

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

---

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, ) Application No. NUSF-4  
on its own motion, seeking to )  
determine the level of the fund )  
necessary to carry out the ) ORDER SETTING SURCHARGE  
Nebraska Telecommunications )  
Universal Service Fund Act )  
effective fiscal year beginning )  
July 1, 2017. ) Entered: June 13, 2017

APPEARANCES:

For the Rural Independent Companies:

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

For CTIA-The Wireless Association:

Loel Brooks  
Brooks, Pansing Brooks PC PLLC  
1248 O Street  
Suite 984  
Lincoln, Nebraska 68508

For the Commission:

Nichole Mulcahy  
300 The Atrium Building  
1200 N Street  
Lincoln, Nebraska

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 (2008) 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." Notice of this hearing appeared in The Daily Record, Omaha, Nebraska, the Lincoln Journal Star, Lincoln, Nebraska, and the Omaha World Herald, Omaha, Nebraska on May 16 and May 23, 2017 pursuant to § 86-328. A public hearing on this matter was held in the Commission Hearing Room, Lincoln, Nebraska, on May 31, 2017.

## F I N D I N G S     A N D     C O N C L U S I O N S

Ms. Sue Vanicek, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department, which administers the Nebraska Universal Service Fund (NUSF), recommended that the surcharge be set at 6.95 percent at a minimum. Ms. Vanicek testified the Commission may want to consider increasing the surcharge in light of the remittances which have continued to decline. Ms. Vanicek testified the current balance of the fund as of the beginning of May was about \$41.8 million. That balance includes funds that have been awarded through grant programs that have been awarded but not yet expended. Grant funds are not disbursed until carriers provide documentation detailing the investments made. The balance also includes allocations for \$4 million in wireless broadband deployment grants for 2017 as well as the high-cost broadband support for price cap carriers which is about \$14.5 million. The uncommitted fund balance, which is the balance less grant funds allocated and not yet expended, is \$2.5 million as of the beginning of May. The uncommitted balance is about a one-month operating reserve, which is less than the three-month minimum operating reserve recommended by the Department. Due to the fact that ongoing monthly expenditures for high-cost support, ongoing expenses for price cap carriers, telehealth, NTAP, and operating expenses are somewhat less than forecasted remittances, the operating reserve is projected to grow slightly through the end of the calendar year to about a 2.65 month reserve by year end.

Remittances have been decreasing at an average rate of about 3.9 percent since 2008. Furthermore, remittances for the 2015 calendar year were about 8 percent less than the previous year. Remittances for the 2016 calendar year were about 12.6 percent less than the previous year. It appears that remittances will decrease about 14.2 percent in 2017 based upon a few months of actual data and forecasts for the remainder of the year. Based upon current forecasts, NUSF remittances will be about \$30.5 million for the 2017-2018 fiscal year. This would be a decrease of \$6.8 million or about 18.2 percent. The Commission opened a docket in late 2014 to examine possible changes in the contribution methodology for the NUSF. The Commission has proposed a connections-based assessment mechanism as the number of connections appears to be much more stable, while revenues upon which assessments are based are declining.

Ms. Vanicek further testified that she has cautioned that remittances are declining and funding cuts may need to be made in some NUSF programs; however, the resulting cuts seem to be met by a surprised reaction. Moving to a connections-based assessment mechanism will help to stabilize contributions. However, it is highly unlikely that such a mechanism can be implemented until 2018.

The Commission could consider raising the surcharge so that remittances for the 2017-2018 fiscal year are closer to the remittances received in the 2016-2017 fiscal year. Staff has estimated that a one percent increase in the surcharge would equate to \$4.4 million. Ms. Vanicek testified she presented similar information to the NUSF Advisory Board.

The NUSF Advisory Board met on April 25, 2017, to discuss the NUSF surcharge. After deliberation, the NUSF Advisory Board voted to recommend to the Commission that the surcharge level be maintained at 6.95 percent.

Mr. Ken Pfister, Vice President of Strategic Policy for Great Plains Communications, testified on behalf of 17 rural local exchange companies comprised as the Rural Independent Companies. His written testimony was offered into the record as Exhibit No. 3.

Mr. Pfister testified that they believe the surcharge percentage rate should be set at a level that would increase support available for all NUSF programs including the NUSF high-cost program for the 2017-2018 fiscal year. The action is advisable in order to not fall further behind in obtaining the Commission's goals which were articulated in the NUSF-100 proceeding. As a starting point, a benchmark could be setting the surcharge to yield remittances at the 2014 level. Remittances for that year were just over 49.2 million. So, setting a remittance percentage for 2017 to yield total remittances of \$45 million seems potentially reasonable. In contrast to the \$45 million target, RIC proposes the Commission should establish a minimum remittance level. At a minimum, RIC would recommend the Commission establish a NUSF surcharge percentage for 2017-2018 that would produce total remittances of at least equal to 2016-2017 remittances of \$37.3 million.

Based on Mr. Pfister's calculations, the NUSF surcharge would need to increase to 10.22 percent in order to generate \$45 million of remittances for 2017-2018. The surcharge percentage

would need to increase to 8.45 percent to maintain remittances of \$37.3 million.

Mr. Pfister then testified how he translated the suggested surcharge percentages to consumer charges. He utilized testimony filed in NUSF-100 by Mr. Price to determine the impact on wireless customers. His determination was that a \$40 bundle with an NUSF assessable amount of \$10.18 puts the current surcharge at \$0.71 a month. If the surcharge were increased to 8.47 percent, the monthly surcharge would be \$0.86 a month which is an increase of \$0.15 a month or \$1.80 per year. If the surcharge were increased to 10.22 percent, the surcharge would be \$1.04 a month or an increase of \$3.96 per year.

On the wireline side, assuming basic local service is charged at the benchmark rate of \$19.95 and with a \$5.00 toll usage, the average customer would be paying on \$24.95 in assessable revenues. The current NUSF surcharge would produce a surcharge of \$1.73 a month. Increasing the surcharge to 8.47 percent would amount to \$2.11 a month which would be an increase of \$0.38 a month and \$4.56 a year. An increase of the surcharge to 10.22 percent would increase the surcharge by \$0.82 a month or \$9.84 a year.

In support of his testimony, Mr. Pfister pointed out that others in the industry recently filed comments in support of a surcharge increase as a stop-gap measure. Testimony supporting that position was offered into the record as Exhibits 5 and 6. Mr. Pfister further testified that increasing the surcharge may not be a viable long term strategy, but it is a way to stabilize remittances until a connections-based surcharge can be implemented.

Hypothetically, if the Commission concluded the total support for all programs should be \$37.3 million in the coming fiscal year and that is the total amount of the projected remittances for 2016-2017, and then some of the reserve could be transferred the Commission could consider increasing the surcharge by one percent to 7.95 percent.

In response to Commissioners questions, Mr. Pfister provided further information relative to the design of the reformed federal high cost support mechanism and how that impacts rate-of-return carriers in Nebraska. However, he explained that the federal mechanism falls far short of what one

would consider fully funded. He reiterated that federal support does not alleviate the need for state universal service support.

Mr. Eric Carstenson, President of the Nebraska Telecommunications Association (NTA), testified for the NTA. Mr. Carstenson testified to urge the Commission to take a step to stabilize the NUSF by increasing the surcharge for fiscal year 2017-2018. The NTA advocated the Commission increase the surcharge to a level that would at least stabilize the NUSF to the current 2016-2017 level. The sharp decline in the NUSF, he stated, was not predictable, stable or sufficient. Mr. Carstenson applauded the Commission's effort to stabilize contributions in its NUSF-100 docket. He stated a small, temporary increase for fiscal year 2017-2018 would bridge the gap between the predicted 23 percent decline.

The Commission gives strong consideration to the testimony provided in this proceeding. We find that based upon information provided by Ms. Vanicek, NUSF remittances have sharply declined by 12.6 percent in 2016 and will continue to decrease by about 14.2 percent in 2017. However, given the current ability of the Commission to manage its cash flow on the grant funds committed but not expended, the Commission finds, at least for the present time, it will maintain the surcharge at 6.95 percent beginning July 1, 2017. The amount of grant funds allocated but not yet committed to specific projects should allow the Commission sufficient cash flow to keep the funds distributed at or near 2016-2017 levels. Accordingly, the NUSF surcharge should continue to be set at 6.95 percent for the fiscal year of operations beginning July 1, 2017.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a 6.95 percent surcharge shall fund the Nebraska Universal Service Fund beginning July 1, 2017, and extended to June 30, 2018, unless otherwise ordered by the Commission.

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.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

---

Application No. NUSF-4

PAGE 6

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 13th day of June, 2017.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Mary Ridder*

*Crystal Knadice*

*Pat Hansen*

//s//Frank E. Landis

//s//Tim Schram

*Tim Schram*

Chairman

ATTEST:

*Shara Kretzow*

Deputy Director