

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	Application No. NUSF-4
Commission, on its own motion,)	
seeking to determine the level)	
of the fund necessary to carry)	
out the Nebraska)	ORDER SETTING SURCHARGE
Telecommunications Universal)	
Service Fund Act effective)	
fiscal year beginning July 1,)	
2021.)	Entered: June 8, 2021

APPEARANCES:

For the Rural Independent Companies:

Paul Schudel
Woods & Aitken, LLP
301 S. 13th Street
Suite 500
Lincoln, Nebraska 68508

For the Commission:

Shana Knutson
300 The Atrium Building
1200 N Street
Lincoln, Nebraska 68508

BY THE COMMISSION:

On April 15, 1999, the Commission, on its own motion, opened this docket to determine the level of the fund necessary to carry out the Nebraska Telecommunication Universal Service Fund Act. Neb. Rev. Stat. § 86-328 (2014) states, in pertinent part, that "Annually, the Commission shall hold a public hearing to determine the level of the fund necessary to carry out the Nebraska Universal Service Fund Act."

On April 13, 2021 the Commission entered an order in the above-captioned docket setting a hearing to determine the level of the fund beginning July 1, 2021. Notice of this hearing appeared in the Lincoln Journal Star, Lincoln, Nebraska, and the Omaha World Herald, Omaha, Nebraska on May 3 and May 10, 2021, and in The Daily Record, on May 6 and May 13, 2021 pursuant to § 86-328. A public hearing on this matter was held in the Commission Hearing Room, Lincoln, Nebraska, and via videoconference link on May 18, 2021. Appearances were entered as indicated above.

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On April 23, 2021, the NUSF Advisory Board met to discuss the NUSF surcharge. The Board expressed concern about the uncertainty in business service remittances as a result of the COVID-19 pandemic and expressed concern that business services would be undergoing significant changes as people continue to work from home. After deliberation, the Board voted to recommend leaving the existing surcharge mechanism in place at the current \$1.75 per residential connection and 6.95 percent on all other assessable services until the impacts of COVID-19 on business services are better understood.¹ Additionally, the Board recommended that if the Commission makes the change to connections for business services, the surcharge is set at an equal uncapped amount of \$1.50 per connection for both residential and business voice services.²

Mr. Cullen Robbins, Director of the Nebraska Universal Service Fund (NUSF) Department as well as the Communications Department, testified for the staff. He provided the Commission with an overview of the status of the fund, potential options regarding the NUSF surcharge, and a recommendation with respect to the surcharge for the 2021/2022 fiscal year.

Mr. Robbins testified the balance of the fund was approximately \$94.7 million, and that balance includes funds that have been awarded through grant programs but not expended because the Commission only disburses those funds once the investment has been made and documentation has been provided to account for those expenditures. The funds already committed total approximately \$82 million leaving about \$12.7 million to support the Commission's low-income (NTAP) program, the Telehealth Program, the NUSF-117 E-RATE Special Construction program, administrative expenses, and operating reserve. Mr. Robbins testified that because the Commission has transitioned much of the support to reimbursement for deployment of facilities, the fund balance has continued to grow as carriers work on projects that will be reimbursed. In addition, Mr. Robbins testified that the deadline for price cap carriers to select projects that are supported through the Commission's updated NUSF-99 mechanism is approaching. By July the Commission will know if and how most of that support will be used, otherwise unused support will go towards a reverse auction.

¹ See Exhibit 2.

² See *id.*

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Mr. Robbins further testified that remittances for residential services are collected on a per connection basis and business

services remained on a revenues basis. He has been satisfied with the change to connections two years ago and the stability that change has brought to the fund. As he indicated in his testimony in the NUSF-119 proceeding, the Commission staff observed some drops in business service remittances that have been cause for concern. Mr. Robbins stated that he is optimistic that the change to connections on the business side in January will mitigate those issues.

Since the changes to the contribution mechanism adopted in the Commission's NUSF-119 proceeding will not be implemented until January, Mr. Robbins gave a two-pronged recommendation. First, for the period between July 1, 2021 to December 31, 2021, Mr. Robbins recommended leaving the surcharges where they are at today. That would mean leaving the residential surcharge at \$1.75 per connection, and at 6.95 percent for services currently subject to the revenues-based assessment. Beginning on January 1, 2022, Mr. Robbins testified, his recommendation is to set the business and residential connections surcharge at \$1.55. The Commission's decision in NUSF-119 left some services on a percentage-based surcharge. With respect to those services, Mr. Robbins recommended leaving those services at the current surcharge amount of 6.95 percent after January 1, 2022 to June 30, 2022.

Mr. Paul Schudel, counsel for the Nebraska Rural Independent Companies (RIC) also gave a statement. Mr. Schudel testified RIC recommends Commission approval of a monthly surcharge for business and government collections equivalent to the current \$1.75 per month rate applied to residential connections. Mr. Schudel stated this surcharge rate structure would support a total fund budget of approximately \$54.9 million and a high cost budget of approximately \$46.6 million. Mr. Schudel further testified that because of the delayed implementation of the connections-based surcharge, it would reduce remittances for the next fiscal year by as much as approximately \$2.5 million. He suggested that any remittance shortfall that would result from that delayed implementation should be bridged by the use of the portion of the uncommitted fund balance which Mr. Robbins has testified is about \$12.7 million. Additionally, Mr. Schudel stated, setting the NUSF surcharge at the uniform \$1.75 per month per connection rate would have the added benefits of discouraging arbitrage by carriers since any misclassification of connections between residence and business

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would have no impact on the surcharge remittances required by the carriers. Moving to the level contribution rate will have a beneficial impact in moderating the current 70 percent contribution amount from residential users versus 30 percent for businesses to a ratio of 65 percent from residences and 35 percent from businesses.

O P I N I O N A N D F I N D I N G S

The Commission has considered the testimony and recommendations provided in this proceeding. We find, based upon information provided by the Department, the NUSF Advisory Board, and the testimony provided by the RIC, that until December 31, 2021, the surcharge should be maintained at the current level of \$1.75 per connection for residential services and 6.95 percent of revenues for business service and other services currently remitting on the 6.95 percentage-based surcharge. Accordingly, we find the NUSF surcharge should continue to be set at \$1.75 per connection for residential services and 6.95 percent of revenues for business services from July 1, 2021 to December 31, 2021. Further, consistent with testimony provided by the RIC, the Commission finds that beginning January 1, 2022 and extended to June 30, 2022, the surcharge level for services identified in NUSF-119 which are subject to the connections-based contribution mechanism shall be set at \$1.75 per connection. All other services will remain at 6.95 percent of assessable revenues.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the surcharges be maintained at \$1.75 per connection for residential services and 6.95 percent of revenues for business services to fund the Nebraska Universal Service Fund beginning July 1, 2021, and extended to December 31, 2021, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED that the surcharge level be changed to \$1.75 for both residential and business connections, with the remaining services staying at 6.95 percent of revenues beginning January 1, 2022 and extended to June 30, 2022, unless otherwise ordered by the Commission.

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IT IS FURTHER ORDERED that all affected telecommunications companies are hereby required to collect said surcharge and remit it to the Commission as set forth herein and in Commission Universal Service Rules and Regulations and Commission orders.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 8th day of June, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rob Johnson
Crystal Broadus
Mary Kadden
Tim Schram

Don Watson
Chair

ATTEST:

Michael S. Hyatt
Executive Director

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COMMISSIONER CRYSTAL RHOADES CONCURRING:

I concur in today's opinion but write separately to express concerns I raised at the hearing. I am willing to vote in favor of the surcharge recommendation for the present time because I know how important this funding is for the deployment of broadband. However, if carriers are not utilizing their allocated funding for broadband deployment in a timely manner and the balance continues to be high, I am not going to support this surcharge level in the future. If carriers cannot spend this funding, we should not collect it.

A handwritten signature in blue ink, reading "Crystal Rhoades", is positioned above a horizontal line.

Commissioner Crystal Rhoades