

September 3, 2010

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

RE: WC Docket No. 06-122; *Petition of Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rules Allowing State Universal Service Funds to Assess Charges on Nomadic Voice over Internet Protocol Intrastate Revenues.*

Dear Chairman Genachowski:

I am writing to ask for you to grant the petition of the Nebraska Public Service Commission and the Kansas Corporation Commission (KCC) allowing states to assess charges on nomadic voice over Internet protocol (VoIP) for intrastate revenues.

Adequate funding of the Kansas Universal Service Fund (KUSF) is critical to ensure telecommunication services are available to our customers at reasonable and affordable rates. As we expand access to broadband technology, customers will ultimately utilize VoIP services and it is imperative that all providers are contributing their fair share.

I appreciate your careful consideration of this issue that is critical to the future of state universal service funds and the associated programs.

Sincerely,

  
Mark Parkinson  
Governor of the State of Kansas

LEE TERRY  
NEBRASKA, 2ND DISTRICT

WASHINGTON OFFICE:  
2331 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-4155

DISTRICT OFFICE:  
11717 BURT STREET, SUITE 108  
OMAHA, NE 68154  
(402) 397-9944

Talk2Lee@mail.house.gov  
www.house.gov/terry



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August 18, 2010

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th St., S.W.  
Washington, D.C. 20554

In re: WC Docket 06-122

Dear Chairman Genachowski:

It is essential to the future of state universal service funds that the Federal Communications Commission grants the petition of the Nebraska Public Service Commission (NPSC) and the Kansas Corporation Commission (KCC) permitting states to assess collection charges to nomadic voice over Internet protocol (VoIP) services.

As more communications traffic evolves from circuit-switched to VoIP, lack of assessing this traffic will imperil the very networks that these VoIP services rely upon. The Nebraska Universal Service Fund (NUSF), administered by the NPSC, is critical to consumers in our state for deployment of broadband-capable facilities in rural areas, which ultimately carry VoIP services. If those services are given a free ride from contributing a fair share to state universal service funds, the future of the NUSF and all state funds will be in question.

At a time when the Commission is deliberating over universal service issues in the National Broadband Plan, it is imperative that the Commission send a positive signal that state universal service funds are necessary to the country attaining the goal of universal broadband availability. I urge the Commission to close this VoIP loophole and grant the petition of the NPSC and KCC.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Terry".

Lee Terry  
Member of Congress

Cc: The Honorable Michael J. Copps  
The Honorable Robert M. McDowell  
The Honorable Mignon Clyburn  
The Honorable Meredith Atwell Baker

## United States Senate

September 8, 2010

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554-0005

In re: WC Docket 06-122

Dear Chairman Genachowski:

As you are well aware, Universal Service Funds (USF), both on the federal and state level, play a critical role in keeping individuals in rural states such as Nebraska connected. In that regard, an issue has recently been brought to my attention that could significantly impact the future of my state's USF and I am requesting the Federal Communications Commission's (FCC) prompt resolution of this matter.

The Nebraska Universal Service Fund (NUSF), administered by the Nebraska Public Service Commission (NPSC), has been a critical resource in expanding and encouraging the deployment of broadband, which ultimately carries Voice over Internet Protocol (VoIP) services. Currently, the NPSC and the Kansas Corporation Commission (KCC) have a petition pending before the FCC which would allow states to collect state USF fees from providers of nomadic VoIP services.

The significance of this petition becomes evident as communications traffic evolves from circuit-switched to VoIP, and the lack of a resolution on this petition continues to give great uncertainty to state commissions such as the NPSC which strive to ensure that citizens receive high quality, safe and reliable telecommunication services. If nomadic interconnected VoIP service providers continue to avoid contributing their fair share to state Universal Service Funds, the future of the NUSF and other state funds have the potential to be greatly impacted.

Therefore, I urge the Commission to expeditiously resolve this issue and grant the petition of the NPSC and KCC. If you would like to discuss this issue further, please feel free to contact me directly or my staff member Jason Prokop at [Jason\\_Prokop@bennelson.senate.gov](mailto:Jason_Prokop@bennelson.senate.gov).

Sincerely,



E. Benjamin Nelson  
United States Senator

cc: The Honorable Michael J. Copps  
The Honorable Robert M. McDowell  
The Honorable Mignon Clyburn  
The Honorable Meredith Atwell Baker

EBN:bn

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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

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2125 RAYBURN HOUSE OFFICE BUILDING

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MAJORITY (202) 225-2927  
FACSIMILE (202) 225-2925  
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August 10, 2010

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The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

***In re: Petition of Nebraska Public Service Commission and Kansas Corporation  
Commission for Declaratory Ruling or, in the Alternative, Adoption of Rules  
Allowing State Universal Service Funds to Assess Charges on Nomadic Voice over  
Internet Protocol Intrastate Revenues, WC Docket No. 06-122***

Dear Chairman Genachowski:

Subjecting voice over Internet protocol (VoIP) services to State universal service fees would alter settled expectations and could have a significant impact on investment, economic growth, and broader universal service reform. We are skeptical this would be a wise course, and urge you to afford this issue due consideration in a notice of proposed rulemaking (NPRM), rather than just address it in a declaratory ruling.

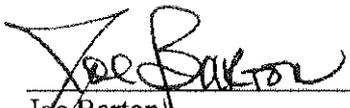
Internet services such as VoIP have been responsible for tremendous growth in the U.S. communications services, software, and equipment industries. Imposing regulation, fees, and taxes could weigh heavily on these markets, create a drag on innovation, and hinder our economy. Doing so through a patchwork of State regimes would exacerbate the effect.

Such considerations appropriately contributed to the Commission's determination in its 2004 *Vonage Order* that VoIP is inherently interstate in nature. Ruling that VoIP services are subject to State USF fees would not only contradict recent court decisions that the *Vonage Order* preempted such fees, it could create disruptive uncertainty by calling into question whether States may impose other regulations on VoIP services.

The issues raised in this proceeding are broadly significant to many industry participants and could have substantial collateral impact. The appropriate and well established means of creating or changing policy is to initiate a notice and comment rulemaking. Addressing this in a declaratory ruling would not only provide short shrift to a matter of consequence, it could also raise additional issues about retroactive applicability of such fees. Transparency and process strongly suggest the issuance of an NPRM rather than a declaratory ruling in this matter.

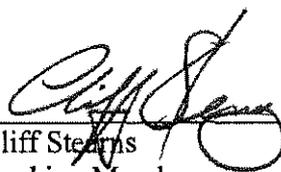
Please include a copy of this letter in WC Docket 06-122.

Sincerely,



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Joe Barton  
Ranking Member



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Cliff Stearns  
Ranking Member  
Subcommittee on Communications, Technology,  
and the Internet

cc: The Honorable Michael J. Copps  
The Honorable Robert M. McDowell  
The Honorable Mignon Clyburn  
The Honorable Meredith Attwell Baker