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November 2, 2000

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VIA FEDERAL EXPRESS

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 96-45

Dear Ms. Salas:

Enclosed is an original and five copies of the Comments of the Nebraska Rural Independent Companies on the Comments of the Rural Task Force Recommendation for filing in the above-referenced docket. Please return a file-stamped copy to the undersigned in the self-addressed, stamped envelope.

Very truly yours,

Kelly R. Dahl
FOR THE FIRM

KRD/eam
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cc: Sue Vanicek (w/enc.)

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In the Matter of	)	
	)	
Federal-State Joint Board	)	**CC Docket No. 96-45**
on Universal Service	)	

COMMENTS OF
THE NEBRASKA RURAL INDEPENDENT COMPANIES ON THE
COMMENTS OF THE RURAL TASK FORCE RECOMMENDATION

Introduction

The Nebraska Rural Independent Companies (the "Companies"), by their attorneys, respectfully submit their comments in the above captioned proceeding addressing the *Rural Task Force ("RTF") Recommendation To The Federal-State Joint Board ("Joint Board") On Universal Service*, as requested by the Joint Board in a Public Notice.[1] The Companies appreciate the opportunity to comment on the RTF's recommendation prior to the Joint Board formulating its recommendation to the Federal Communications Commission ("FCC") on universal service reform for rural carriers. They also commend the RTF for its extensive efforts in crafting a recommendation that can help rural companies and their customers in ensuring universal service will exist well into the future.

The Companies are commenting on the RTF recommendation because they think it is important for the Joint Board to understand the impact the recommendation would have on rural companies such as those in Nebraska. The Nebraska Companies represent a unique subset of rural companies that on average serve areas that are less dense than most rural telephone companies across the country, and are experiencing little if any access line growth. This combination of factors highlight the need for solutions from this proceeding that will satisfy the

[1] *See Federal-State Joint Board on Universal Service Seeks Comment on Rural Task Force Recommendation, Pleading Cycle Established*, CC Docket No. 96-45, Public Notice, FCC-00J-3 (rel. Oct. 4, 2000)

obligations of truly rural, low-growth companies such as those in Nebraska. As the RTF noted " . . . a detailed examination of the differences among Rural Carriers points out the *substantial diversity within the* class of more than 1,300 study *areas served by companies defined as Rural Carriers*."[2]

The RTF was faced with developing compromises to reach a consensus opinion between a broad cross-section of telecommunications industry interests, as well as the task of trying to address the substantial diversity within rural carriers as a group. In this process of trying to reach "middle ground" it was likely difficult to fully recognize the universal service support needs of companies such as those in Nebraska. For this reason, while the Companies largely support the RTF recommendation, they will highlight changes that should be made to the recommendation to address the unique situations faced by rural companies such as those in Nebraska.

Nebraska's Rural Companies Face Unique Challenges That Require Sufficient Universal Service Funding Solutions.

The data contained in the RTF's study of the differences between rural and non-rural companies, and further, the differences within the group of rural companies, helps to illustrate the uniqueness of the situations faced by Nebraska companies. Data developed to compare the distribution and cost of loops by size of cluster (a grouping of customers) using the Synthesis Model indicates that just over one-fifth (20.5 percent) of the lines served by rural Nebraska companies are located in areas that serve 50 or fewer customers per cluster.[3] The only other state used for comparison purposes that surpassed this proportion only slightly was Montana, with 20.9 percent of its rural company lines serving clusters of 50 or fewer customers. The

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[2] *See The Rural Difference*, Rural Task Force White Paper 2, January 2000, at 5-6 (emphasis added) available at http://www.wutc.wa.gov/rtf. Other Rural Task Force White Papers cited later are also available at this site.

[3] *See* Rural Task Force White Paper 2 at A-2-A-5.

composite proportion for all rural companies in the states selected for study was 5.9 percent of lines serving clusters of 50 or fewer customers. Thus, Nebraska rural companies serve more than three times the national proportion of lines in the relatively high-cost areas which serve 50 or fewer customers per cluster.

The RTF's Recommendation to Use the Modified Embedded Cost Mechanism Should be Adopted by the Joint Board.

The Companies support the RTF's recommendation to continue the use of an embedded cost mechanism to size the rural carrier fund, with modifications to address weaknesses in the current system. The Companies agree with the RTF's finding that the Synthesis Model ". . . is not an appropriate tool for determining the forward-looking cost of Rural Carriers."[4] The RTF based this recommendation on its finding that ". . . when viewed on an individual rural wire center or individual Rural Carrier basis, the costs generated by the Synthesis Model are likely to vary widely from reasonable estimates of forward-looking costs."[5] The Companies performed some preliminary analysis comparing Synthesis Model results to current costs and investments for selected Nebraska companies. They found, as did the RTF, that Synthesis Model results demonstrated wide variability by exchange or company. The use of the modified embedded cost mechanism would continue the practice of determining support based on company-specific costs, which reflect actual investments and expenses, unlike the Synthesis Model or other proxy models which develop a hypothetical network using one set of input prices to determine costs. Therefore, for this reason, the Companies also support the RTF's recommendation to use the modified embedded cost mechanism.

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[4] *See* Rural Task Force White Paper 2 at 18.

[5] Ibid.

Adjustments to the High Cost Loop Cap and Indexing are Desirable; However, to Ensure Adequate Support it Would be More Appropriate to Lift the Cap Entirely.

The Companies support the re-basing of the existing cap on the high cost loop ("HCL") fund and also the proposed method for indexing the HCL fund cap. However, while the RTF's recommendations on these issues are significant steps, the Companies believe that the cap should be lifted entirely. Completely lifting the cap would provide a greater incentive for rural carriers to continue to make necessary investments in their infrastructure, as they would not have lingering doubt about whether they would be adequately compensated for their investments. If the re-based cap on the HCL fund is imposed, however, it will continue to cast a shadow for rural carriers on whether they will be able to completely recover investment costs.

The Option to Allow For Self-Certification of Targeted High Cost Support Should be Expanded to Include Three Zones per Wire Center.

The RTF recommendation for disaggregation and targeting of high cost support does not adequately address the wide cost variation experienced by Nebraska's rural companies. Companies in states such as Nebraska have customers spread throughout exchanges, some of which are large in area. Being limited to two zones per wire center would result in a significant mismatch of support in many exchanges. Some customers would receive too much support while others would receive too little, thus sending improper cost and competitive entry signals. The RTF has recommended that rural carriers be allowed to self-certify a method for geographic disaggregation; however, if they wish to self-certify they could only disaggregate support into no more than two cost zones per wire center.[6] Another option is available which would allow rural carriers to disaggregate support in any manner they choose. However, under this option the

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[6] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service (*"Rural Task Force Recommendation"*) (rel. Sept. 29, 2000) at 36.

carrier would need to seek approval from its state commission and participate in administrative processes such as hearings and workshops. This requirement would be administratively and economically burdensome for both the carriers and the regulatory commission in Nebraska. Each rural carrier seeking additional zones, regardless of size, would be faced with the resource-intensive task of developing a plan, which might entail no more than three zones per wire center, and justifying the plan in regulatory proceedings. The Commission could be faced with conducting several different proceedings (there are 38 rural companies in Nebraska), possibly simultaneously, to review and approve the disaggregation plans. This would cause additional expense, uncertainty and delay.

The Companies recommend that the option to self-certify a plan for geographic disaggregation be modified slightly to allow support to be disaggregated into no more than three cost zones per wire center. The Companies note that the Multi-Association Group ("MAG") Plan for access reform for rate-of-return regulated companies that was recently filed with the FCC would permit rate-of-return carriers to disaggregate each study area's support into no more than three geographic zones per wire center. The plan proposes that the ". . . zones could include the area within a community or town limits as one cost region, the area surrounding the community to a cost-based transitional point, and then a third cost region for remote areas of the wire center where cost is highest and customer density the lowest."[7] This rationale for permitting three zones would allow for the zones to reflect the greater cost variation experienced by Nebraska rural companies. The MAG plan also allows carriers to seek to disaggregate support into more than three zones if necessary, however, the carrier would need to seek a waiver

[7] *See* Petition for Rulemaking of the LEC Multi-Association Group, filed October 20, 2000, Exhibit 1, Detailed Description at 1-20.

from the FCC and state commission. This would be similar to the RTF's path allowing carriers to seek review of their plan for targeting support with their state commission contained in the RTF recommendation.

Modifying the RTF recommendation for self-certification to include three zones per wire center instead of two would allow carriers that have greater cost variations to more closely target their support and relieve unnecessary burdens on companies and state commissions to hold multiple proceedings on this issue. Requiring carriers to have their plans reviewed by state commissions if they wanted more than three zones per wire center would allow appropriate regulatory oversight to determine if greater disaggregation is warranted.

The "Safety Net" and "Safety Valve" Proposals Would Do Little to Assist Rural Companies Such as Those in Nebraska.

The Companies appreciate the RTF's attempts to provide greater flexibility in the HCL fund limit cap through its recommendations for a "safety net"[8] and a merger and acquisition "safety valve."[9] However, the proposals would be of little help to Nebraska companies. The "safety valve" mechanism, which would apply to exchanges that are sold or transferred, would require that the acquiring entity designate the sold or transferred exchanges as a new study area. This does not allow a company, and its new and existing customers, to reap any benefits that might occur from adding to the existing study area to create a larger study area. A company would need to forego any possible benefits from consolidation leading to a larger study area, while the company would only be compensated for fifty percent of any positive difference in

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[8] *See Rural Task Force Recommendation* at 27.

[9] *See Rural Task Force Recommendation* at 29-30.

expenses for the new study area composed of transferred or acquired exchanges.[10] Thus, while the intent of the "safety valve" is to alleviate the possibility that customers in high cost rural exchanges that have been involved in sale/transfer transactions where the previous owner had limited access to universal service funds would be "doomed" to poor service, this proposal falls short. It is still a cap, and it does not allow for efficiencies of consolidation to take place.

The "safety net" proposal would only be available to study areas that had experienced 14 percent or greater annual growth in telecommunications plant in service ("TPIS") per line in years where the cap on the HCL fund would limit a study area's expense adjustment. The cap on the HCL fund would most likely be reached because of growth in support needs for companies with relatively high growth rates such as those eligible for the "safety net." Once the HCL cap is reached, all companies face a reduction in support. Due to the slow-growth or no-growth nature of the areas served by rural Nebraska companies, it is highly unlikely that they would experience growth in TPIS due to increases in the number of customers that would allow them to use the "safety net." Thus, while companies with the greatest growth, which probably cause the cap to be reached, could recover some of their lost support from the safety net, low-growth companies such as those in Nebraska would not benefit. A "safety net" proposal that allowed all companies an opportunity to recover reductions in support due to reaching the HCL cap, and not just high-growth companies, would be more equitable.

The FCC Should Address the Issue of Stranded Costs Quickly.

The RTF notes that the introduction of competition into areas served by rural carriers raises the possibility of unrecovered investment, or stranded costs. While the RTF discussed the stranded cost issue, it found that the issue was subject to a high degree of controversy and disagreement. Therefore, the RTF recommended that the FCC address this issue. In its

[10] *See Rural Task Force Recommendation* at 44.

discussion of the issue, the RTF noted that "[n]ot all ILECs have the potential to attract alternative revenue sources derived from their underlying plant built in compliance with legal obligations imposed by state commissions. . . ."[11] This is especially true for rural incumbent local exchange carriers ("ILECs") such as those in Nebraska. Small rural ILECs do not serve large, relatively dense geographic areas over which they could market other telecommunications services with instant name recognition. Also, the areas that many rural ILECs serve are experiencing little customer and population growth; in fact, some are actually encountering declines. Also, because of their small scale, the companies' costs of providing other services are greater than that of large competitors, hampering their ability to gain customers for other services such as long distance. The FCC should quickly establish a policy for dealing with stranded costs, as part of a comprehensive policy to adequately compensate companies like those in Nebraska. If the FCC waits for competitive entry to lead to stranded costs before acting, it could directly result in pressure on local ratepayers. In Nebraska, which has already implemented statewide local service rate benchmarks of $17.50 for residential customers and $27.50 for business customers,[12] the amount of stranded costs that could be offset through further basic local rate increases is questionable. As the RTF noted, "[t]he only alternative revenue source to recover lost universal service support for rate-of-return regulated carriers is to shift that revenue requirement into local service rates."[13]

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[11] *See Competition and Universal Service*, Rural Task Force White Paper 5, September 2000 at 19.

[12] *See The Nebraska Public Service Commission, on its Own Motion, Seeking to Conduct an Investigation into Intrastate Access Charge Reform*, Application No. C-1628, Findings and Conclusions, January 13, 1999 at 6.

[13] *See* Rural Task Force White Paper 5 at 19-20.

Conclusion

The Companies generally support the RTF's recommendation on universal service to the Joint Board. The recommendation to use a modified embedded cost mechanism to determine universal service support should be adopted without modification. However, it is critical that the recommendation regarding self-certification for disaggregation of support be modified to allow for support to be disaggregated into no more than three zones per wire center, instead of the current recommendation for two zones per wire center. This modification would better accommodate the greater cost variation experienced by Nebraska's rural companies, while not overloading the state commission in proceedings to review each individual company's plan for disaggregation.

Dated this 2nd day of November, 2000.

Respectfully submitted,

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The Blair Telephone Company,
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Hershey Cooperative Telephone Company, Inc.,
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K&M Telephone Company, Inc.,
Nebraska Central Telephone Company,
Pierce Telephone Co.,
Rock County Telephone Company,
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By _____

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Comments of the Nebraska Rural Independent Companies was sent by regular United States mail, first class postage prepaid, this 2nd day of November, 2000, to the following:

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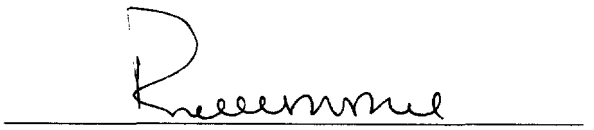

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