

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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|--------------------------------|---|----------------------------|
| In the Matter of the Nebraska |) | Application No. NUSF-92.13 |
| Public Service Commission, on |) | |
| its own motion, seeking to |) | |
| administer the Nebraska |) | GRANTED, IN PART, AS |
| Universal Service Fund's |) | AMENDED |
| Broadband Program: Application |) | |
| to the Nebraska Broadband |) | |
| Program Received from Raicom. |) | Entered: June 24, 2014 |

APPEARANCES:

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BY THE COMMISSION:

Background

By Application filed February 3, 2014, Raicom, Inc. ("Raicom" or "Applicant") seeks Nebraska Broadband Program (NEBP) support. Notice of the Application appeared in the Daily Record, Omaha, Nebraska on February 7, 2014. Petitions of Formal Intervention were filed by Great Plains Communications ("Great Plains"), Consolidated Telco, Inc. ("Consolidated Telco"), Pinpoint Wireless, Inc. d/b/a BLAZE Wireless ("Pinpoint"), N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless ("Viaero"), and Charter Communications ("Charter"). Charter and Viaero withdrew their Formal Interventions on March 20, 2014 and March 27, 2014 respectively.

A staff recommendation was filed on April 22, 2014. Pre-filed testimony was filed by Raicom on May 9, 2014. Pre-filed

testimony in opposition to the Application was also filed by Consolidated Telco and by Great Plains on May 9, 2014. Pre-filed Reply testimony was filed by Consolidated Telco on May 28, 2014. Reply testimony for Raicom was filed by leave of the Hearing Officer on June 9, 2014.

On June 10, 2014, the Commission held a public hearing on the application in Lincoln, Nebraska. For administrative efficiency, the hearing was consolidated with the hearings in NUSF-92.01 through NUSF-92.12 and NUSF-92.14 through NUSF-92.16. Mr. Andrew S. Pollock entered an appearance on behalf of the Applicant, Raicom. Mr. Paul Schudel entered an appearance on behalf of Consolidated Telco and Great Plains. Mr. Russell Westerhold entered an appearance on behalf of Pinpoint.

Project Overview

Applicant is a communications company affiliated with Benkelman Telephone Company ("BWT") which is based in Benkelman, Nebraska. BWT has been providing telephone services since 1944. Raicom offers non-regulated services such as broadband. Applicant originally proposed four (4) broadband projects in Nebraska. Applicant amended its application on April 15, 2014 which reduced Raicom's request for support in Project One (Rural Frontier County-McCook North), and eliminated Project Two (SW Chase County).

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

Staff Analysis

The Commission staff analyzed each project including the projects filed by Raicom. The staff first reviewed the application to determine whether the eligibility requirements had been met. Next, the staff reviewed the application to determine whether all application requirements listed in Progression Order No. 5 were fulfilled. Each project was then scored.

To score this application, the Commission staff took various pieces of information directly from the applications

submitted for each project and utilized in factor development. This data included; retail monthly recurring and nonrecurring end-user rates for the provisioning of broadband service; the speed (Mbps) of the respective service being offered; and the total grant request amount for each project.

Additionally, the staff obtained various other data, from publicly available sources, also used in factor development. This data included: residential monthly recurring rates for voice service and subscriber line charges, if applicable;¹ population and household by census block;² area by census block;³ and broadband availability.⁴

The Commission staff then utilized a group assignment to prioritize areas determined as unserved,⁵ using the broadband mapping data as a starting point for its review. Staff triaged the projects into categories, or groups, based on the nature of each area being served and the total cost of each project. Any project comprised completely of unserved areas received a Group Assignment value of one (1). If not identified as Group Assignment one, the highest scoring project submitted by each applicant received a Group Assignment of two (2) All remaining projects, containing some hybrid of various levels of unserved and underserved areas, received a Group Assignment of three (3) through five (5), based on the total cost of the project.⁶

The Commission staff noted the dramatic increase in the number of projects submitted resulting in demand which significantly outpaced supply. As such, the Commission staff utilized total cost in the determination of the group assignment in an effort to advance the objectives of the NEBP; expanding broadband service availability to the greatest number of Nebraskans.⁷ The staff's group assignment created a priority

¹ Company specific publicly filed tariffs.

² United States Census Bureau, Census 2010 Summary File 1.

³ United States Census Bureau, 2010 Tiger/Line Shapefiles.

⁴ State Broadband Initiative Broadband Mapping Data, April 2014 submission.

⁵ See *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Docket No. NUSF-77, Progression Order No. 5, ORDER at 7 (November 21, 2011).

⁶ All projects filed for the NEBP in 2014 are independent of all other projects filed by the same applicant.

⁷ See *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures*

hierarchy. Within each hierarchy, the project score assigns rank based on the criteria described in the Staff Recommendation.

As a result, the staff recommended approving Raicom's amended application, by recommending support for the three (3) projects in the amount of **\$287,702.**

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 costs which should be excluded. Ms. Vanicek's testimony was offered and received into the record as Exhibit No. 22.

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 No. 23.

Mr. Randall Raile, General Manager for Raicom, testified in support of the application. Mr. Raile's pre-filed direct testimony was received into evidence as Exhibit No. 40 and his pre-filed reply testimony was received into evidence as Exhibit No. 41. Raicom's application and amended application were received into evidence as collective Exhibit No. 15.

Mr. Raile testified Raicom made modifications to its original application following negotiations with Great Plains, Consolidated Telco, Viaero and Pinpoint. The Amended Application was filed on April 15, 2014. Mr. Raile testified approval of proposed Projects 1 (Frontier), 3 (Wauneta), and 4 (Hitchcock) would make broadband available to residents by an LTE wireless broadband distribution system utilizing licensed 700 MHz wireless spectrum. The LTE system proposed would provide voice/data units for fixed wireless broadband as well as handheld pocket routers and PC dongles for laptop computers for mobile wireless broadband services. Mr. Raile testified that Raicom satisfies the Commission's eligibility requirements. Mr. Raile testified the Project 1 area was approximately 25 percent unserved by any wireline broadband connectivity. Mr. Raile's

testimony acknowledged that Consolidated Telco provides wireline broadband in 75 percent of the Project 1 area.

Mr. Brian Thompson, Vice President of External Relations for Consolidated Telco, testified in opposition to Raicom's proposed Project 1. Mr. Thompson's pre-filed testimony was received into evidence as Exhibit Nos. 42 and 43. Mr. Thompson testified Raicom's Project 1 would provide fixed point broadband service directly in competition with the landline-based fixed point broadband service currently offered by Consolidated and Curtis Telephone Company in the Project 1 area. Mr. Thompson further testified that in Application No. NUSF-77.23 on November 25, 2013, Consolidated was awarded a Nebraska Broadband Program grant to construct broadband service in ninety-three (93) census blocks included in the Raicom application area.

Mr. Mike Huggenberger, Senior Director-Technology and Engineering Services for Great Plains, filed testimony in opposition to Raicom's Project 3. Mr. Huggenberger's pre-filed testimony was received into evidence as Exhibit No. 45. Great Plains opposed Project 3 as a result of overlap of areas of Northwest Chase County for which broadband service will be implemented by Great Plains later this year. Mr. Huggenberger testified that approximately 25 percent of the households could be served by Great Plains by 4th Quarter 2014 as a result of the NEBP funding awarded in 2013.

In response to Great Plains' testimony, Mr. Raile stated that the issue of overlap was without merit. Mr. Raile testified that the area at issue is small and insignificant. In addition, Mr. Raile testified the service offered by Raicom will have a mobile broadband element.

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 record, and the Commission's weight of the testimony and evidence presented, the Commission is of the opinion and finds Raicom's Project 1 (Frontier) should not receive funding at this time. The Commission remains unconvinced as to purported lack of broadband availability in the Project 1 area. In Raicom's testimony, Raicom stated its proposed Project 1 would provide both a fixed and a mobile broadband service to consumers located in Raicom's service territory. However, last year, the Commission provided NEBP grant support to Consolidated Telco for a fiber project in over 75 percent of the proposed Raicom Project 1 area. This NEBP support provided subscribers in the area with wireline broadband availability. The existence of Consolidated Telco's broadband coverage from the 2013 NEBP grant has not yet been reported to the Commission, and, as the staff Economist acknowledged, this was not taken into consideration at the time the Staff Recommendation was released.

The Commission was also provided competing evidence about the existence of mobile broadband in the Project 1 area.⁸ The Commission is not persuaded by Raicom that providing additional NEBP support for a fixed/mobile broadband project in an area where the Commission knows that there is fixed broadband availability and in an area which appears to also have mobile broadband availability would serve the goals of the program. If Raicom has more information demonstrating a lack of wireless broadband availability in the Project 1 area, the Commission invites Raicom to re-file a more targeted application addressing the purported lack of broadband coverage.

Conversely, the evidence in the record does not persuade the Commission to deny support for Project 3. The Commission agrees with Raicom that without NEBP support, a large portion of the Project 3 area will continue to go unserved. In addition, there was no convincing evidence to rebut Raicom's claim that the area lacked mobile broadband availability.

In sum, the Commission finds Raicom's application for NEBP program support should be approved in part, as amended, consistent with the staff testimony at the hearing. The Commission approves support for Project 3 (Wauneta) and Project 4 (Hitchcock) in an amount of **\$162,377 or the actual cost** of construction whichever amount is lower. The Commission denies support for Project 1 (Frontier).

⁸ See Exhibit Nos. 44 and 49.

Reimbursement Process:

Raicom must first make the investment and then may file a request for reimbursement with the NTIPS Department. Raicom 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 Raicom for reasonable expenditures made related to project specifications detailed in the application and approved in this Order. Once the investment is made, Raicom shall file a request for support, provide the NTIPS Department with copies of the invoices or other acceptable documentation⁹ 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 Raicom 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.

⁹ 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 five (5) year period following the completion of the project to ensure the Commission's objectives for this program are being met. Raicom 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 Raicom 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 Raicom shall be and it is hereby granted in part, as amended, to the extent provided herein.

IT IS FURTHER ORDERED that Applicant shall comply with requirements set forth herein.

IT IS FURTHER ORDERED that Applicant shall submit detailed and accurate invoices and other documentation required by the Department prior to reimbursement for the supported project(s).

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

MADE AND ENTERED at Lincoln, Nebraska, this 24th day of June, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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MADE AND ENTERED at Lincoln, Nebraska, this 24th day of June, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Dave Boyle

Tim Schram

Deanna
Gerald L. Up

Frank E. Landis
Chairman

ATTEST:

Steve Meredith
Executive Director

//s//Frank E. Landis