

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, 2018.) Entered: June 12, 2018

APPEARANCES:

For the Rural Independent Companies:

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

For NE Colorado Cellular Inc. d/b/a Viaero Wireless and for
CTIA-The Wireless Association:

Katherine Vogel
Brooks, Pansing Brooks PC PLLC
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Lincoln, Nebraska 68508

For the Rural Telecommunications Coalition of Nebraska:

Max Rodenburg
Rembolt, Ludtke Law Firm
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For the Commission:

Shana Knutson
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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

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. NUSF-4

PAGE 2

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 8 and May 15, 2018 pursuant to § 86-328. A public hearing on this matter was held in the Commission Hearing Room, Lincoln, Nebraska, on May 22, 2018. Appearances were entered as indicated above.

On April 30, 2018, the NUSF Advisory Board met 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. 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 2018/2019 fiscal year. Mr. Robbins testified the balance of the fund was approximately \$49.5 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 uncommitted balance was approximately \$13 million as of April 30.

Mr. Robbins further testified the forecast of remittances for the current year predicted a steep decline, as much as 23 percent. The Commission ultimately reduced high cost distributions by about 17 percent in anticipation of this decline. Mr. Robbins stated that while the fund has continued to decline, remittances thus far in 2018 dropped only 6 percent when compared to the same period last year. He continued that while the fund may be leveling off, it was too early to conclude that this was a reliable trend. Mr. Robbins stated that it has been and continues to be the staff's recommendation that the Commission does not completely deplete the uncommitted fund balance to make up for potential shortfalls in remittances. Contribution reform will continue to be a priority of the Department.

As far as options for the Commission to consider, Mr. Robbins testified the projected remittances at a 6.95 percent surcharge level would generate an estimated \$30.6 million, which is a decrease of 14 percent over 2017. This represented roughly \$4.2 million less than what was budgeted for in the current fiscal year. Alternatively, raising the surcharge by one-half of one percent to 7.45 percent would increase remittances to an estimated \$32.8 million. Finally, increasing the surcharge by one percent would increase remittances to an estimated \$35 million, or slightly more than what was budgeted for this current fiscal year. Mr. Robbins stated he was optimistic that the Commission's work on contribution reform will stabilize the fund in the near future. Consequently, he recommended maintaining the existing surcharge 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 collectively referred to as the Rural Independent Companies (RIC).

Mr. Pfister testified in support of an increase in the surcharge level to 7.5 percent. RIC recommended a fund size of at least \$41.1 million. Mr. Pfister offered Exhibit 3 into the record, which shows total annualized expenditures in the high-cost, broadband, Telehealth, and the Nebraska Telephone Assistance Programs since 2008.¹ RIC recommended an incremental increase to restore the fund size to its 2017 level. According to Mr. Pfister, an increase of the surcharge to 7.5 percent would equate to an approximate 7-cent per month increase on wireless customers and an approximate 14-cent increase for the average residential wireline subscriber per month. Mr. Pfister further noted that the Kansas Commission has raised their surcharge to 7.5 percent. Further, RIC recommended that \$4 million be transferred from the uncommitted balance to support the 2019 high-cost fund size. Mr. Pfister stated, thereafter it is RIC's hope that the Commission will have completed its NUSF contribution reform work so that a new hybrid contribution mechanism will be implemented effective January 1, 2020.

Ms. Katherine Vogel made a statement on behalf of Viaero and CTIA. Her clients recommend the Commission maintain the NUSF surcharge level at 6.95 percent. Ms. Vogel expressed support on behalf of her clients for the Commission's efforts to explore

¹Legislative Audit Office Pre-audit Report, Universal Service Fund, released January 2018.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. NUSF-4

PAGE 4

NUSF reform, to assure a stable funding mechanism, and to promote the deployment of broadband throughout the state.

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

The Commission has considered the testimony and recommendations provided in this proceeding. We find, based upon information provided by the Department, the NUSF remittances have continued to decline as predicted. The Commission is working to address this issue through an open contribution reform proceeding. The Commission expects reform measures to stabilize remittances and hopes that such reform can be implemented in the near future. Accordingly, we find the NUSF surcharge should continue to be set at 6.95 percent for the fiscal year of operations beginning July 1, 2018.

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, 2018, and extended to June 30, 2019, 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.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 12th day of June, 2018.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Mary Ridder

//s//Frank E. Landis

Chair

Tim Schwan

ATTEST:

Michelle H. P.
Executive Director

COMMISSIONERS DISSENTING:

//s//Mary Ridder

//s//Crystal Rhoades

Commissioner Mary Ridder dissenting:

I am aware that people dislike any increases to their phone bill and yet our Governors, U.S. Senators and Representatives and our State Senators have been vocal in their support of connecting urban citizens to our citizens in rural, high cost areas via broadband telecommunications services. The two - the surcharge on customer's phone bills and bridging the digital divide - are intrinsically connected.

I see these facts as indisputable:

- The fund has been shrinking for several years and most of the industry has asked us to address this. The fund has plunged to roughly ½ of its early years.
- A dominant reason for this unprecedented decline appears to be the shift away from land lines toward cell phones, and that the latter are often in a bundled service, making collections challenging.
- Time is running out to reach that "last mile" to our rural citizens with broadband services. Nebraska has tremendous rural entrepreneurs who often have poor or no access to the advanced communications services they need to operate and compete in this national and global marketplace.

If we leave the surcharge at 6.95%:

- We give in to inertia. The surcharge only changed one time since instituted; in 2005. This belies logic that the fund did not have greater or lesser needs throughout the past 19 years, yet it remained static.
- Nebraska's citizens are placed in an ever more precarious position regarding our statutory charge of providing available and comparable service to all.
- Should we continue to face appeals on our Connections dockets, we could be two or three or more years down the road in our legacy revenue collections scenario with a fund no longer capable of building out to the homes and businesses we are charged to serve. I live in one of these areas as does U.S. Senator Deb Fischer and USDA Under Secretary Greg Ibach.

Nebraska's Public Service Commission has long been known for its vision. We've gone against the grain and against popular wisdom, stepping out into that vulnerable space of leadership multiple times in telecommunications issues. Working from that

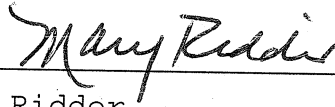
SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. NUSF-4

PAGE 6

mindset, I would increase the NUSF surcharge for the 2018-2019 year to 7.50% as a means to placing more than \$4M in additional dollars into our fund.

In a follow-up proceeding I believe we should shift uncommitted as well as unused committed funds towards rural broadband buildout. We've been patient too long in waiting for solutions that have not materialized. Now is the time to step forward and act.

A handwritten signature in cursive script, reading "Mary Ridder", written over a horizontal line.

Mary Ridder