

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the	)	Application No. NUSF-99.122
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: June 2, 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 30, 2020 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 April 2, 2020. 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 Nineteen Thousand and Two dollars (\$19,002) for the construction of facilities in an area around the Eastern area of Windstream's Yutan, NE ILEC Exchange. According to Windstream this project will provide broadband service at speeds ranging from 25 Mbps to 100 Mbps to approximately 97 living units in ten census blocks in the Eastern area of Windstream's Yutan, NE ILEC Exchange. None of these households can receive broadband service from Windstream at sufficient speeds currently. This project will involve deploying the fiber and the electronics necessary to allow speeds ranging from 25 Mbps to 100 Mbps.

Windstream is seeking NUSF support in the amount of \$19,002. Windstream states that it is currently ready to begin project work upon approval from the Commission, weather permitting, and complete the project according to their deployment schedule in Attached Checklist Item #4. If the project is approved, Windstream will commit to providing broadband service to all households in the project area for a minimum of five 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

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wireline Broadband Mapping data, which uses FCC Form 477 deployment data collected by the FCC biannually. The Commission finds support should be granted in the amount of \$19,002 as requested by Windstream.

### 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.

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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.

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.

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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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## 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 2nd day of June, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Rod Johnson*  
*Crystal Hender*  
*Tim Schram*  
*Dee Watson*

*Mary Keddin*

Chair

ATTEST:

*Michael S. Hyatt*  
Executive Director