

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. NUSF-99  
Public Service Commission, on ) PROGRESSION ORDER NO. 2  
its Own Motion, to Administer )  
the Universal Service Fund ) ORDER SEEKING COMMENT  
High-Cost Program. )  
 ) Entered: November 13, 2019

BY THE COMMISSION:

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

The Nebraska Public Service Commission (Commission) initiated this proceeding on October 15, 2014 to consider certain modifications to the high-cost funding mechanism in the universal service fund program. The Commission solicited comments on certain modifications affecting the carriers classified federally as price cap carriers.

In general terms, the Commission proposed to adopt a separate distribution mechanism for price cap carriers designed to target and track Nebraska universal service fund investments in broadband infrastructure. The Commission proposed to distribute support to price cap carriers outside the current distribution mechanism through a mechanism that was more comparable to the FCC's Connect America Fund ("CAF").

On September 1, 2015, the Commission adopted a framework by which price cap carrier support would be distributed.<sup>1</sup> The Commission froze the amount of support allocated to price cap carriers at the 2015 calendar level. The Commission adopted a specific allocation for broadband build-out support and for ongoing support. Eighty percent of each price cap carrier's NUSF high-cost allocation was directed to broadband build-out support. The Commission directed carriers to target support to unserved areas. The Commission disqualified the use of NUSF deployment support 1) in areas served by an existing unsubsidized competitor, and 2) where the carrier was receiving federal universal service support.<sup>2</sup> The Commission adopted a process for price cap carriers to apply for and receive broadband buildout support. The Commission found support should

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<sup>1</sup> See *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Universal Service Fund High-Cost Program*, Progression Order No. 1 (September 1, 2015).

<sup>2</sup> See *id.* at 6. Specifically, the Commission stated it would disallow broadband support in areas that already have an unsubsidized carrier providing comparable broadband service.

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be paid on invoiced costs similar to prior broadband support provided in Commission dockets.<sup>3</sup>

It has been four years since the Commission adopted this framework. The Commission has received roughly 80 project applications seeking support for \$26.6 million. Most of these projects exceed the minimum 10/1 Mbps standard adopted in 2015. While the Commission believes it has worked well, the Commission opens this Progression Order to consider changes that have occurred since its 2015 Order, and to update the NUSF-99 process and requirements where appropriate.

Last year, the Commission revised the distribution methodology for rate-of-return carriers. While it was modeled largely on the NUSF-99 framework, there were also some significant distinctions. The speeds were updated to reflect the current FCC broadband speed standard. The process for submitting broadband projects was streamlined. A requirement to designate projects and use the funding within two years was also added. Consequently, we seek comment on whether to update the NUSF-99 framework to more closely align it to our findings in NUSF-108. Notably, we seek comment on the following changes:

1. Whether to align the minimum speed requirements with the 25/3 Mbps standard the FCC adopted subsequent to our September 1, 2015 Order and as applied to the rate-of-return carriers.
2. Whether to make the broadband deployment support available similar to the mechanism adopted in NUSF-108, Progression Order No. 3 where projects would be filed for review but not necessarily through an application process.
  - a. Consistent with the process for rate-of-return carriers should the Commission designate eligible census blocks? Please elaborate on how the Commission can complement support received from the

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<sup>3</sup> See *id.* at 8. See also generally Commission orders entered in *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, and *In the Matter of the Nebraska Public Service Commission, on its Own Motion, to Administer the Nebraska Universal Service Fund Broadband Program*, NUSF-92.

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- federal universal service program to extend existing broadband-based networks further out to rural areas that have no broadband service.
- b. Should the Commission prioritize certain areas for broadband deployment? If so, what criteria should the Commission utilize to make those determinations?
  - c. Consistent with the past strategic plan principles, should the Commission design the process around support preferences for fiber-based projects?
  - d. Additionally, carriers have, in some cases, utilized fixed wireless technology to meet federal universal service fund obligations. With the assumption that the cost to deploy this technology is lower than the cost to deploy fiber to the home, why is state support necessary to supplement deployment of these technologies? How should carrier of last resort obligations (COLR) be treated if alternative technologies such as fixed wireless services are deployed in the place of replacing or updating the copper-based network with fiber? How should that impact NUSF support?
3. Consistent with the requirements for rate-of-return carriers should the Commission adopt specific timeframes for both requesting to utilize allocated support, and for buildout once projects are approved? What should the timeframe be? Please explain.
4. We also seek comment on how to better ensure that ongoing support is being used to maintain the quality and performance of both voice and broadband service in Nebraska as it was intended. Should the Commission tie ongoing support to census blocks where the carrier is providing voice and broadband service at speeds of 25/3 Mbps? If not, why not? How should the Commission treat areas that are not receiving adequate voice and broadband service? Should the Commission impose a reporting requirement, such as the EARN Form, to ensure that operational expenses are being used for the purpose of maintaining and improving the network facilities in Nebraska specific high-cost exchanges for which they were intended and in support of services offered to Nebraska consumers in high-cost exchanges?

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5. Additionally, we solicit comments on whether to make any changes to account for the possible future changes in federal support for price cap areas. Connect America Fund Phase II support will likely be transitioning to an auction-based support at some point in time. Is there a way to better leverage federal and state support? If so please explain.

**Comment Deadline and Procedure**

Comments responsive to the questions and issues set forth above, and, any other issue germane to this proceeding should be filed by interested parties on or before **December 13, 2019**. Reply comments may be filed on or before **January 10, 2020**. Interested parties should file one (1) original paper copy and one (1) electronic copy in Word or PDF format to the following addresses: Cullen.Robbins@nebraska.gov and Brandy.Zierott@nebraska.gov.

**O R D E R**

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the issues described above be and they are hereby open for public comment.

IT IS FURTHER ORDERED that comments responsive to this Order may be filed by interested parties on or before December 13, 2019, and that reply comments may be filed on or before January 10, 2020 in the manner prescribed above.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 13<sup>th</sup> day of November 2019.

**NEBRASKA PUBLIC SERVICE COMMISSION**

COMMISSIONERS CONCURRING:

*Cystal Lucander* Chair

*Mary Ridd*

*Paul [unclear]*

ATTEST:

*Michael [unclear]*

Executive Director

*Tim Schram*