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Public Service Commission
Nebraska

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,)
on its own motion, seeking to)
establish Title 291, Chapter 16,)
to adopt Reverse Auction and)
Wireless Registry rules and)
regulations in accordance with)
the Nebraska Legislative Bill 994)
[2018].)

Rule and Regulation No. 202

REPLY COMMENTS OF THE RURAL INDEPENDENT COMPANIES

I. INTRODUCTION.

The Nebraska Rural Independent Companies (“RIC”)¹ submit these Reply Comments in response to both the Order Releasing Proposed Rules and Seeking Comment entered in the above captioned matter on October 8, 2019 (the “*October 8th Order*”) and the comments filed herein by other interested parties on December 6, 2019.

II. DISCUSSION

A. Comments on Lack of Specificity in Proposed Rules Regarding Withholding of Support

Several commenting parties state that the revised Proposed Rules released with the *October 8th Order* lack sufficient clarity and specificity,² with some commenting parties

¹ Arlington Telephone Company, Blair Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, LLC, Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company and Three River Telco.

² See, Comments of Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (“CenturyLink Comments”) at 2-3; Comments of Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska (“Citizens Comments”) at 1-2; Comments of Windstream (“Windstream Comments”) at 2-6; and Comments of Rural Telecommunications Coalition of Nebraska (“RTCN Comments”) at 2-4.

proposing specific language to replace or supplement the revised Proposed Rules³ while others either contend that the Proposed Rules run afoul of *Neb. Rev. Stat. § 86-330*⁴ or are impermissibly vague and thus unconstitutional.⁵ In the face of these varied criticisms, RIC respectfully requests that the Commission and its Staff carefully evaluate and supplement or revise the Proposed Rules to address these suggestions by the interested parties.

B. Comments on Necessity of Coordinating Federal RDOF Support with Implementation of Proposed Rules

One commenter, Windstream, recommended that the Commission should continue to investigate, but delay implementation of a state reverse auction process until the Federal Communication Commission (“FCC”) Rural Digital Opportunity Fund (“RDOF”) reverse auction process is complete.⁶ For the reasons stated by RIC in its most recent comments filed in Application No. NUSF-99, RIC submits that Windstream’s recommendation may have merit.⁷

³ See, RTCN Comments at 2-4; Frontier Comments at 3; and Rural Independent Companies Comments (“RIC Comments”) at 2-3 and 5.

⁴ See, CenturyLink Comments at 4.

⁵ See, Windstream Comments at 2-4.

⁶ *Id.* at 6-7.

⁷ See, *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 the Rural Independent Companies at 6-8 and 15-16 (Dec. 13, 2019). In addition, other parties also filed comments in the NUSF-99 proceeding regarding the timing of Rule 202 vis-à-vis formalization of the FCC’s RDOF. See, Comments of Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink at 8 (Dec. 13, 2019); Comments of Rural Telecommunications Coalition of Nebraska at 10 (Dec. 13, 2019).

C. Comments on “Community-Based Redirection of Support”

Proposed Rule 001.04 and the contentions regarding whether the “Community-Based Redirection of Support” is within the scope of rulemaking authority delegated by the Legislature to the Commission pursuant to *Neb. Rev. Stat.* § 86-330 should be addressed by the Commission. RIC has raised this issue.⁸ Effectively, CenturyLink has as well, albeit in the context of whether Proposed Rule 001.04 contemplates that a public-private partnership under this Proposed Rule would receive funding outside of the reverse auction process or as part of the reverse auction process.⁹ Based on this record, the issues relating to Proposed Rule 001.04 warrant further study by the Commission in order to consider the scope of the Legislature’s directives regarding “reverse auctions”.

For similar reasons, RIC also requests that Commission address in the context of Proposed Rule 001.04 whether NUSF support is properly provided to a community-based public-private partnership if the coverage area to receive support includes locations served by an unsubsidized competitor.¹⁰

Finally, RIC recognizes that Proposed Rule 001.04(C)(vi) contemplates that public-private partnerships may include “local public power providers.” As such, RIC agrees that Commission guidance and safeguards need to be put in place in order to prevent public power entities from using monopoly profits derived from provision of electrical power to subsidize the power provider’s broadband participation.¹¹

⁸ RIC Comments at 4-5.

⁹ CenturyLink Comments at 6.

¹⁰ *Id.* at 7.

¹¹ *Id.*

III. CONCLUSION

As stated above, the Rural Independent Companies appreciate the opportunity to provide these Reply Comments and look forward to continuing participation in this docket.

Dated: December 18, 2019.

Arlington Telephone Company, Blair Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, LLC, Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company and Three River Telco (the "Rural Independent Companies")

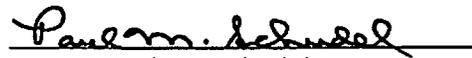
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of December 2019 one original, five paper copies and one electronic copy of the foregoing pleading were delivered to:

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With an electronic copy delivered to other commenting parties.


Paul M. Schudel