

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

Universal Service Contribution Methodology

Petition for Declaratory Ruling of the Nebraska Public Service Commission and the Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring that State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues

WC Docket No. 06-122

**COMMENTS OF THE RURAL IOWA INDEPENDENT
TELEPHONE ASSOCIATION**

RIITA is a non-profit association of rural independent telephone companies, representing approximately one hundred and thirty Iowa incumbent local exchange carriers. RIITA's membership is limited to companies that serve fewer than 20,000 access lines. In reality, most members actually serve far fewer than 15,000 access lines; approximately one half of RIITA's members serve 1000 or fewer access lines. All members serve high-cost rural exchanges.

The issues surrounding Universal Service are critical to companies serving high-cost areas. With the changing regulatory environment related to intercarrier compensation, states will be revisiting their own universal service fund regulations and states without universal service funds will be exploring whether to adopt a fund. Iowa is a good example of the latter. Though the state has no universal service fund, the Iowa Utilities Board has

an open docket investigating whether one is needed and has been actively working on that determination.

For state funds, as with the Federal Universal Service Fund, one issue of importance is what carriers should pay into the fund. The broader range of carriers required to pay into the fund, the more equitably the fund will function. As a result, RIITA has consistently filed statements with the Commission—and stated in ex parte meetings—that contributions into the Fund should be broadened to all telecommunications carriers, whether they are traditional landline carriers or wireless or VoIP carriers.

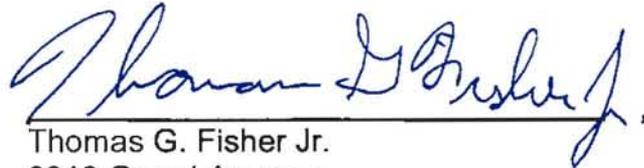
The same logic applies to state public universal service funds. The Petition filed by the Nebraska Public Service Commission and the Kansas Corporation Commission is designed to allow both commissions to assess charges on revenues of intrastate nomadic voice over internet protocol carriers. The United States Court of Appeals for the Eighth Circuit held in *Vonage Holdings Corp. v. Nebraska Public Service Commission*, 564 F.3d 900 (8th Cir. 2009) that state commissions are preempted from assessing these charges because of the impossibility exception in 47 U.S.C. § 152(b) as determined by this Commission. That decision is incorrect for the reasons stated by the Nebraska Commission in its appeal and, notably, for the reasons this Commission explained in its own *Amicus Curiae* brief that it filed in *Vonage Holdings*.

The Nebraska and Kansas Commissions' petition is a reasonable response to the Eighth Circuit's decision. RIITA urges the Commission to grant the Commissions' Petition as quickly as reasonably possible to clarify for other commissions—including those

considering state universal service funds—that they may assess revenues of interstate nomadic VoIP carriers.

Respectfully Submitted,

**PARRISH KRUIDENIER DUNN BOLES GRIBBLE
PARRISH GENTRY & FISHER L.L.C.**

A handwritten signature in blue ink, reading "Thomas G. Fisher Jr.", written over a horizontal line.

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