

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-111/
Public Service Commission, on)	PI-211
its own motion, to determine a)	
rate design and address)	ORDER
implementation issues with a)	
connections-based contribution)	
mechanism.)	Entered: August 7, 2018

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BY THE COMMISSION:

On December 19, 2017, the Nebraska Public Service Commission (Commission) opened this proceeding on its own motion to begin the next phase of contribution reform. In this proceeding, the Commission sought comment from interested persons to determine an appropriate rate design for a rational connections-based contribution mechanism and to address implementation issues associated with changing the contribution methodology. Notice of this proceeding appeared in The Daily Record, Omaha, Nebraska on December 28, 2017, consistent with the Commission's Rules of Procedure.

Background

In NUSF-100/PI-193,¹ the Commission determined that it was necessary to immediately make changes to stabilize the Nebraska Universal Service Fund (NUSF) program by reforming the manner in which the NUSF mechanism is funded. After several rounds of comments, briefs, testimony and post-hearing comments, the Commission determined the best way to stabilize the NUSF was to move to a connections-based mechanism.

¹ See NUSF-100/PI-193, *In the Matter of the Nebraska Public Service Commission, on its own Motion, to Consider Revisions to the Universal Service Fund Contribution Methodology*, ORDER (October 31, 2017) ("NUSF-100").

In this proceeding, the Commission set out to determine the appropriate rate design, data sources and implementation schedule. The Commission asked a series of questions identified below and invited interested persons to comment in response.

Issues for Comment

Rate Design

We invited interested parties to file proposed rate design models for the Commission's consideration. We asked the parties to consider several factors in their proposals.

- Consistency with the NUSF Act's statutory goals. Specifically, we sought comment on how to structure a connections-based rate design that would result in a specific, predictable, sufficient and competitively neutral contribution mechanism.
- Balancing of the burden on consumers with the requirement that the NUSF provide reasonably comparable access to telecommunications and advanced communications services in rural high-cost areas.
- Designing the contribution mechanism in light of the estimated costs to deploy broadband service to the remaining areas in Nebraska and the ongoing costs to maintain areas that have already built.
- Balancing the impact on enterprise business customers and whether a cap, similar to the per line cap on access lines in the Telecommunications Relay Fund surcharge, would be appropriate.

In order for the Commission to assess the comparative contribution differences among categories of service moving from a revenues basis to a connections basis, we asked commenters to provide the following aggregate data:

- The average monthly NUSF contribution per consumer-grade service customer under the current revenues-based contribution mechanism as well as a calculation of that current contribution on a per connection basis for both circuit-switched and interconnected VoIP customers.
- The average monthly NUSF contribution per business and government-grade service customer under the current

revenue-based contribution mechanism as well as a calculation of that current contribution on a per connection basis for both circuit-switched and interconnected VoIP customers.

- The average monthly NUSF contribution per mobile telephony service customer under the current revenues-based contribution mechanism as well as a calculation of that current contribution on a per connection basis.

Data Sources

In addition, we asked commenters to explain how connections data reported to the Federal Communications Commission (FCC) was used and how the instructions for Form 477 were relied upon for definitional or other determinations. We sought comment on whether there were other data sources the Commission should use.

Implementation

Finally, the Commission sought comment on how a connections-based system should be implemented. What the associated costs and benefits of moving to a connections-based system were. The Commission asked commenters to identify whether the costs differed from any other flat rate charge currently established by the Commission such as the E911 or the TRS surcharge. The Commission further requested interested parties to provide the Commission with an estimation of cost of a billing system conversion as well as the time required to complete such a conversion to implement a connections-based NUSF contributions mechanism. Interested parties were asked to include any supporting data.

Summary of Comments

Comments on the questions and issues described above were filed by the following entities: Qwest Corporation d/b/a CenturyLink QC, United Telephone Company of the West, d/b/a CenturyLink ("collectively referred to as CenturyLink"); Level 3; Charter Fiberlink-Nebraska, LLC and Time Warner Cable Information Services (Nebraska) LLC (collectively "Charter"); Citizens Telecommunications Company of Nebraska Inc., d/b/a Frontier Communications of Nebraska ("Frontier"); Cox Nebraska Telcom ("Cox"), LLC; CTIA-The Wireless Association ("CTIA"); the Rural Independent Companies ("RIC"); Securus Technologies, Inc. ("Securus"); The Association of Teleservices International, Inc. ("Teleservices"); and Windstream Nebraska, Inc. ("Windstream").

Reply comments were requested and permitted. Reply comments were filed by the following entities: CenturyLink; Charter; Cox; CTIA; Frontier; RIC; the Rural Telecommunications Coalition of Nebraska ("RTCN"); Teleservices; and Windstream.

Rate Design

Frontier continued to support a per-connection mechanism that would include a single identical surcharge amount per connection for all technologies, a reasonable relationship between the residential surcharge amount and the business surcharge amount, and a cap on the total number of surcharges that can be assessed to a single customer at a single location.² In its reply comments Frontier stated it would support an approach where the per-connection surcharge is uniform across both technology as well as customer class.³

Cox expressed its concerns with the use of a connections-based methodology and its concern about the impact that it would have on large business customers.⁴ In addition, Cox stated that before determining whether a cap is necessary, the Commission should first size the fund.⁵ Cox expressed a concern that a cap may fail to address potential rate shock for some businesses.⁶ Cox declined to provide data in response to the Commission's request for information, stating it does not keep records of the average monthly per consumer-grade business or government-grade NUSF contribution amount.⁷ Cox further stated it questioned the relevancy and usefulness of what these numbers would provide.⁸

In its reply comments, Cox suggested the commission explore the possibility of limited the connections-based methodology to

2 Frontier Comments at 1. Unless otherwise noted all citations to comments and reply comments in this Order refer to the comments filed in the above-captioned proceeding and made part of the record at the hearing on May 1, 2018. Comments were filed on or around January 30, 2018 and Reply Comments were filed on or around March 23, 2018.

3 Frontier Reply Comments at 3.

4 Cox Comments at 4.

5 *Id.* at 5.

6 *See id.* at 4.

7 *See id.* at 6.

8 *Id.*

residential and wireless customers at the onset.⁹ Cox pointed out that RIC recommended a hybrid mechanism in its comments filed June 6, 2016 stating nothing in the NUSF Act requires the Commission to utilize one specific contribution mechanism.¹⁰

Securus commented that it was an Institutional Operator Service provider and, as such, does not have dedicated wired lines or wireless channels to provide end users with access to assessable services.¹¹ Securus is able to apply the NUSF on the current revenues-based methodology but does not provide access lines or charge customers on a per line or connection basis.¹² Securus requested the ability to continue remitting via the current revenues-based methodology, or, in the alternative, receive an exemption from accessing and paying into the NUSF.¹³

Teleservices argued that a capped assessment is not a suitable or acceptable solution.¹⁴ Teleservices stated that instead of using a linear formula, the Commission should develop a rate design that recognizes and compensates for the economic efficiencies of high capacity facilities.¹⁵ A workable cap on monthly assessments may be a possible solution, but the Commission should not adopt on the TRS model of working numbers for business lines. In its reply comments, Teleservices stated the specific rate proposals provided in the initial comments were flawed because they were linear per-line charges that do not recognize the economic efficiencies of high-capacity facilities.¹⁶

Charter suggested the Commission should separate the issue of rate design from the issue of contribution levels.¹⁷ A connections-based rate design should not be structured to provide revenues greater than the existing system.¹⁸ Rather, the Commission should

⁹ Cox Reply Comments at 3.

¹⁰ *Id.* at 4.

¹¹ Securus Comments at 1.

¹² *See id.* at 2.

¹³ *See id.*

¹⁴ *See* Teleservices Comments at 1.

¹⁵ *See id.* at 2.

¹⁶ *See* Teleservices Reply Comments at 3.

¹⁷ Charter Comments at 3.

¹⁸ *Id.*

continue to focus on determining whether and how a connections-based contribution methodology maintains current funding levels.¹⁹ In addition, Charter suggested the Commission should gain experience with a relatively simple connection-based system for at least two (2) years before making any major changes.²⁰ Charter argued the Commission should not increase the size of the NUSF.²¹ Charter estimated a steady-state voice subscription charge should be no higher than \$1.00 per month.²² Charter did not support use of the TRS program model, which utilizes a per unit charge on telephone numbers and functional equivalent, for the NUSF surcharge context.²³ Charter did not file data in response to 5(a) or 5(b) to the Commission's order based on the belief that it would not be comparable among industry segments.²⁴

RIC supported a hybrid contribution mechanism that utilizes a combination of connections-based and revenues-based assessments.²⁵ RIC stated the Commission properly exercised its authority delegated by the Nebraska Legislature relative to the issuance of the Commission's October 2017 Order and the adoption of a connections-based contribution mechanism.²⁶ RIC supported the use of the State Broadband Cost Model (SBCM) licensed by the Commission.²⁷ The SBCM calculates the annual cost of accomplishing the Commission's goal of extending broadband out to rural consumers statewide to be \$152,308,154 after accounting for a revenue benchmark of \$52.50 and federal universal service fund support.²⁸

Using the most recent June 2016 connections data provided in the FCC Form 477 for Nebraska, RIC prepared a proposed rate design for the Commission's consideration.²⁹ RIC proposed a per connection

¹⁹ *Id.*

²⁰ *See id.*

²¹ *See id.* at 7.

²² *Id.*

²³ *See id.* at 12.

²⁴ *See id.* at 12-13.

²⁵ *See* RIC Comments at 3.

²⁶ *See id.* at 4.

²⁷ *See id.* at 13.

²⁸ *See id.* at 6.

²⁹ *See id.* at 7.

rate for mobile telephony and consumer-grade wireline switched access lines and interconnected VoIP subscriptions of \$1.76/connection/month and the rate for business and government-grade wireline switched access lines and interconnected VoIP subscriptions of \$2.64/connection/month.³⁰ RIC stated its current average revenues-based contribution for consumer-grade service customers is \$1.70.³¹ Its current average revenues-based contribution for business and government-grade customers is \$2.32 per month.³²

RIC argued the connections-based rate design it proposed represents just, reasonable and affordable rates for these consumers and will meet the goals of the NUSF Act.³³ RIC stated its proposal would provide a specific, predictable and sufficient funding mechanism.³⁴ RIC further observed that if a hybrid mechanism were to be adopted by the Commission, the per-connection surcharge amounts presented in its rate design proposal could be reduced.³⁵

RIC did not believe that capping business lines was necessary in light of the proposal it provided.³⁶ Contrary to other commenter suggestions, RIC did not believe the Commission should pursue a data request to determine an appropriate cap for business lines as useful information would not be provided voluntarily by everyone and would delay the Commission's reform efforts.³⁷

In its reply comments RIC supported the notion that the surcharge should be established on a flat rate basis applicable to all connections in the State and that there is no need to adopt an elaborate and difficult to understand rate design.³⁸ RIC however, disagreed with some commenters' suggestions that the rate be the same for both residential and business lines. RIC stated that businesses derive economic benefit from their use of services and

³⁰ See *id.*

³¹ See *id.*

³² See *id.*

³³ See *id.* at 8.

³⁴ See *id.* at 8-12.

³⁵ See *id.* at 8.

³⁶ See *id.* at 14-15.

³⁷ See *id.* at 15.

³⁸ RIC Reply Comments at 4.

networks that provide such services.³⁹ RIC noted that Charter's advertised local rate for business is \$29.99 which by application would result in an current monthly assessment amount greater than its proposed \$1.00 monthly per-connection surcharge.⁴⁰ RIC stated Charter's contention that certain technologies are disserved by a connections-based NUSF contribution mechanism because they use temporary voice paths is irrelevant.⁴¹ The temporary voice path connection allows intrastate calling to be accomplished and therefore should be assessed.⁴²

CenturyLink encouraged the Commission to keep the rate design simple and ensure the calculations to determine the surcharges be as transparent as possible.⁴³ CenturyLink recommended the Commission calculate the annual surcharge by simply dividing the NUSF required funding amount by the number of assessable connections.⁴⁴ CenturyLink recommended the Commission establish an annual report from all carriers from which it can determine the number of assessable connections.⁴⁵ In addition, CenturyLink recommended the Commission issue a data request on all carriers currently collecting and remitting NUSF contributions and request the information needed for the Commission to accurately determine the "average" NUSF contributions being made today.⁴⁶ CenturyLink endorsed a cap to ensure that large businesses are not disproportionately burdened under the new rate design.⁴⁷

Windstream proposed a uniform capped, per-connection mechanism ("UCC Mechanism") similar to the TRS surcharge.⁴⁸ In support of its proposal, Windstream stated it was specific, predictable and competitively neutral.⁴⁹ Windstream's starting point for the rate

³⁹ See *id.*

⁴⁰ See *id.* at 11.

⁴¹ *Id.*

⁴² See *id.*

⁴³ See CenturyLink Comments at 2.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 4.

⁴⁷ See CenturyLink Comments at 4.

⁴⁸ See Windstream Comments at 2.

⁴⁹ See *id.* at 4-5.

design was the NUSF fund size as of 2016.⁵⁰ Using that starting point, Windstream proposed a per connection charge of \$1.48 for residential consumers. Windstream presented various scenarios showing the application of a per connection charge on businesses without a per line cap and with a per line cap of 100 per account.⁵¹

In its reply comments, Windstream recommended the Commission move forward expeditiously rather than postpone implementation of a connections-based surcharge as CTIA suggested.⁵² Windstream continued to support a cap on business lines and recommended the Commission seek precise and current connections data from carriers in order to set the appropriate surcharge and cap.⁵³ When implemented, updated information could be provided in an annual report as suggested by CenturyLink.⁵⁴

CTIA recommended the Commission develop a strategic plan to ensure that the Commission's efforts are coordinated, rational, and appropriately achieve statutory goals.⁵⁵ CTIA also reiterated its concern that a connections-based mechanism could not be equitable and nondiscriminatory and competitively neutral absent a point of sale collection mechanism.⁵⁶ CTIA recommended the Commission size the fund at the minimum size necessary to ensure universal service today.⁵⁷ The Commission should focus on providing its funding to the most efficient technology for each area including wireless and satellite providers and should abandon focus on fiber where the cost to deploy it is too expensive.⁵⁸ CTIA did not provide data in response to the Commission's Order. Rather, it stated it was a trade organization and as such, provides no services to consumers and has no data responsive to the Commission questions.⁵⁹

⁵⁰ See *id.* at 7.

⁵¹ Windstream Comments "Attachment C" at 12.

⁵² See Windstream Reply Comments at 2.

⁵³ See *id.* at 7.

⁵⁴ See *id.* at 8.

⁵⁵ See CTIA Comments at 3.

⁵⁶ *Id.*

⁵⁷ See CTIA Comments at 5.

⁵⁸ See *id.*

⁵⁹ *Id.* at 7.

In its reply comments, CTIA continued to advocate the Commission devise a comprehensive strategic plan prior to implementing any changes to the contribution mechanism.⁶⁰ CTIA did not offer specific rate design suggestions; rather, it cautioned the Commission against relying on or burdening the federal fund, and emphasized the fund should be competitively neutral, equitable, and nondiscriminatory.⁶¹

RTCN filed reply comments recommending the Commission move forward with this proceeding expeditiously.⁶² RTCN submitted comments addressing many of the issues raised in the Order and reserved its ability to supplement them or offer testimony as needed.⁶³

Data Sources

Frontier stated the FCC's Form 477 data could serve as a foundation.⁶⁴ It has the advantage of using existing reporting and not requiring carriers to perform an ad hoc report in response to a data request specific to this docket.⁶⁵ Frontier further stated that while there may be differences in what exactly qualifies as a connection under the Form 477 definitions and what the Commission ultimately defines as an assessable connection, the impact of those differences should be relatively minor in the overall scheme.⁶⁶ If the on-going remittance reporting is updated there will be no need for another wholesale recalibration of connection counts.⁶⁷

Cox stated the difficulty of using the Form 477 lies with the calculation of connections for business customers.⁶⁸ Form 477 counts one connection for each residential customer.⁶⁹ However, the Form

⁶⁰ See CTIA Reply Comments at 4.

⁶¹ See *id.* at 6.

⁶² See RTCN Reply Comments at 2.

⁶³ See *id.*

⁶⁴ Frontier Comments at 3.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See Cox Comments at 7.

⁶⁹ See *id.*

477 tallies business connections, but not on a per customer basis.⁷⁰ For example, one PRI used by a business is counted as 23 connections. Cox was not aware of another data source that would remedy the flaws of Form 477.⁷¹

RIC supported using the publicly available FCC Form 477 data.⁷² RIC recommended that connections data provided by FCC Form 477 should be the primary driver of reporting of Nebraska-specific connection data to the Commission.⁷³ To the extent that any questions arise about how to report connections, RIC recommended looking to the FCC Form 477 instructions first.⁷⁴ If there is no guidance then the issue can be presented to the Commission for resolution.⁷⁵ In its reply comments, RIC noted the record amply supports the conclusion that FCC Form 477 data is the only available reliable source of connections data and any issues associated with the Form 477 instructions and/or definitions can be addressed by the Commission as needed.⁷⁶

CenturyLink did not believe the FCC Form 477 was an appropriate source, or that it is even necessary for the Commission to use.⁷⁷ CenturyLink files its FCC Form 477 report on a consolidated basis.⁷⁸ In addition, there is a lag between the issuance of the Form 477 data that is troublesome for the calculation and implementation of NUSF surcharges.⁷⁹ CenturyLink believes that it is not necessary to utilize an outside data source for the information needed to calculate the connections-based NUSF surcharge. All of the information needed can be collected from the carriers in the collection and remittance process.⁸⁰

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² See RIC Comments at 17-18.

⁷³ See *id.* at 17.

⁷⁴ See *id.*

⁷⁵ See *id.*

⁷⁶ See RIC Reply Comments at 13.

⁷⁷ See CenturyLink Comments at 5.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ CenturyLink Comments at 6.

CTIA argued there were no data sources available that would allow the Commission to establish a per-connection NUSF assessment that would categorically avoid impermissibly burdening the federal mechanism or discriminatory collections.⁸¹ CTIA did not believe FCC Form 477 would be sufficient or appropriate for the development of a per-connection mechanism.⁸² Similarly, CTIA stated FCC Form 499 data does not provide useful information because it does not collect state-specific revenue or connection information.⁸³ In its reply comments, CTIA stated the record does not reveal any appropriate data sources for the Commission to use.⁸⁴ CTIA cautioned the Commission's application of the surcharge must be consistent with the requirements of the Mobile Telecommunications Sourcing Act of 2000.⁸⁵

Charter suggested that the connections-based system be initialized using Form 477 data as of December 2017.⁸⁶ It is relatively simple for Charter to report voice subscriptions on Form 477.⁸⁷ Charter's concern however, is that "over the top" voice providers and integrated voice/broadband cloud providers utilize different network architectures and may not report voice subscriptions in a consistent manner.⁸⁸

Windstream stated the FCC Form 477 definitions provide a good starting point for defining assessable connections and Windstream's billing data is consistent with Form 477 classifications.⁸⁹ However, Windstream stated, some of the reported data is not suitable for deriving the amount of the surcharge, which requires accurate and current data.⁹⁰ Accordingly, Windstream recommended the Commission seek precise and current data from the carriers. Windstream further

81 CTIA Comments at 7.

82 See *id.*

83 *Id.*

84 See CTIA Reply Comments at 6.

85 See *id.* at 7.

86 Charter Comments at 5.

87 Charter Comments at 14.

88 *Id.*

89 See Windstream Comments at 8.

90 *Id.*

recommended the Commission develop a matrix for carriers to use to populate.⁹¹

Implementation

Frontier stated that implementing a new surcharge can lead to unanticipated difficulties and costs.⁹² However, if the Commission adopts a per-connection mechanism that mimics an already existing Nebraska item, implementation costs should be minimized.⁹³

The RIC member companies isolated the billing system conversion and testing costs and determined from that data the costs to implement a flat rate connections-based NUSF surcharge should not be significant and would not materially differ from implementation than any other flat rate regulatory surcharge such as the TRS charge or E911 surcharge.⁹⁴ Generally, RIC member companies estimate that a sixty to ninety day period should be sufficient for implementation of a connections-based NUSF contribution mechanism.⁹⁵ In reply comments, RIC stated the record reveals no significant obstacle to the implementation of a connections-based surcharge and no specific costs of billing system conversion were included in the filed comments.⁹⁶ RIC stated its estimate of sixty to ninety days for implementation is reasonable and consistent with the positions of Cox and Windstream.⁹⁷

CenturyLink recommended the Commission consider adding the connections-based NUSF surcharge to the current TRS surcharge.⁹⁸ Doing so would keep the billing changes minimal.⁹⁹ Also, the 100-line cap ensures that large business customers will not be unfairly burdened.¹⁰⁰ Should the Commission decide not to use the current TRS surcharge as the vehicle for implementing the new connections-based

⁹¹ *Id.* at 9.

⁹² See Frontier Comments at 4.

⁹³ *Id.*

⁹⁴ RIC Comments at 19.

⁹⁵ RIC Comments at 20.

⁹⁶ See RIC Reply Comments at 16.

⁹⁷ See *id.* at 17.

⁹⁸ See CenturyLink Comments at 6.

⁹⁹ See *id.*

¹⁰⁰ See *id.*

NUSF surcharge, the time needed to make the changes to CenturyLink's billing systems can take 6-12 months.¹⁰¹

Windstream stated the cost of implementing its proposed mechanism would be significantly less than implementing any other mechanism. For most companies, the implementation of a surcharge change would be done by existing internal billing personnel. There would be little external cost incurred.¹⁰² Windstream recommended the Commission adopt a three to nine month implementation period.

Cox stated out of pocket costs would not be incurred to purchase a new billing system.¹⁰³ Rather, internal expenses involving personnel will be required to reconfigure the billing system.¹⁰⁴ Cox estimated that it would take 90 days to implement, which was the period generally used to safely make billing modifications.¹⁰⁵

CTIA believed the Commission did not fully appreciate the extent of the changes and the effort that would be necessary to switch from a revenues-based contribution mechanism to a per-connection mechanism.¹⁰⁶ In order to make the scheduling burden more manageable, any change if ordered should be implemented at the beginning of a fiscal quarter, at least nine months after the effective date of the order.¹⁰⁷

Charter recommended the Commission provide a 2-year window of actual experience for the new system to stabilize before judging whether it has met its objectives.¹⁰⁸

101 See CenturyLink Comments 6-7.

102 Windstream Comments at 9.

103 Cox Comments at 8.

104 *Id.*

105 *Id.*

106 CTIA Comments at 8.

107 *Id.*

108 Charter Comments at 15.

Public Hearing

A public hearing was held on May 1, 2018, in Lincoln, Nebraska. All comments and reply comments were made part of the record.¹⁰⁹ Appearances were entered as indicated above.

Mr. Kreutz offered testimony on behalf of Windstream. Windstream fully supported contribution reform in light of the evidence submitted in NUSF-100 relative to the declining remittance base.¹¹⁰ Windstream provided data to the Commission.¹¹¹ Windstream outlined the assumptions that were made in its attachment. Mr. Kreutz cautioned the Commission that using information based upon averages may be dangerous.¹¹² However, Windstream took actual billing information and rolled it up to the averages specified in the confidential attachment filed with its comments.¹¹³ Windstream recommended the Commission issue a mandatory data request for all contributors with very specific information.¹¹⁴ Mr. Kreutz testified using FCC Form 477 data is good enough to do ballpark estimates; however, Form 477 instructions are 40 pages long.¹¹⁵ The Commission may have to do some tailoring so companies are not making their own assumptions on how to report connections.¹¹⁶ If the Commission does not select a tiered business weighting system, the new mechanism could be implemented within three to nine months.¹¹⁷ Mr. Kreutz further testified there was some appeal with a hybrid system, at least for the interim since business connections are difficult to figure out.¹¹⁸ The issue would be solving the big picture problem if business connections were also declining.¹¹⁹

¹⁰⁹ See Exhibit Nos. 3 through 19.

¹¹⁰ Hearing Transcript (TR) at 6:9-15.

¹¹¹ Exhibit No. 11; See also TR at 8:15-25 and 9:1-2.

¹¹² See TR at 8:20.

¹¹³ See TR at 8:21-25 and 9:1-2.

¹¹⁴ TR at 10:16-21.

¹¹⁵ TR at 12:11-21.

¹¹⁶ See *id.*

¹¹⁷ *Id.* at 13:3-8.

¹¹⁸ See TR at 13:24-25.

¹¹⁹ See *id.* at 14:1-15.

Mr. Ken Pfister, Vice President of Strategic Policy at Great Plains Communications, testified on behalf of RIC. RIC's comments and reply comments were offered and received as Exhibit Nos. 8 and 16 respectively. Mr. Pfister testified the Nebraska Legislature supported a stabilized state universal service fund which was recently confirmed by the passage of LB 994.¹²⁰ Mr. Pfister stated RIC believes the decline in NUSF remittances is contrary to the NUSF Act's directives.¹²¹ As for its recommendations, Mr. Pfister testified that, after evaluating the comments in this proceeding, RIC has concluded that the Commission should establish a hybrid rate design in which some providers contribution will be based on connections while other providers will continue to be subject to a revenues-based surcharge.¹²² Such an approach will eliminate several issues that parties have identified to the Commission. In addition, Mr. Pfister testified that other parties agree with the recommendation to adopt a hybrid contribution mechanism. Cox, Charter and RIC agree the NUSF Act does not require the Commission to utilize one specific mechanism.¹²³ As to the fund size, Mr. Pfister offered Exhibit 20 which reflects the average annual NUSF remittances to the fund for the ten year period of 2000 through 2009 was \$56.6 million. According to RIC, this data demonstrated that RIC's proposed rate design does not represent an expansion of the annual NUSF remittances when compared to historical remittance levels.¹²⁴ RIC further recommended the Commission establish a funding framework for ten years to enhance the predictability of the program. This framework would be consistent with the FCC's 10-year federal universal service fund disbursement commitment.¹²⁵ Mr. Pfister advised the Commission that implementation of a hybrid connection and revenues based contribution mechanism will have minimal costs and be easy to develop.¹²⁶

Mr. Dan Davis, Director of Policy and Analysis at Consortia Consulting, also testified on behalf of RIC. Mr. Davis stated the record confirms that FCC Form 477 data is the only publicly available, state specific, industry standard connections information where carriers are required to certify regarding its

120 See *id.* at 22:3-14.

121 *Id.* at 22:24-25

122 See *id.* at 25:5-10.

123 See *id.* at 28-11-14.

124 *Id.* at 27:2-5.

125 See *id.* at 30-31.

126 See *id.* at 33-6-7.

accuracy.¹²⁷ Therefore, RIC concluded this data should be utilized to implement the connections based NUSF contribution mechanism.¹²⁸ Mr. Davis further argued the claims that FCC Form 477 data is not an appropriate data source are, in his belief, based on a misinterpretation of Form 477 instructions, or a failure to properly implement such instructions.¹²⁹ A reporting entity that operates in multiple jurisdictions is required by the FCC Form 477 to report state specific voice connections according to pages 19-20 of the instructions.¹³⁰ Mr. Davis argued that RIC's proposed rate design would continue the revenues-based assessment of enterprise and government grade connections would moot some commenters' concerns.¹³¹ The hybrid rate design presents the added benefit of eliminating the need for the Commission to initiate data requests to the carriers.¹³² However, the Commission should update the NUSF remittance form.¹³³ Mr. Davis offered his proposed changes to the form as Exhibit No. 21. Further, Mr. Davis noted compliance with the Mobile Telecommunications Sourcing Act of 2000 is required.¹³⁴ However, he stated, CTIA has not identified any respect in which it claims that a connections-based NUSF assessment mechanism might be at odds with that Act.¹³⁵

Mr. Joseph Gillan, a consultant economist, testified for Charter. Mr. Gillan serves on the Board of Directors of the Universal Service Administration Company (USAC). Mr. Gillan testified the business side of contributions is not broken.¹³⁶ He stated there is no evidence to suggest that business revenues are driving the source of the decline in revenues in Nebraska.¹³⁷ The primary driver of the decline in revenues is wireless services used

¹²⁷ See *id.* at 40:13-17.

¹²⁸ *Id.* at 40:18-20.

¹²⁹ See *id.* at 40:20-23.

¹³⁰ See *id.* at 41:2-5.

¹³¹ See *id.* at 41-43.

¹³² *Id.* at 43:14-17.

¹³³ See *id.* at 44:6-9.

¹³⁴ See *id.* at 41:22-25 through 42:1-7.

¹³⁵ See *id.*

¹³⁶ TR at 50:14-17.

¹³⁷ See *id.*

by consumers.¹³⁸ Wireless connections have climbed.¹³⁹ With a hybrid model the businesses are not getting a break; rather, wireless customers are going to end up rebalancing how much they are contributing to the fund, which are both residential and business customers.¹⁴⁰ Mr. Gillan further stated the FCC Form 477 is information that carriers file with the FCC twice a year.¹⁴¹ The information from the carriers is not publicly available.¹⁴² The Commission first needs a data request that looks for some reasonable period of time to get an accurate snapshot.¹⁴³ Then, the Commission needs to look at the FCC Form 477 data and ask a series of questions.¹⁴⁴ The Commission can minimize the issues by staying focused on the residential, wireline, and wireless markets.¹⁴⁵

Mr. Robert Logsdon testified on behalf of Cox. Cox recommended the connections-based assessments be used for residential and wireless subscribers but not for business subscribers.¹⁴⁶ Cox also encouraged the Commission not to increase the size of the NUSF to the \$60 million figure that was suggested in RIC's comments.¹⁴⁷ The new assessment structure should not incite customers to cut the cord or worse lead to the relocation of operations as it relates to business customers.¹⁴⁸ Mr. Logsdon stated the revenues-based assessment could also be maintained for types of services such as special access, interexchange services and operator service providers.¹⁴⁹ Implementing a connections-based methodology on wireless and residential customers lessens the risk that will be encountered by moving forward with an untested structure across the

138 TR at 51:15-25-52:1-21.

139 TR at 52:5-6.

140 TR at 52:16-21.

141 TR at 54:6-7.

142 TR at 54:7-8.

143 TR at 54:11-16.

144 TR at 54:16-18.

145 TR at 55:15-18.

146 See TR at 61:5-10.

147 See *id.*

148 TR at 61:13-16.

149 See TR at 61:22-25.

board.¹⁵⁰ Cox believes the optimal way to migrate toward a connections-based structure is to do so only for residential and wireless users.¹⁵¹

Mr. Alan Lubeck testified on behalf of CenturyLink. CenturyLink believes FCC Form 477 is a good source of information; however, because of the lag we would be looking at 2016 information for 2018 connections data.¹⁵² CenturyLink recommended the Commission issue a mandatory data request to all contributing carriers.¹⁵³ Mr. Lubeck stated the rate design should be simple and transparent. CenturyLink recommended a cap be in place for large businesses. Mr. Lubeck further stated CenturyLink believes the Commission should use this proceeding to stabilize contributions.¹⁵⁴ Depending on the methodology selected, Mr. Lubeck stated, CenturyLink could implement it anywhere from a few months to 12 months.¹⁵⁵ If the Commission selected a hybrid mechanism, where the Commission shifted residential to connections, it would not be a significant undertaking.¹⁵⁶ If the Commission started with a brand new mechanism for both residential and business connections, it may be more significant.¹⁵⁷

Mr. Loel Brooks testified as regulatory counsel for CTIA. Mr. Brooks stated CTIA reiterates its concerns expressed in its comments and reply comments about the legality, validity, and sustainability of a connections based contribution mechanism.¹⁵⁸ Mr. Brooks updated the Commission on CTIA's appeal of NUSF-100.¹⁵⁹ He stated that one of the major issues CTIA cited in its appeal was resolved by recent point-of-sale legislation.¹⁶⁰ Mr. Brooks further stated that CTIA is working with industry members and with the

¹⁵⁰ TR at 62:15-19.

¹⁵¹ See TR at 62:21-24.

¹⁵² TR at 65:22-25-66:1-3.

¹⁵³ TR at 65:9-12.

¹⁵⁴ TR at 67:1-4.

¹⁵⁵ TR at 67:10-13.

¹⁵⁶ TR at 67:22-25.

¹⁵⁷ *Id.*

¹⁵⁸ TR at 69:6-10.

¹⁵⁹ TR at 69:11-25-70:1-25.

¹⁶⁰ *Id.*

Attorney General's Office on revised definitions.¹⁶¹ CTIA has proposed the Commission retain a revenues-based system for all carriers. Mr. Brooks could not speak to whether CTIA would be comfortable with a hybrid system.¹⁶²

Post-Hearing Comments

The Commission permitted post-hearing comments to be filed on or before May 18, 2018. Post-hearing comments were filed by the Association of Teleservices International, Inc., Charter, CenturyLink, Frontier, Level 3, Windstream,¹⁶³ Cox, and RIC.

ATSI stated the hearing clearly demonstrated the emerging consensus among the parties that business customers such as ATSI members should continue to be assessed on a percentage basis.¹⁶⁴ ATSI agrees that maintaining the current revenues contribution methodology for business telecommunications customers would be a sensible solution.¹⁶⁵

Charter stated the Commission should not adopt a connections-based contribution rate design in the business market, should not change the contribution rate design to increase the size of the fund, and should continue to analyze the underlying data to understand trends affecting contributor revenues and respond accordingly.¹⁶⁶ Charter opposed treating Over-the-Top VoIP services differently.¹⁶⁷ If the Commission adopts a connections-based surcharge it should treat all VoIP the same. Charter provided an updated table comparing estimated contribution rates based on Commission remittance data from December.¹⁶⁸ Charter believed the per-connection rate should be less than \$1.08 per subscription.¹⁶⁹

¹⁶¹ *Id.*

¹⁶² TR at 72:12-25.

¹⁶³ CenturyLink, Level 3, Frontier and Windstream jointly filed post-hearing comments on May 18, 2018. These entities are hereinafter referred to as the "Joint Commenters."

¹⁶⁴ Post-Hearing Comments of ATSI (May 18, 2018) at 1. Unless otherwise noted all citations to post-hearing comments in this Order reference comments which were filed on May 18, 2018.

¹⁶⁵ See *id.* at 2.

¹⁶⁶ Post-Hearing Comments of Charter at 1.

¹⁶⁷ See *id.* at 2.

¹⁶⁸ See *id.* at 6.

¹⁶⁹ See *id.*

The Joint Commenters stated historical remittances into the fund were irrelevant for the task at hand.¹⁷⁰ The primary effort here is to stabilize the fund and not expand it.¹⁷¹ The Joint Commenters believed the hybrid approach had merit and should be explored further.¹⁷² However, even with a hybrid approach, they stated, there will be issues to address.¹⁷³ Finally, the Joint Commenters recommended the Commission annually issue a bench request to all remitters into the fund for the information needed to accurately calculate the surcharge amount.¹⁷⁴

Cox stated many parties encouraged the Commission to keep the fund at its current size.¹⁷⁵ Cox further stated there was widespread agreement by testifiers that the Commission impose the connections-based methodology only on residential and wireless customers and to retain the current revenues-based assessment for business customers.¹⁷⁶ Cox further argued statutes do not require the use of a single contribution mechanism; therefore, it is permissible for the Commission to utilize a combination of connections-based and revenue-based assessments.¹⁷⁷ Finally, by excluding business customers, it would hasten and ease implementation of the new connections-based methodology and the need for companies to respond to data requests would be eliminated.¹⁷⁸

RIC stated the adoption of a hybrid rate design, and in particular continuing the current revenues-based assessment on business wireline services, was endorsed by Cox and Charter in their reply comments and at the hearing.¹⁷⁹ Moreover, Windstream's witness testified the hybrid rate design has appeal and deserves

¹⁷⁰ See Post-Hearing Comments of the Joint Commenters at 2.

¹⁷¹ *Id.*

¹⁷² See *id.* at 3.

¹⁷³ See *id.*

¹⁷⁴ See *id.* at 4.

¹⁷⁵ See Post-Hearing Comments of Cox at 1.

¹⁷⁶ See *id.* at 2.

¹⁷⁷ See *id.*

¹⁷⁸ See *id.* at 3.

¹⁷⁹ See Post-Hearing Comments of RIC at 2.

additional attention.¹⁸⁰ RIC stated CenturyLink's witness and CTIA's witness did not oppose the hybrid rate design in testimony at the hearing.¹⁸¹ RIC argued its hybrid rate design should be approved by the Commission. Because RIC's recommended hybrid rate design will, as required by the Act, result in all providers of telecommunications in this State making an equitable and non-discriminatory contribution to the preservation and advancement of universal service, approval by the Commission advances the public interest and is consistent with the Act.¹⁸² RIC recommended a per connection surcharge of \$1.76 per month.¹⁸³ RIC stated the record supports this rate and neither CTIA nor any wireless service provider furnished information to the Commission in response to Question 5.c of the Order.¹⁸⁴

RIC supported a fund size of \$60 million, a level that it stated would have a material, positive impact in advancing the NUSF Act's requirement of comparable access to telecommunications and advanced information services in rural high-cost areas of Nebraska compared to urban areas.¹⁸⁵ RIC supported the use of connections data provided by FCC Form 477.¹⁸⁶ RIC further recommended the Commission adopt a 10-year funding commitment for the NUSF high-cost program.¹⁸⁷

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

Neb. Rev. Stat. § 86-317 establishes a funding mechanism, based in part, to ensure that all Nebraskans, without regard to their location, have comparable access to telecommunications services at affordable prices. The Legislature directs every telecommunications company to contribute to any universal service mechanism established by the Commission pursuant to state law.¹⁸⁸

¹⁸⁰ *Id.*

¹⁸¹ *See id.*

¹⁸² *Id.* at 3.

¹⁸³ *See id.* at 4.

¹⁸⁴ *See id.*

¹⁸⁵ *See id.* at 5.

¹⁸⁶ *See id.* at 7.

¹⁸⁷ *See id.* at 6.

¹⁸⁸ Neb. Rev. Stat. § 86-324(2)(d).

Recently, the Legislature clarified its intent that,

[b]roadband telecommunications service in rural areas of the state be comparable in download and upload speeds and price to urban areas where possible state resources should be utilized to ensure that rural residents of the state should not be penalized simply because of their rural residence.¹⁸⁹

In NUSF-100, the Commission concluded it had the authority to adopt a connections-based contribution mechanism.¹⁹⁰ The Commission further determined that a connections-based contribution mechanism was a necessary step towards stabilizing the fund. That proceeding has been challenged and is pending resolution in the Nebraska Court of Appeals.¹⁹¹

The current proceeding focuses on the rate design framework and implementation timeline for the new contribution mechanism. Compellingly, a number of commenters recommend the Commission take an interim step by adopting a hybrid mechanism where residential telecommunications services, which are more easily definable, would be assessed through a flat rate connections-based surcharge while business telecommunications services, which are much more complex, would remain on a revenues-based mechanism until further data and implementation issues can be addressed.¹⁹² No commenter specifically opposed the adoption of this hybrid mechanism at the hearing on this issue, although some commenters expressed a greater interest in an across the board connections-based or revenue-based proposal.¹⁹³

Based upon these comments in the record, we are convinced that adopting a hybrid mechanism would, in the near term, eliminate some of the complex issues raised relative to the counting of business connections and ensure all telecommunications providers

¹⁸⁹ LB 994 Slip Law (2018).

¹⁹⁰ See NUSF-100.

¹⁹¹ See Neb. Ct. App. Case No. A-17-001244, *In re Matter of Nebraska Public Service Commission v. CTIA*.

¹⁹² See Post-Hearing Comments of Cox (May 18, 2018) at 2; Post-Hearing Comments of ATSI (May 18, 2018) at 1; see also Post-Hearing Comments of RIC (May 18, 2018) at 2.

¹⁹³ See Post-Hearing Comments of RIC at 2; see also Reply Comments of Windstream (March 23, 2018) at 2 (supporting uniform per-connection surcharge), and TR 72:12-25 (supporting revenue-based surcharge).

appropriately continue to contribute to universal service even where service is not offered through a dedicated per line connection basis to an end user.¹⁹⁴ In our judgment, phasing in the connection-based contribution mechanism will allow the Commission to carefully evaluate business service revenues and determine the appropriate way to account for business services while stabilizing contributions in the residential market.¹⁹⁵ We also agree with the commenters who maintained the NUSF Act does not require the use of a single contribution mechanism.¹⁹⁶ Neb. Rev. Stat. § 86-324 requires every telecommunications company to contribute to any universal service mechanism established by the Commission pursuant to state law. Further, we know the FCC has been considering various types of reform measures to address declining federal universal service fund remittances including hybrid contribution methodologies.¹⁹⁷ Finally, we note that this is a transitional step designed to allow us to isolate business market data and determine the next step forward in overall contribution reform.

Accordingly, we find the adoption of a connections-based contribution mechanism on residential wireline, wireless and VoIP services should be the first step in the Commission's overall contribution reform. This step should be implemented as described below.

In addition, relative to contribution requirements for business service, we find it is appropriate to collect data for at

¹⁹⁴ See e.g., Securus Comments at 2.

¹⁹⁵ See Reply Comments of Charter at 4-5 (attributing the declining revenues to the residential market and stating business revenues are not likely part of the decline).

¹⁹⁶ See Post-Hearing Comments of Cox (May 18, 2018) at 2.

¹⁹⁷ For example, the FCC proposed the adoption of two hybrid approaches in 2008, and again sought comment on a hybrid approach in 2012. See *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Inter-carrier Compensation Regime; Inter-carrier Compensation for ISP-Bound Traffic; IP-Enabled Services*, WC Docket No. 05-337; CC Docket No. 96-45; WC Docket No. 03-109; WC Docket No. 06-122; CC Docket No. 99-200; CC Docket No. 96-98; CC Docket No. 01-92; CC Docket No. 99-68; WC Docket No. 04-36, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475 (November 5, 2008); see also *In the Matter of Universal Service Contribution Methodology; A National Broadband Plan for Our Future*, WC Docket No. 06-122, GN Docket No. 09-51, Further Notice of Proposed Rulemaking, 27 FCC 5357 (rel. April 27, 2012). The FCC has not reached a final decision on contribution reform.

least a period of one year prior to determining how a connections-based methodology can be applied to business service. We can accomplish this through a revised remittance process. As residential service would be contributing on per-connection basis for a period of time, the Commission will be able to isolate remittances from business services and analyze trends. After sufficient data has been collected, the Commission will then consider as step two, an investigation to seek further comments on the feasibility and necessity of a connections-based contribution mechanism as applied to business services.

We further find the target level of the NUSF should be initially set between \$46 and \$54 million. This range is designed to restore the funding levels for the time period in which triggered our review of contribution reform in NUSF-100 during 2014.¹⁹⁸ This range does not represent an expansion of the NUSF program when compared to historic remittance levels which, according to the record, averaged \$56.6 million before we began experiencing the precipitous decline in our remittances.¹⁹⁹ In addition, given the recent Legislative emphasis on rural broadband deployment, we find this range to be a fair and reasonable starting point.²⁰⁰ As we are using an estimate of forecasted revenues, we find it appropriate to set the surcharge at a level that will safely generate a funding level of at least the minimum of the range specified above.²⁰¹ Although we regard this range to be the appropriate starting point, we emphasize this funding level is not the end point. We fully expect to continuously monitor the adequacy of the NUSF funding level and assess where we need to be to accomplish the goals of the NUSF Act. The Commission is required to, at least on an annual basis, review the level of the surcharge consistent with the directives of Neb. Rev. Stat. § 86-328. Accordingly, we expect in May of 2019, the Commission will re-assess the NUSF funding level after collecting 1st Quarter 2019 remittances under the revised contribution mechanism.

We are persuaded that FCC Form 477 data, which in the aggregate is publicly available data, should be used to determine an initial estimate of the number of residential wireline voice telephony

¹⁹⁸ See Exhibit No. 20.

¹⁹⁹ See TR at 27:2-19. See also Exhibit No. 20.

²⁰⁰ See e.g., TR at 21-22; see also LB 994, section 1(2018).

²⁰¹ We note that we are taking a conservative approach to our estimates to make sure remittances collected are sufficient to meet the targeted \$46-54 million range.

connections.²⁰² Some commenters expressed concerns with utilizing FCC Form 477 data to determine the number of connections.²⁰³ Some commenters preferred a mandatory Commission-issued data request.²⁰⁴ We acknowledge that using FCC Form 477 data becomes more complex when attempting to apply it to business connections. However, no commenter raised specific arguments related to its use solely estimating residential connections as an initial starting point.²⁰⁵ We therefore find FCC Form 477 data should be used in conjunction with other data already specifically reported to the Commission to estimate the number of residential voice connections in Nebraska as a starting point to set the surcharge. However, we expect to obtain more precise data from the carriers through the remittance process. We do not find a need, at the present time, to issue a mandatory data request on all contributors.

We initially set the connections-based surcharge at \$1.75. We observe that according to some commenters, this proposed surcharge is around the average surcharge currently remitted by wireline telephone subscribers.²⁰⁶ Our analysis of this surcharge, with the estimates of remittances generated from a hybrid rate design where some services will remain on a revenue-based surcharge, indicates it will produce at least the minimum level of the NUSF as previously outlined. We find this per-connection surcharge should be applied on residential wireline, postpaid wireless, and interconnected VoIP services.²⁰⁷

202 This, of course, does not include an assessment on broadband services. The Commission stated at the outset broadband Internet access services are not subject to NUSF contribution requirements.

203 See CenturyLink Comments at 5; see also Windstream Comments at 8.

204 See Windstream Comments at 9.

205 When determining assessable connections, we note the wireless carriers must comply with the Mobile Telecommunications Sourcing Act of 2000 (MTSA). We do not foresee a conflict between the MTSA and basing the estimated number of connections on the FCC Form 477 data, or the connection-based contribution mechanism we adopt today for residential services. Wireless carriers must comply with the MTSA when reporting other flat fee based surcharges to the Commission pursuant to Neb. Rev. Stat. § 77-2703.04(3)(d)(v).

206 See RIC Comments at 7 (stating the RIC member companies current average revenues-based contribution for consumer-grade service customers converted to a per connection basis is \$1.70 per month); see also Frontier Comments at 3 (stating a \$1.50 residential surcharge and \$2 business surcharge would be less than what Frontier's customers are currently contributing on a per-line basis).

207 We agree with Charter that as Over-the-Top VoIP subscriptions are reported on the Form 477 in the same manner as affiliated VoIP, we should treat such services similarly. We intend the term interconnected VoIP service to include Over-the-Top VoIP services. Should there be a reason to differentiate we can

For the present time, a revenue-based surcharge will continue to apply on business and government services, toll services, operator services, local private line, special access service, prepaid wireless,²⁰⁸ and radio paging service providers at the current NUSF percentage-based rate of 6.95 percent which was adopted in the Commission's Order entered in its NUSF-4 docket on June 12, 2018.

We adopt a target implementation date of January 1, 2019. We specifically sought comment on the timeframe for implementing a connections-based contribution mechanism. Commenters provided estimates ranging from 90 days²⁰⁹ to twelve months.²¹⁰ We are persuaded by the commenters who indicated 90 days would be a sufficient amount of time to make changes in their billing system. We also agree with the suggestion that implementation should occur at the beginning of a fiscal quarter.²¹¹ However, we also recognize that there may be implementation issues to address. Given the possible implementation questions or challenges that may arise, we find a January 1st implementation target date should be the issue of further discussion. Accordingly, as further discussed below, we will schedule an implementation workshop which will be limited to the discussion of the timeline for the implementation of the hybrid contribution mechanism adopted in this Order. Until the transition to the hybrid contribution mechanism adopted in this Order is complete, carriers are required to continue to remit the NUSF surcharge using the current revenues-based mechanism.

Implementation Workshop

Because we anticipate there will be questions from carriers on implementation issues, particularly from carriers that did not actively participate in this proceeding, and we would like to gather

address that separately during the implementation workshop. See Post-Hearing Comments of Charter at 4.

208 Recently, § 86-328(3) was added to the NUSF Act which carved out a distinct contribution collection mechanism for prepaid wireless telecommunications service providers and permitted retailers and the Nebraska Department of Revenue to offset expenses through a portion of the revenues contributed. Because of this, wireless prepaid revenues will be collected and remitted consistent with § 86-328(3). The Commission plans to open a subsequent proceeding to determine how a connection-based contribution mechanism as defined in NUSF-112 can be established for prepaid wireless telecommunications service providers.

209 See TR at 34:11-17; see also Cox Comments at 8.

210 See CenturyLink Comments at 7; see also CTIA Comments at 8.

211 See CTIA Comments at 8.

further input on the timeline for implementation, we find a workshop should be scheduled. Accordingly, we hereby schedule a workshop on **September 26, 2018** at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508, to discuss the timeline for implementation to the hybrid contribution mechanism adopted in today's Order. A conference bridge to the workshop will be made available for the convenience of those interested. The call-in number for the workshop is (888) 820-1398 Attendee Code 5582059#.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

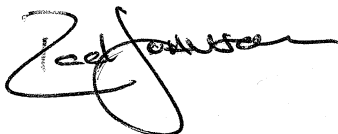
IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the opinions and findings herein be, and they are hereby, adopted.

IT IS FURTHER ORDERED that a workshop be held on **September 26, 2018**, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 7th day of August, 2018.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s//Frank E. Landis
//s//Mary Ridder



Chair

ATTEST:



Deputy Director

Commissioners Dissenting:

//s// Tim Schram


Commissioner Crystal Rhoades concurring:

The Commission set out to comprehensively reform its contribution mechanism in order to accurately size the fund and fairly assess all users of the network. This decision falls short of that mark. I vote to approve today's Order because I believe it is one step closer to that goal. But for the record, I write separately to express my concerns.

First, I would have preferred the adoption of a connections-based contribution mechanism for both residential and business services. I am not enthusiastic about our decision to adopt a hybrid methodology, even if it is considered temporary in nature. Business users consume a significant portion of network traffic. I hope that our actions today do not send the message that we are giving them a pass. The Commission should not be complacent in its goal for overall reform if the hybrid mechanism adopted today appears to stabilize the fund in the near term. I encourage my colleagues to expeditiously move forward with a connections-based methodology for business services as soon as possible.

At the same time, I remain concerned that although we provide funding for both wireless and wireline broadband build-out yet we are unable to assess those services. Until federal policymakers are willing to address this inequity, carriers will continue to have the ability to take advantage of loopholes in these regulatory distortions, and the burden of universal service for broadband deployment will unfairly fall on the shoulders of the more limited base of telecommunications users.

Finally, I am deeply committed to providing a sufficient, predictable, and stable funding mechanism consistent with the NUSF Act. However, I believe the level of the fund should be based on empirical need demonstrated to the Commission through more specific data. I encourage the Commission to continue its effort to size the fund according to needs presented to the Commission and not upon historically accepted funding levels.


Crystal Rhoades