

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Application No. NUSF-92.61  
Public Service Commission, on its )  
own motion, seeking to administer )  
the Nebraska Universal Service ) ORDER GRANTING APPLICATION,  
Fund's Broadband Program: ) IN PART  
Application to the Nebraska )  
Broadband Program received from )  
United States Cellular )  
Corporation. ) Entered: August 16, 2022

### BY THE COMMISSION:

By Application filed on or around April 13, 2022, United States Cellular Corporation ("USCC" or "Applicant"), sought support from the Nebraska Universal Service Fund ("NUSF") dedicated wireless program. Notice of the application appeared in The Daily Record, Omaha, Nebraska on April 22, 2022. No protests were filed; therefore, this docket was processed pursuant to the Commission's Rules of Modified Procedure.

USCC's application requested NUSF support for fifteen proposed tower sites and sought \$7,299,391.00. The Applicant states that the companies associated with its application are United States Cellular Corporation, d/b/a U.S. Cellular and its FCC licensed operation entities USCOC Nebraska/Kansas LLC and USCOC of Greater Iowa Inc., which will provide the broadband service to consumers proposed in its application. USCC states that it operates in predominantly rural states, including the majority of Nebraska other than Nebraska's panhandle. USCC is a Nebraska Eligible Telecommunications Company. USCC commits to completing construction within twenty-four months from the date of Commission approval and commits to offering NUSF broadband service to all households within the coverage area for at least five years.

In support of its application, USCC identified nine locations where it would provide matching funds if selected for funding by the Commission. For six of the sites (Edgar, Elmwood, Greeley North, Murray, Ponca, and Riverton), USCC offered both a 4G/LTE and a 5G option for the Commission to consider. Commission staff evaluated and analyzed all information filed pursuant to the historic methodology used by the staff and approved by the Commission. Based on that evaluation, the staff recommends that the Commission approve grant support for the following eleven tower sites submitted by USCC, consisting of the Ponca (LTE option),

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Elmwood (LTE option), Murray (LTE option), Ayr, Brainard, Edgar (LTE option), Adams, Newcastle, Tobias, Cedar Rapids, and Niobrara sites. The staff recommended support in the amount of \$5,114,091.00 be awarded to USCC for the construction of the aforementioned tower sites.

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

The Commission allocated \$8 million for the 2022 NUSF calendar funding year in which this Petition was filed. Two wireless carriers filed Petitions seeking Wireless Fund Program support. Based on the application and the staff recommendation, the Commission finds USCC's application for dedicated wireless universal service funds should be approved in part, with funding granted for the Ponca (LTE option), Elmwood (LTE option), Murray (LTE option), Ayr, Brainard, Edgar (LTE option), Adams, Newcastle, Tobias, Cedar Rapids, and Niobrara tower sites.

#### Reimbursement Process:

The Commission approves reimbursement up to \$5,114,091.00 or the actual cost of construction for the sites approved in this order, whichever is lower. USCC must first make the investment and then may file a request for reimbursement with the NUSF Department. USCC 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 dedicated wireless program will reimburse USCC for reasonable expenditures made related to the cell site approved in this Order. Once the investment is made, USCC shall file a request for support, provide the NUSF Department with copies of the invoices and shall certify to the Department that it has made the described investment for the provision, maintenance and upgrading of facilities and services in the described rural areas.

As a dedicated wireless program recipient, the Commission finds USCC must meet certain conditions, as described below.

#### Infrastructure Sharing:

USCC shall be required to construct tower facilities in a manner that would accommodate co-location and sharing of additional equipment of other wireless carriers, public safety agencies, Internet providers and other providers with technologies that qualify. Such co-location will be required where technically feasible and upon commercially reasonable terms and conditions.

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While the Commission will not require USCC to routinely file co-location agreements, if an issue is raised by a public safety agency or another wireless provider, the Commission will determine whether these ordered conditions are being met.

### Roaming and Co-Location Agreements:

USCC must agree to permit roaming and co-location of facilities on state-funded towers at commercially reasonable rates. We believe this requirement to be an important policy objective. USCC shall file with the Commission a list of all roaming agreements in place in Nebraska that would cover the supported towers at the time of construction completion. This information may be filed confidentially. Entities denied roaming access or co-location at commercially reasonable or market-based rates may file a request with the Commission to determine whether this requirement is being satisfied.

### Broadband Commitments:

To encourage the deployment of wireless broadband services in Nebraska, the Commission gives priority to applicants which commit to providing wireless broadband services. USCC must report broadband availability to the Commission upon request.

### Adherence to State and Federal Requirements:

As a condition of receiving this grant, USCC must adhere to all state and federal regulations and requirements pertaining to the provision of wireless broadband services. USCC must not use equipment or facilities prohibited by the FCC within its network.<sup>1</sup> USCC must certify, at the completion of each of the projects listed herein, that it has met those obligations.

### Phase II Enhanced 911 Capability:

To advance public safety, the Commission requires that the cell sites funded by this approval must have the equipment and software necessary for Phase II wireless E911 capability. In addition, once a request has been made by a County or Public Safety Answering Point ("PSAP"), the wireless provider must provide Phase

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<sup>1</sup> This includes, but is not limited to, equipment listed by the Federal Communications Commission in the following public notices: *FCC List of Equipment and Services That Pose National Security Threat*, WC Docket No. 18-19, DA 21-309 (March 12, 2021); *Announcement of Additions to the Covered List*, WC Docket No. 18-19, DA 22-320 (March 25, 2022).

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II wireless E911 service in a manner that is consistent with federal regulations. USCC must certify to the completion and commitment of these requirements prior to reimbursement from the dedicated wireless program. USCC must also provide evidence that demonstrates the tower is Phase II wireless E911 capable within ninety days of project completion. If information proving the capability is not provided within ninety days, reimbursement for project costs may be withheld.

### Reporting Requirements:

USCC shall file, on an annual basis, consistent with federally designated ETCs, the information required by the Commission's Telecommunications Rules pertaining to eligible telecommunications companies and the investment information required by the Commission's Order in Docket NUSF-66. The report should make clear to the Commission that USCC will not request reimbursement for equipment or tower construction where grant money was also received from another source. USCC shall file its annual report on or before June 1 of each year.

In addition, the Commission expects that construction on these projects will proceed in a prompt and business-like fashion. Progress reports shall be filed on an annual basis or more frequently if deemed necessary by the Commission, so that the Commission can plan for the timing of distribution for these funds.

### Continuing Nature of Requirements:

The Commission will enforce these requirements for as long as the cell site is in use and providing service to customers. The Commission may take any action it deems necessary and appropriate to enforce the requirements and conditions in this Order.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria the Commission applied in this application for dedicated wireless program support. The Commission may modify the minimum requirements and conditions for future petitions for support from the dedicated wireless program.

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## O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application filed by United States Cellular Corporation shall be and is hereby granted in part as provided herein.

IT IS FURTHER ORDERED that United States Cellular Corporation shall be subject to all terms and conditions adopted in this Order.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 16th day of August, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Bob Johnson*  
*Crystal Broadus*  
*Mary Kadden*  
*Tim Schram*

*Don Watson*  
Chair

ATTEST:

*Thomas W. Golden*  
Executive Director