

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-69
Public Service Commission, on)	Progression Order No. 7
its own motion, seeking to)	
implement policies and)	
procedures related to providing)	ORDER
dedicated universal service)	
support for wireless)	
telecommunications services.)	Entered: May 24, 2011

BY THE COMMISSION:

On March 22, 2011, the Commission entered Progression Order No. 6 seeking comments on a proposed modification to the dedicated wireless fund which would further encourage the deployment of current generation mobile services. The Commission invited interested parties to comment on the proposals designed to encourage the deployment of wireless broadband services throughout Nebraska. The Commission proposed that wireless carriers seeking support demonstrate that 3G or better would be offered in the designated areas. Alternatively, the Commission asked whether it should give greater weight to applicants seeking support which provide or propose to provide 3G or better mobile coverage in the supported area.

Comments were filed by U.S. Cellular Corporation and the Rural Independent Companies on April 19, 2011. Reply Comments were filed by N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless on May 3, 2011.

In support of the Commission's proposal RIC stated that the "transition of part or all of the Wireless Fund to other purposes authorized by the Nebraska Telecommunications Universal Service Fund Act is appropriate" and it "supports the Commission's efforts and work in reviewing, encouraging and supporting ubiquitous broadband deployment in the State of Nebraska."¹

U.S. Cellular discouraged the Commission from establishing technical standards and definitions as part of the application process because technology is constantly evolving.² U.S. Cellular

¹ *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to implement policies and procedures related to providing universal service support for wireless telecommunications services, Application No. NUSF-69, Progression Order No. 6, Rural Independent Companies' Response to Commission March 22, 2011 Order Seeking Comment (April 19, 2011) at 2.*

² *See In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to implement policies and procedures related to providing universal service support for wireless telecommunications services, Application*

stated that "a better concept rather than imposing a prerequisite may be to place applicants who propose to provide 3G or even 4G coverage in higher regard than those who do not."³

In its Reply Comments, Viaero stated that it "concurs with filed Comments of U.S. Cellular" that the Commission should refrain from making a specific technology a standard requirement for carriers to receive support from the Dedicated Wireless Fund.⁴ Viaero stated that the deployment of the "next" generation of wireless service is driven on a world-wide basis rather than on a state or local level.⁵ In addition, Viaero stated that to encourage deployment of more wireless broadband service, Viaero recommended allocating more NUSF funds to the Dedicated Wireless Fund.⁶ Viaero agreed with U.S. Cellular that the Commission should "choose to create a system of "prioritization" which would provide a preference to a wireless carrier's application when 3G, 4G or other subsequent generation of services will be deployed in a specific area sought for support from the Dedicated Wireless Fund."⁷

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

As the FCC's National Broadband Plan recognized, universal service policies must evolve to promote the most recent advances in communications infrastructure and innovation. This reform requires state and federal coordination. Universal broadband service would bring valuable benefits to Nebraska consumers and businesses through e-commerce, education, health care, public safety and for everyday communications. For some time, the Commission has been investigating ways to utilize the NUSF programs to encourage the deployment of broadband and to supplement the policies being formulated on the federal level in its NUSF-77 proceeding. Similarly, as it pertains to wireless

No. NUSF-69, Progression Order No. 6, Comments of United States Cellular Corporation (April 19, 2011) at 1-2.

³ *Id.* at 2.

⁴ *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to implement policies and procedures related to providing universal service support for wireless telecommunications services*, Application No. NUSF-69, Progression Order No. 6, Reply Comments of N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless (May 3, 2011) at 2.

⁵ *See id.*

⁶ *See id.*

⁷ *Id.* at 3.

carriers, the Commission believes it is important to encourage broadband deployment through its Dedicated Wireless Fund Program. In consideration of the comments received by interested parties on the Commission's proposals, the Commission is of the opinion and finds that it would be appropriate to consider a wireless fund applicant's commitment to provide universal broadband service coverage when weighing the merits of that provider's application. Wireless fund applicants should provide details in their applications regarding the extent of their deployment of wireless broadband services in their designated service territory. The Commission directs the staff to consider the availability of wireless broadband service among the factors currently used to make a recommendation to the Commission for wireless fund support.

The Commission agrees with US Cellular and Viaero that, at least for the 2011 calendar support year, it should refrain from adopting specific technical broadband standards as a condition precedent to the receipt of wireless broadband support. The Commission declines to expand the size of the dedicated wireless fund for the 2011 calendar year and instead finds that it will again set aside \$5 million dollars for this calendar year as available for dedicated wireless fund applications. However, in future years, the Commission may reconsider these issues or make additional changes to further encourage the deployment of wireless and wireline broadband services.

Although we decline at this time to adopt specific technological requirements as a condition precedent to awarding wireless fund support, we do find that the Commission should use the standard proposed by the FCC when determining whether the service offering qualifies as broadband. As defined in the FCC's Mobility Fund NPRM, "3G" and "current generation" refers to mobile wireless services that include voice telecommunications service as well as email and Internet service. In terms of speed qualifications, an applicant must commit to providing wireless service meeting or exceeding the following minimum standards: outdoor minimum of 200 kbps uplink and 768 kbps downlink to handheld mobile devices at vehicle speeds up to 70 MPH.⁸ For the purpose of this Order, and to be consistent, we use the same definitional characterizations.

In addition, the Commission will require a commitment from dedicated wireless fund recipients which provide mobile broadband

⁸ See *In the Matter of Universal Service Reform Mobility Fund*, Notice of Proposed Rulemaking, WT Docket No. 10-208, FCC 10-182, (October 14, 2010) at paras. 2 and 40.

service in Nebraska to submit broadband availability data to the Commission and its vendors for the duration of the State Broadband Data and Development (SBDD) program so that this broadband coverage area can be depicted on the Commission's state broadband data inventory map and on the National Telecommunications and Information Administration's (NTIA's) national broadband map.⁹ Although the Commission currently requests the voluntary assistance from broadband providers in this project, we believe reporting broadband availability should be a requirement for dedicated wireless fund recipients.

In light of the Commission's decision herein, and to give interested parties time to adjust to the adoption of these modifications, the Commission has moved the petition due date from June 1st to July 1st for the 2011 calendar year support.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the opinions and findings described herein be and they are hereby adopted.

MADE AND ENTERED at Lincoln, Nebraska this 24th day of May, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

⁹ See Department of Commerce, National Telecommunications and Information Administration, State Broadband Data and Development Grant Program, *Notice of Funds Availability and Solicitation of Applications*, 74 Fed. Reg. 32545 (July 8, 2009) (NOFA) and subsequent clarification issued in 74 Fed. Reg. 46573 (September 10, 2009).

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Red Jones
Bruce Buefle
Donald L. Vop

Tim Schram
Chairman

ATTEST:

Shirley S. [Signature]
Executive Director

//s//Frank E. Landis
//s//Tim Schram

⁹ See Department of Commerce, National Telecommunications and Information Administration, State Broadband Data and Development Grant Program, Notice of Funds Availability and Solicitation of Applications, 74 Fed. Reg. 32545 (July 8, 2009) (NOFA) and subsequent clarification issued in 74 Fed. Reg. 46573 (September 10, 2009).