber-based forward-looking cost model that has been adopted.¹¹

In addition, the information provided by AT&T does not provide broadband availability at a level that matches CAF Phase II eligible areas, that is PC carrier areas that are high-cost, where the average monthly cost-per-location is above \$52.50 per month, but below \$198.60 per month. The data provided by AT&T breaks out broadband availability in rural versus urban areas, but fails to provide information regarding the average monthly cost per location in these areas or the proportion of these areas that fall within the eligible cost parameters.

Although the broadband data provided by AT&T can be found as part of the National Broadband Statistical Data, RIC believes the data as presented is irrelevant to the Commission's

¹⁰ See *the Transformation Order*, Paras 20-28.

¹¹ See *In the Matter of the Connect America Fund*, WC Docket No. 10-90, Report and Order, October 31, 2013, at para 16.

final disposition of this docket, and to the extent it is relevant, it improperly aggregates fixed and mobile broadband availability.


III.

CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Comments in response to the questions posed by the Commission in the *Order* and look forward to participation in hearing regarding this docket.

Dated: July 14, 2015.

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 (the "Rural Independent Companies")

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CERTIFICATE OF SERVICE

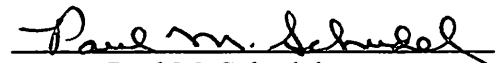
The undersigned hereby certifies that on this 14th day of July, 2015, an electronic copy of the foregoing pleading was delivered via electronic mail to:

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All Other Commenting Parties


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