

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. NUSF-69
Public Service Commission, on) Progression Order No. 6
its own motion, seeking to)
implement policies and)
procedures related to providing) ORDER SEEKING COMMENTS
dedicated universal service)
support for wireless)
telecommunications services.) Entered: March 22, 2011

BY THE COMMISSION:

The Commission opened this proceeding to determine the amount of support, the allocation of support, and to implement policies and procedures for the Nebraska universal service fund (NUSF) dedicated wireless program.¹ Through a series of progression orders and hearings the Commission developed a process for wireless carriers to seek dedicated wireless fund support for the construction of cell towers or equipment in rural areas. The Commission first awarded support to wireless carrier applicants through this program in early 2009. To date, approximately \$12.5 million has been awarded to wireless carriers for tower and cell site construction costs to increase the deployment of wireless service throughout Nebraska. As a condition precedent to support, the Commission requires wireless carriers to adhere to some basic requirements which encourage the deployment of modern facilities, infrastructure sharing, and the availability of Phase II E911 capabilities.

The Commission enters this Progression Order to seek comments on a proposed modification to the dedicated wireless fund which would further encourage the deployment of current generation mobile services. We invite interested parties to comment on the proposals described in this Order and to comment on the timeframe in which the proposals, if adopted, should be implemented.

On November 3, 2010 the Commission adopted Progression Order No. 1, in NUSF-77, finding that it had the authority to implement a broadband pilot program to encourage the deployment of advanced telecommunications services in Nebraska. The Commission sought further comments on how this should be implemented.

On October 14, 2010, the Federal Communications Commission (FCC) issued a Notice of Proposed Rulemaking seeking comment on

¹ The Commission previously approved support for the dedicated wireless program in Docket NUSF-48 on October 18, 2005. The Commission opened the above-captioned proceeding to implement policies and procedures for the wireless program.

the establishment and design of a federal Mobility Fund.² In that Order, the FCC sought comments on a number of performance requirements including the requirement that mobility fund recipients provide 3G or better mobile coverage in specific areas where such coverage is lacking.³ The FCC Order proposes to require federal Mobility Fund recipients to meet phased-in milestones in a census block to remain qualified for the full amount of any Mobility Fund award.

We seek comment on whether to require dedicated wireless fund recipients to provide 3G or better mobile coverage in the supported area. We propose that wireless carriers seeking support demonstrate that 3G or better will be offered in that specific area in the petition process. In addition, we seek comment on whether to require wireless fund recipients to reach a certain broadband coverage percentage throughout their wireless coverage area in order to maintain eligibility. If so, what percentage would be appropriate?

Alternatively, if the provision of broadband services is not a condition precedent to the receipt of support, should the Commission give greater weight to applicants seeking support which provide or propose to provide 3G or better mobile coverage in the supported area? If so, how much weight should be accorded to those providers in the review process? Should there be any consequence to wireless providers who state that they will provide 3G or better mobile coverage but do not within the timeframe prescribed by the Commission? If so, what would be the appropriate consequence?

In addition, we propose requiring a commitment from dedicated wireless fund recipients which provide 3G or better mobile coverage in the supported area 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)

² 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) ("*Mobility Fund NPRM*").

³ As defined in the FCC's Order, "3G" and "current generation" referred 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. For the purpose of this Order, and to be consistent, we use the same definitional characterizations. See *Mobility Fund NPRM* at paras. 2 and 40.

national broadband map.⁴ Although the Commission currently requests the voluntary assistance from broadband providers in this project, we seek comments on whether reporting broadband availability should be requirement for dedicated wireless fund recipients.

Finally, we seek comment on the timeframe for implementing the proposed requirements if adopted. Currently, petitions for support are due by June 1st every calendar year. In light of the current comment cycle and to give interested parties time to adjust to the adoption of any modified requirements, the Commission hereby moves the petition due date from June 1st to July 1st for the 2011 calendar year support.

Comments on the issues raised in this Order may be filed on or before **April 19, 2011**. Reply Comments may be filed on or before **May 3, 2001**. Interested parties filing comments shall file one paper copy and one electronic copy of their comments with the Commission. Electronic copies may be sent via electronic mail to Brandy.Zierott@nebraska.gov. Comments will be posted on the Commission's website after the due date has passed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that comments on the foregoing issues are hereby solicited. Comments shall be filed in the manner prescribed above on or before **April 19, 2011**. Reply Comments shall be filed on or before **May 3, 2011**.

MADE AND ENTERED at Lincoln, Nebraska this 22nd day of March, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

⁴ 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).