

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the	)	Application No. NUSF-99.45
Nebraska Public Service	)	
Commission, on its own	)	
Motion, to administer the	)	GRANTED
Universal Service Fund High-	)	
Cost Program: Windstream	)	
Nebraska, Inc. Broadband	)	
Grant Request.	)	Entered: January 14, 2020

BY THE COMMISSION:

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

By Application filed March 12, 2019 Windstream Nebraska Inc., ("Windstream" or "Applicant") seeks high-cost support from the Nebraska Universal Service Fund (NUSF). Notice of the application appeared in The Daily Record, Omaha, Nebraska on March 19, 2019, and in the Omaha World Herald, Omaha, Nebraska on March 19, 2019. No protests or interventions were filed; therefore, the Commission processed this application pursuant to its Rule of Modified Procedure.

Windstream seeks support in the amount of One-Hundred Fourteen Thousand and Five Hundred and Eighty-Eight dollars (\$114,588) which is 80.7% of the total cost for the construction of facilities in the Southern area of the Yutan, Nebraska ILEC Exchange.

According to the Application, the Central Office for Yutan is currently connected with interoffice fiber facilities. Customers within reach of the office may be able to receive 4 Mbps download speeds or better depending on the copper loop length from the equipment. This project intends to address those customers in the Southern area of the exchange that have exceptionally long loop lengths and therefore are not qualified by providing a fixed wireless solution. Applicant will place equipment at two sites, one remote base station approximately 3.25 miles south of the Yutan Central Office, and equipment at the Central Office. These network upgrades will enable a fixed wireless service capable of minimum 10 Mbps download and 1 Mbps upload. The majority of customers would have speeds of 25 Mbps to 100 Mbps.

Windstream is seeking NUSF support in the amount of \$114,588. Windstream estimates that the project will begin construction within 90 days after the approval from the Commission, weather

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permitting, and complete the project within 6 months. If the project is approved, Windstream will commit to providing broadband service to all households in the project area for a minimum of five (5) years.

The Commission staff conducted an analysis of the census blocks submitted and compared the information against the Connect America Fund Phase II eligible areas. The Commission staff also reviewed the census block information and compared it to its wireline Broadband Mapping data, which uses Federal Communications Commission (FCC) Form 477 deployment data collected by the FCC biannually. Taking the CAF II and wireline competition information into account, the Commission finds it should make an adjustment to the support approved for Windstream. Total approved support is adjusted to reflect 73.5% of the total cost, which results in a staff recommended grant award of One-Hundred and Four Thousand and Four Hundred and Twelve dollars and Sixty-Three cents (\$104,412.63).

Requests for Reimbursement:

Windstream must first make the investment and then may file a request for reimbursement with the NUSF Department. Windstream does not need to complete the construction process prior to seeking reimbursement; rather, it may work with the NUSF Department to develop intervals at which reimbursement can be sought. The NUSF Department will reimburse Windstream for capital improvement costs made relative to and as included in the application filed by the company for the projects approved in this Order. Once the investment is made, Windstream shall file a request for support, provide the NUSF Department with documentation consistent with Department policy 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 described rural areas.

Reporting Requirements:

Windstream shall file, on an annual basis, consistent with federally designated eligible telecommunications carriers (ETCs), the information required by the Commission's Telecommunications Rules pertaining to ETCs and the investment information required by the Commission's Order in Docket NUSF-66. The report should make clear to the Commission that Windstream will not request reimbursement for equipment where grant money was also received from another source.

We further remind Applicant that consistent with the Commission's ETC requirements in Title 291 Neb. Admin. Code, Chapter 5, § 009.04A3, the Commission requires all ETCs to report on the number of unfulfilled requests for broadband service on an annual basis. Applicant must notify the Commission of any requests for broadband that it was not able to fulfill in the service territory where support is provided. At a minimum, Applicant should identify the following information in its annual ETC report to the Commission: 1) the support area, 2) a description of the measures taken, and 3) the reasons for its inability to provide the requested service. Windstream shall file its annual report on or before June 1 of each year.

As a condition of receiving support, ETCs must offer broadband service in the supported areas that meet certain basic performance requirements. Upon completion of the project approved herein, we require Applicant to demonstrate compliance with certain minimum performance requirements. We require Applicant to provide evidence that the service deployed using NUSF support is provided as indicated in the application. Applicant must conduct testing for both speed and latency and provide results from those tests. We will afford Applicant the flexibility to measure performance across deployments in a manner that is best suited to determine the speed and latency of the service provided to end user consumers. However, Applicant must indicate how they measured broadband performance, including whether it was consistent with existing network management systems, ping tests, or other commonly available network measurement tools, a provider-developed self-testing configuration, or results from the FCC's Measuring Broadband in America (MBA) program.<sup>1</sup> Such information should be filed no later than 90 days following completion of the supported project(s).

In addition, an ETC has an obligation to advertise the availability of services that are supported by universal service support mechanism using media of general distribution.<sup>2</sup> To ensure that this obligation is met, the Commission requires Applicant to provide it with a copy of its marketing materials to consumers as well as a description of how the supported service was advertised.

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<sup>1</sup> See *In Re Connect America Fund*, CAF Phase II Price Cap Service Obligation Order, WC Docket No. 10-90, 28 FCC Rcd at 15071, paras. 23-25 (October 31, 2013); see also Performance Measures Public Notice, 32 FCC Rcd at 9323, para. 6 (December 6, 2017) and *In re Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509 (July 6, 2018).

<sup>2</sup> See 47 C.F.R. § 54.201.

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Applicant shall be required to complete the approved projects within two (2) years from the date of this Order unless good cause is shown for a later completion date.

Broadband Commitments:

The Commission maintains broadband availability data and updates that information on at least an annual basis. As a condition of this support, Windstream must report broadband availability to the Commission upon request. Windstream must also confirm that it will not seek duplicative support through the FCC's funding mechanisms.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned application submitted by Windstream be and it is hereby granted as described herein.

IT IS FURTHER ORDERED that Windstream shall be subject to all terms and conditions adopted in this Order.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 14th day of January, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Mary Rude*

Chair

ATTEST:

*Miss S. H. D.*


Executive Director

*Real Jones*  
*Donna Dwyer*  
*Tim Schram*

Commissioner Crystal Rhoades Dissenting:

I respectfully dissent. The Commission has made funding available for broadband deployment and expressed a preference for long-term scalable technology such as fiber-based projects. I do not believe that using NUSF support for fixed wireless service provides the best use of our funding. I do not consider the fixed wireless service proposed in this application to be a comparable service to other wired technology. Nor do I consider it as reliable. I am not convinced that this is sound investment as I understand the hardware does not last as long as fiber deployment.

Moreover, I do not believe consumers want fixed wireless as their only broadband-based solution. While it may be better than no broadband service, I think we owe it to our consumers to use NUSF support with the best long-term investment goals in mind.

  
Commissioner Crystal Rhoades