

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Petition of)	Application No. NUSF-77.01,
the Nebraska Telecommunications)	Progression Order No. 5
Association for Investigation)	
and Review of Processes and)	
Procedures Regarding the)	
Nebraska Universal Service Fund:)	GRANTED, IN PART
Application to the Nebraska)	
Broadband Pilot Program (NEBP))	
received from Mobius)	
Communications Company.)	Entered: June 26, 2012

APPEARANCES:

For Mobius Communications Company, Great Plains Communications & Consolidated Telephone Company:

Mr. James Overcash
Attorney at Law
WOODS AITKEN, LLP
301 South 13th Street, Suite #500
Lincoln, Nebraska 68508

For Dalton Telephone Company:

Mr. Paul Schudel
Attorney at Law
WOODS AITKEN, LLP
301 South 13th Street, Suite #500
Lincoln, Nebraska 68508

For Frontier Communications:

Mr. Kevin Saville
Associate General Counsel
Frontier Communications Solutions
2378 Wilshire Boulevard
Mound, Minnesota 55364

For CenturyLink:

Mr. William E. Hendricks
Attorney at Law
805 Broadway Street
Vancouver, Washington 98660-3277

For N.E. Colorado Cellular, Inc. d/b/a Viaero:

Mr. Loel P. Brooks
Attorney at Law
BROOKS, PANSING BROOKS, PC, LLO
1248 O Street, Suite 984
Lincoln, Nebraska 68508-1424

For the Nebraska Public Service Commission:

Ms. Shana L. Knutson
Attorney at Law
Nebraska Public Service Commission
1200 N Street, Suite 300
Lincoln, Nebraska 68509-4927

BY THE COMMISSION:

Background

By Application filed January 19, 2012, Mobius Communications Company (Mobius) seeks Nebraska Broadband Pilot (NEBP) Program support. Notice of the Application appeared in the Daily Record, Omaha, Nebraska on February 7, 2012. On March 26, 2012, N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless (Viaero) filed a Formal Petition of Intervention in the above-captioned proceeding. That Petition was granted on April 3, 2012.

A procedural conference was held on April 5, 2012. With the consent of the applicant, a procedural schedule was adopted. Pursuant to that Order, the staff's recommendation was filed on April 23, 2012. Pre-filed testimony was filed on May 7, 2012 and reply testimony was filed on May 21, 2012.

On May 30, 2012, the Commission held a public hearing on the application in Lincoln, Nebraska. For administrative efficiency, and with the consent of all parties, the hearing was consolidated with the hearings in NUSF-77.02, NUSF-77.03, NUSF-77.04, NUSF-77.05, NUSF-77.06 and NUSF-77.07. Mr. James Overcash entered an appearance on behalf of the Applicant. Mr. Loel Brooks entered an appearance on behalf of Viaero.

Project Overview

Mobius is a certificated competitive local exchange carrier authorized to provide such service by the Commission in Docket No. C-2551 on August 7, 2001. Its principal office is located in Hemingford, Nebraska.

Mobius requested NEBP support for its "Fiber to the Home (FTTH) River Road Project." The FTTH River Road Project is a Tri-County project located in Box Butte, Dawes and Sioux Counties of western Nebraska. The closest incorporated community is 20 miles from this rural area. According to the application, the customers along this route have only one option for high-speed Internet which is through Satellite Internet.

The proposed project would cover approximately 150 square miles and include the plowing of 50 miles of fiber optic cable. In addition to broadband service, the proposed facilities would also be capable of delivering voice service. Emergency response will be addressed by ordering direct E911 redundant circuits that tie into the customers' emergency dispatch center. The proposed facilities would also provide bandwidth sufficient for customers to access video service.

Mobius provided a project timeline, a proposed budget showing project costs, a description of its 25 percent match, and a detailed breakdown of the cost elements. Mobius provided a depreciation schedule showing the life of the investment. Mobius provided a copy of its latest financial report to demonstrate financial qualifications to complete its portion of the proposed project. In addition, Mobius provided detailed map information showing the proposed project coverage by census block.

Staff Analysis

The Commission staff analyzed each project including the project filed by Mobius. The staff first reviewed the application to determine whether the eligibility requirements of Progression Order No. 5 had been met. Next, the staff reviewed the application to determine whether all application requirements listed in Progression Order No. 5 were fulfilled. Next, the staff grouped projects into categories based on the nature of each area being served, the existence of any intersection with another proposed project and the interdependency of each project as determined by the applicant's defined implementation schedule. The staff's group assignment created a priority hierarchy. Within each hierarchy, the project was then scored based on the criteria described in the Staff Recommendation.

The staff recommended approving the application of Mobius, in part, in the amount of **\$498,780**.

Hearing

Ms. Sue Vanicek, Director of the Department presented testimony at the hearing relative to the recommended adjustments to funding amounts. She testified that the Department reviewed each application and identified certain personnel costs, ongoing expenses and legal costs which should be excluded. Ms. Vanicek's testimony was offered and received into the record as Exhibit Nos. 3 and 4.

Mr. Tyler Frost, the staff Economist presented testimony related to the staff's methodology for recommending NEBP support. Mr. Frost provided further details about how the staff reviewed and scored each application. Mr. Frost's testimony was offered and received into the record as Exhibit Nos. 5 and 6.

Ms. Tonya Mayer, General Manager for Mobius, presented testimony in support of the application and the staff's methodology. Ms. Mayer's testimony was offered and received into the record as Exhibit No. 7. Mobius' application was offered and received into the record as Exhibit No. 15. Ms. Mayer testified that Mobius is a competitive local exchange carrier serving customers in the western panhandle of Nebraska. Mobius has received commitments from customers in the area to take broadband service if offered. Ms. Mayer further stated Mobius appreciated the staff's recommendation and would ask the Commission to approve its application.

Mr. Andy Newell, General Counsel for Viaero, also presented testimony in support of the staff's methodology. Viaero did not present testimony in opposition to Mobius application for NEBP support.

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

On June 14, 2011, the Commission issued Progression Order No. 3 in NUSF-77, finding that making explicit NUSF support available for broadband deployment would complement the Commission's existing goal to support networks that provide voice service as well as advanced services. In addition, the Commission found promoting ubiquitous broadband availability was a state and federal responsibility which would require both state and federal financial support. Through further progression orders the Commission adopted criteria for the NEBP program eligibility, application requirements, and provided a timeline for the consideration of NEBP projects.

Based on the application and the evidence in the record, the Commission finds Mobius' application for NEBP program support to fund the FTTH River Road Project should be approved in part consistent with the staff's recommendation. The Commission approves support up to an amount of **\$498,780** or actual cost of construction for the project whichever amount is lower.

Reimbursement Process:

Mobius must first make the investment and then may file a request for reimbursement with the NTIPS Department. Mobius 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 NEBP program will reimburse Mobius for reasonable expenditures made related to project specifications detailed in the application and approved in this Order. Once the investment is made, Mobius shall file a request for support, provide the NTIPS Department with copies of the invoices or other acceptable documentation¹ 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 area defined in the application.

As a NEBP program recipient, the Commission finds Mobius must meet the following conditions:

1. The supported broadband service upon completion of the deployment must be available as a service offering to all households within the area defined by the application for a minimum period of five (5) years;
2. The project must be completed within 24 months from the date of this Order unless otherwise extended by the Commission;
3. Voice grade service must be available to customers within the service area of the broadband deployment;
4. Access to emergency services must be available to customers within the service area of broadband deployment;
5. Broadband support must only be used for the purposes intended and which have been approved by the Commission;
6. Voice and broadband service in the area described in its application must be offered at reasonably comparable rates for comparable services it offers in urban areas;
7. Reporting, verification, and audit requirements adopted by the Commission for oversight of the NEBP program must be met; and
8. Adherence to all applicable Commission rules, regulations and orders.

¹ The Commission will provide the Department with the discretion to determine the type of documentation needed to verify the expenditures made when not provided through a third-party invoice.

Continuing Nature of Requirements:

The Commission will enforce these requirements throughout the period of the grant and the 5 year period following the completion of the project to ensure the Commission's objectives for this program are being met. Mobius shall notify the Commission in writing once the project(s) have been completed and the proposed broadband service is being offered. The Commission may take any action it deems necessary and appropriate to enforce the requirements and conditions in this Order.

To encourage public awareness about the deployment of broadband service in Nebraska, we find Mobius should be required to report broadband availability to the Commission and its broadband mapping vendor for the duration of the State Broadband Data and Development (SBDD) Program.

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

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Application filed by Mobius Communications Company shall be and it is hereby granted in part as provided herein.

IT IS FURTHER ORDERED that Mobius Communications Company shall comply with requirements set forth herein.

IT IS FURTHER ORDERED that Mobius Communications Company shall submit detailed and accurate invoices and other documentation required by the Department prior to reimbursement for the supported project.

IT IS FURTHER ORDERED that Mobius Communications Company shall use Nebraska Broadband Pilot Program support only for the purposes described in its application and authorized by the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 26th day of June 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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MADE AND ENTERED at Lincoln, Nebraska, this 26th day of June 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tim Schram
Aune Boyer
Gerald L. Up

//s// Rod Johnson
//s// Frank Landis

Chairman

Joel J. [unclear]

ATTEST:

Phil [unclear]
Executive Director