

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

| | | |
|---------------------------------|---|----------------------------|
| In the Matter of the Nebraska |) | Application No. NUSF-69.07 |
| Public Service Commission, on |) | |
| its own motion, seeking to |) | |
| implement policies and |) | |
| procedures related to providing |) | GRANTED IN PART |
| Dedicated universal service |) | |
| Support for Wireless |) | |
| Telecommunications Services: |) | |
| Petition received June 1, 2010 |) | |
| from Long Lines Wireless, LLC. |) | Entered: November 3, 2010 |

APPEARANCES:

For the Applicant:

Pro Se
Mr. Paul Bergmann
Chief Operating Officer
Long Lines, LLC
501 Fourth Street
Sergeant Bluff, IA 51054

For the Commission:

Shana Knutson
300 The Atrium Building
1200 N Street
Lincoln, Nebraska 68508

BY THE COMMISSION:

By Application filed June 1, 2010, Long Lines Wireless LLC (Long Lines) of Sergeant Bluff, Iowa, seeks support from the Nebraska Universal Service Fund (NUSF) dedicated wireless program. Notice of the application appeared in the Daily Record, Omaha, on June 4, 2010. The Commission allocated \$5 million for the 2010 NUSF calendar funding year in which this Petition was filed. No protests or interventions were filed.

A hearing on the application was held on October 6, 2010 in the Commission Hearing Room, Lincoln, Nebraska in conjunction with Docket Nos. NUSF-69.05 and NUSF-69.06. In support of its

application, Long Lines submitted the pre-filed testimony of Mr. Paul Bergmann, which was admitted into the record. Commission staff submitted pre-filed testimony for Ms. Sue Vanicek and Mr. Tyler Frost, which were admitted into the record.

Ms. Sue Vanicek testified on behalf of the Commission staff. Ms. Vanicek is the director of the Commission's NTIPS department. Ms. Vanicek reiterated several conditions that she recommended the Commission impose upon the approval of the application. First, she recommended approving towers in high cost, unserved, and underserved areas, and that towers be constructed to collocate public safety equipment and equipment from other carriers. Next, carriers should be required to enter into roaming agreements with other carriers when technically feasible. Finally, Ms. Vanicek recommended that the Commission require carriers to enable towers to be capable of providing Phase II Enhanced 911 services in anticipation of a request from a Phase II capable PSAP.

Mr. Tyler Frost also testified on behalf of the Commission staff. Mr. Frost is the Commission's economist and cost model expert. Mr. Frost provided a review of the Commission's analysis for determining whether the proposed tower sites should be eligible for universal service support and, if so, at what levels. Mr. Frost testified that Staff employed a methodology similar to that adopted by the Commission in its previous findings in dedicated wireless fund orders.

Mr. Frost testified that he used out-of-town household density, households per square mile, to determine eligibility for all proposed locations. Those towers located in areas with less than 4.5 households per square mile were identified as serving high-cost areas and eligible for dedicated wireless program support. In order to provide benefits to the greatest number of households in high-cost areas, Staff assigned rankings to all towers found to be eligible for funding from those serving the greatest number of out-of-town households to those serving the least number of out-of-town households. Further, Staff assigned additional proximity rankings to all towers found to be eligible for funding from those furthest from existing tower locations in the state to those closest. Together, the two rankings then determine the proposed tower's funding priority. Those towers receiving higher funding priority are funded first.

As a result of this analysis, Staff proposed that the Commission fund four towers submitted by Long Lines in the amount requested: Lyons, Newcastle/Obert, Pender, and Thurston. The remaining locations would receive no funding, as the Commission's allocation of \$5 million for dedicated wireless program support for the 2010 calendar year would be exhausted.

Finally, Mr. Paul Bergmann testified in support of Long Line's application. Mr. Bergmann is employed as the Chief Operations Officer with Long Lines, LLC, Long Lines' parent company. He testified that Long Lines operates 11 cellular sites in Nebraska covering Dixon, Dakota and Thurston counties. Long Lines seeks dedicated wireless universal service fund support to build 8 towers in unserved and underserved areas of the state. Long Lines estimates its costs to construct these towers would be approximately \$1,672,800. The proposed tower sites would be located in: Obert, Allen, Thurston, Pender, Rosalie, Lyons, Macy, and Decatur. Mr. Bergmann testified that Long Lines determined the cell sites by analyzing internal information as well as utilizing an outside consulting firm to perform drive tests.

O P I N I O N A N D F I N D I N G S

Based on the application and the evidence in the record, the Commission finds that Long Line's application for support from the NUSF dedicated wireless program should be approved for the following tower sites: **Lyons, Newcastle/Obert, Pender, and Thurston**. The remaining locations would receive no funding, as the Commission's allocation of \$5 million for dedicated wireless program support for the 2010 calendar year would be exhausted.

Reimbursement Process

Long Lines estimated the construction costs to be approximately \$1,672,800. The Commission approves reimbursement up to **\$834,400** or the **actual cost** of the sites approved in this Order, whichever is lower. Long Lines must first make the investment and then may file a request for reimbursement with the NTIPS Department. Long Lines does not need to complete the construction process prior to seeking reimbursement; rather, it may work with the NTIPS Department to develop intervals at which reimbursement can be sought. The dedicated wireless program will reimburse Long Lines for reasonable expenditures made related to the cell sites approved in this Order. Once the investment is

made, Long Lines shall file a request for support, provide the NTIPS Department with copies of the invoices and shall certify to the Department that it had made the described investment for the provision, maintenance and upgrading of facilities and services in the described rural areas.

As a dedicated wireless program recipient, the Commission finds Long Lines must meet the following conditions:

Exclusive Leasing Provisions Prohibited:

Long Lines may not enter into exclusive lease agreements with the facilities upon which it places its equipment. Owners of the facilities must not be prohibited from leasing additional space to the extent feasible to other providers. Long Lines shall provide the Commission with copies of the Lease Agreements for the approved sites prior to reimbursement.

Roaming Agreements:

Long Lines must agree to permit roaming at commercially reasonable rates. We believe this requirement to be an important policy objective. In its testimony, Long Lines indicated that it has roaming agreements with other carriers and agreed to this condition. The Commission will not require Long Lines to routinely file its roaming agreements. Entities denied roaming access at commercially reasonable or market-based rates may file a request with the Commission to make a determination as to whether this requirement is being satisfied.

Phase II Enhanced 911 Capability:

To advance public safety, the Commission requires that the cell sites funded by this approval must have the equipment and software necessary for Phase II wireless E911 capability. In addition, in a manner consistent with federal regulations, the wireless provider must provide Phase II wireless E911 service after a request has been made by a County or Public Safety Answering Point (PSAP). Long Lines must certify to the completion and commitment of these requirements prior to reimbursement from the dedicated wireless program.

Reporting Requirements:

Long Lines shall file, on an annual basis, consistent with federally designated ETCs, the information required by the

Commission's Telecommunications Rules pertaining to eligible telecommunications companies and the investment information required by the Commission's Order in Docket NUSF-66.

The Commission declines to adopt financial reporting requirements at this time. The Commission believes the annual ETC reporting requirements will be sufficient for the purposes of determining that dedicated wireless program support is being used for the provision, maintenance and upgrading of facilities and services in Nebraska. Long Lines shall file its annual report on or before June 1 of each year.

In addition, the Commission expects that construction on these projects will proceed in a prompt business-like fashion. Progress reports shall be filed on an annual basis or more frequently if deemed necessary by the Commission, so that the Commission can plan for the timing of distribution for these funds.

Continuing Nature of Requirements:

The Commission will enforce these requirements for as long as the cell sites are in use and providing service to customers. The Commission may take any action it deems necessary and appropriate to enforce the requirements and conditions in this Order.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria the Commission applied in this application for dedicated wireless program support. The Commission may modify the minimum requirements and conditions for future petitions for support from the dedicated wireless program.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application of Long Lines Wireless, LLC to approve support for the 2010 calendar year shall be, and it is hereby, granted in part as provided herein.

MADE AND ENTERED at Lincoln, Nebraska, this 3rd day of November, 2010.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Chairman

ATTEST:

Executive Director