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December 8, 2003

VIA ELECTRONIC FILING

Christopher Libertelli
Senior Legal Advisor to Chairman Powell
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: CC Docket 96-45, Nebraska Rate Rebalancing

Dear Mr. Libertelli:

The purpose of this letter is to follow up on your request, made during our recent meeting on universal service issues, for details on the comprehensive rate rebalancing that has been implemented in Nebraska over the last four years. We appreciate the opportunity to review what has occurred in our state on this important area.

The Nebraska Public Service Commission ("NPSC") began the process of rate rebalancing on January 13, 1999, when it issued its first order in Application No. C-1628.[1] This order established the initial blueprint for the rate rebalancing process. The NPSC found that with the opening of incumbent local exchange carrier ("ILEC") markets to competition, the pricing of access, toll, and business basic local exchange service at rates that allowed the subsidization of residential basic local exchange service rates was no longer desirable. As a result, the NPSC indicated that the rates for services that provide implicit support should be reduced, and that the reduction in revenues caused by this action may be replaced through increases in basic local exchange rates and by support from the newly established Nebraska Universal Service Fund ("NUSF").

The NPSC recognized that a change of the magnitude envisioned for the rate-rebalancing program would take considerable time and effort, and therefore established a transition period over which the rate rebalancing was to occur. The NPSC established a transition period of three years for non-rural carriers and four years for rural carriers. During the transition period, carriers have received NUSF support on a revenue-neutral basis, but subject to a rate-of-return test. The NPSC has set the NUSF surcharge at 6.95 percent of intrastate revenues; interstate revenues are not currently assessed.

[1] *See generally In the Matter of the Application of 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, entered Jan. 13, 1999.

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Meanwhile, local service rates were also rebalanced under the transition plan. The NPSC selected a basic local exchange rate benchmark of $17.50 per month for residential service and $27.50 per month for single-line business service. By the end of the transition period, carriers adjusted their basic local exchange rates to be at or above the benchmark.

In addition, the NPSC has made various findings regarding intrastate access structure and rates, again with the goal of eliminating implicit subsidies to basic residential local service. Non-rural carriers were ordered to eliminate their carrier common line ("CCL") access charge element, while rural carriers were ordered to price their CCL access charge element such that it did not exceed $.02 per minute for originating or terminating CCL. Rural carriers were to adopt interstate July 1, 1998 traffic sensitive access rate levels for intrastate access rates, adjusted for interstate settlements by a factor of 1.25. The NPSC adopted the 1.25 factor to reflect rates that would more closely accommodate the total interstate traffic sensitive access cost requirement for rural Nebraska carriers participating in the National Exchange Carrier Association ("NECA") pool. The adjustment factor was utilized only for carriers that participated in the NECA pool. This method of developing traffic sensitive rate levels for rural companies was chosen to reflect the higher cost of providing intrastate access in rural Nebraska.

In a subsequent proceeding,[2] the NPSC ordered rural carriers to phase out their CCL access charge element over a period of two years so that the CCL element charge would be eliminated as of January 2004. The NPSC found that CCL costs should continue to be recovered through NUSF support. The NPSC rejected recommendations by several parties that Nebraska's other intrastate access rates for transport and local switching elements should mirror the interstate access rates and structure established for rural carriers in the Multi-Association Group ("MAG") Order. The NPSC found that mirroring the MAG order rates for intrastate rates would place an increasing burden on the NUSF, and would limit investment by Nebraska rural ILECs, which would produce results that are inconsistent with the NPSC's universal service goals.

The above rate adjustments and universal service funding ordered by the NPSC have been implemented under a transitional mechanism. The NPSC is currently developing a permanent state universal service support mechanism. While the docket to implement this permanent mechanism will continue throughout 2004, the NPSC has already reached various conclusions as to how that mechanism will operate.[3] Those include: (1) in order to receive support, a competitive eligible telecommunications carrier must comply with quality of service standards, implement equal access to interexchange carriers and demonstrate capability of serving an entire service area; (2) the level of support available in a support area would be based on the household density of that area; and (3) to encourage deployment of advanced services, a component to condition support on a carrier's deployment of broadband services will be included in the permanent NUSF mechanism at a later date.

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[2] *See In the Matter of the Nebraska Public Service Commission, on its Own Motion, Seeking to Conduct an Investigation of Intrastate Access Charges for Rural ILECs*, Application No. NUSF-28, Findings and Conclusions, entered Nov. 26, 2002.

[3] *See generally In the Matter of the Nebraska Public Service Commission, on its Own Motion, Seeking to Establish a Long-term Universal Service Funding Mechanism,* Application No. NUSF-26, Progression Order No. 4, entered Jan. 7, 2003.

We believe that the Nebraska system – which has rebalanced local rates, eliminated implicit subsidies yet maintained cost-based intercarrier compensation for rural carriers, and provided explicit universal service support subject to an earnings test – is a reasonable solution for the FCC to consider as it contemplates intercarrier compensation steps for rural carriers in the future. Please feel free to contact me if you have any questions.

Sincerely,

Ken Pfister

Ken Pfister
Vice President-Strategic Policy

Cc: Matthew Brill
Daniel Gonzalez
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Lisa Zaina