

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. NUSF-117
Public Service Commission, on)
its own motion, to consider)
implementing a program to) ORDER OPENING DOCKET AND
incentivize new fiber) SEEKING COMMENT
construction for E-rate)
eligible entities.)
Entered: December 10, 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) initiates this proceeding to consider implementing a program within the Nebraska Universal Service Fund (NUSF) to incentivize new fiber construction for E-rate eligible entities.

On April 17, 2018, the Governor signed LB 994, which created the Rural Broadband Task Force to review issues relating to availability, adoption, and affordability of broadband services in rural areas of Nebraska. In October of this year, the Rural Broadband Task Force released its Findings and Recommendations. Among its recommendations, the task force encouraged the implementation of a program within the NUSF to incentivize new fiber construction to public libraries in order to maximize federal support through the Federal Communications Commission's (FCC) E-Rate Special Construction program.

As of the 2018 self-reported data collection, the Nebraska Library Commission reported 43 of 248, or approximately 17%, of the public libraries serving under 10,000 people within their respective Legal Service Area (LSA) reported "Fiber Optics" as their primary internet connection. Of the public libraries with LSAs less than 2,500 people, only 22 of 196 libraries, or approximately 11%, reported "Fiber Optics" as their primary internet connection. This indicates that 89%, or 174 of the 196 public libraries, do not have scalable fiber as their primary internet connection. As a result, the Rural Broadband Task Force has recommended the implementation of an E-Rate Special Construction matching program with funding from the NUSF.

The federal E-Rate program provides support for broadband connections in schools and libraries under two categories of service: Category 1 services to a school or library

(telecommunications, telecommunications services, and internet access), Category 2 services that deliver internet access within schools and libraries (internal connections, basic maintenance of internal connections, and managed internal broadband services). The E-Rate program includes a matching program for special construction charges for high-speed broadband. The E-Rate program will increase an applicant's discount rate for these charges up to an additional 10 percent. However, the E-Rate program will only match funding for special construction projects if the source of funding is authorized directly by a state legislature or one or more state agencies.

If a state provides eligible carriers with funding for special construction charges for high-speed broadband, E-Rate matching funds will only be approved if the special construction project will provide high-speed broadband connections that meet the FCC's connectivity targets (100Mbps for public libraries under 50,000 LSA & 1Mbps per student in public schools) adopted in the E-Rate Modernization Order, and may not be applied to any other cost.

Applicants seeking additional E-Rate discounts to match state funding for special construction must submit information with their FCC 471 filing that the USAC will use to determine: (1) Whether the state funding is from an eligible source; (2) That any terms and conditions associated with state funding are not in conflict with E-Rate rules; (3) The appropriate calculation of the additional E-Rate discount, if any; and (4) Whether the project meets the Commission's connectivity targets.

For the purposes of the E-Rate program, special construction charges are the upfront, non-recurring costs of deploying new fiber or upgrading facilities to E-Rate eligible entities. Special construction consists of three components: (1) Construction of network facilities; (2) Design and Engineering; and (3) Project management. Special Construction does not include charges for Network Equipment.

Program rules permit applicants to request E-Rate discounts for special construction charges incurred up to six months prior to the July 1st start of the funding year (i.e. on or after January 1), provided that: (1) Construction begins after selection of a service provider pursuant to a valid competitive bidding process; (2) A Category One recurring service depends on the installation of the infrastructure; and (3) The service start date is on or after the start of the funding year.

Accordingly, the Commission enters this order to seek comment on the implementation of this program. Specifically the Commission seeks comment on the following:

1. Does the Commission have authority to implement a program to supplement the federal E-Rate Special Construction matching fund program. Specifically, the Commission seeks comment on whether Neb. Rev. Stat. § 86-323 provides the Commission with the authority to create this program for libraries and schools. Why or why not? Please explain.
2. If so, how should the Commission determine a carrier's eligibility for the program? Should the Commission create a mechanism to designate eligible telecommunications carriers specifically for this purpose?
3. If implemented, what should the filing requirements be for the program? What criteria should the Commission consider relevant? Should the program operate similar to the Commission's Telehealth program where the Commission provides an overall budget for the program? Should the Commission provide reimbursement to the eligible carriers at a specific level for each site? How should funding for each site be determined? Should the Commission utilize a grant process?
4. If implemented, what should the timeline be? What dates does the Commission need to factor in for library participation in the federal E-Rate program?
5. What other factors should the Commission take into consideration?

Comment Deadline and Procedure

The Commission requests that interested parties provide comments responsive to the issues described above on or before **January 17, 2020**. Commenters should file one (1) paper copy and one (1) electronic copy of their Comments with the Commission. Electronic copies should be sent to Cullen.Robbins@nebraska.gov and Brandy.Zierott@nebraska.gov.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be opened.

IT IS FURTHER ORDERED that comments responsive to the foregoing questions may be filed on or before **January 17, 2020** in the manner prescribed herein.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 10th day of December, 2019.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chair

ATTEST:


Executive Director




