

# 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-131
Public Service Commission, on	)	Progression Order No. 4
its own motion, to establish	)	
reverse auction procedures and	)	ORDER SEEKING COMMENT
requirements.	)	AND
	)	NOTICE OF HEARING
	)	
	)	Entered: May 13, 2025

BY THE COMMISSION:

The Nebraska Public Service Commission ("Commission") initiated this proceeding on June 29, 2021, to establish reverse auction procedures and requirements in order to carry out Neb. Rev. Stat. § 86-330. The Commission has since held three reverse auctions in this program. Awards were issued in August of 2022 for the 2022 Auction, May of 2024 for the First 2024 Auction, and November of 2024 for the Second 2024 Auction. The term of support for each auction was two years.

In each of the reverse auctions, two speed tiers were available to participants. The Baseline tier requires service to be delivered at speeds of 100/100 megabits per second (Mbps) (Down/Up) to all eligible locations in the minimum bidding unit ("MBU"). The Gigabit tier requires service to be provided at speeds of 1 gigabit per second (Gbps)/500 Mbps (Down/Up) to all eligible locations in the MBU. Winning bidders are subject to post-buildout speed testing pursuant to the Commission's speed testing requirements as set forth in Commission Docket No. NUSF-133.<sup>1</sup>

The Commission understands that, as reverse auction projects in the Gigabit tier are being completed, certain carriers are encountering technical issues in demonstrating that the networks built meet the required speeds of 1 Gbps/500 Mbps, due to limitations in certain testing tools. The Commission therefore

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<sup>1</sup> See Commission Docket No. NUSF-133, *In the Matter of the Nebraska Public Service Commission, on its own motion, to implement standards for the verification of broadband service provider coverage and speed data*, Order Setting Speed Test Requirements (Nov. 8, 2022) ("NUSF-133 Nov. 8 Order"); Commission Docket No. NUSF-133, *Progression Order No. 1, In the Matter of the Nebraska Public Service Commission, on its own motion, to implement standards for the verification of broadband service provider coverage and speed data*, Order Revising Speed Testing Requirements (Oct. 8, 2024) ("NUSF-133 P.O. 1 Oct. 8 Order").

sets forth this Progression Order for the purpose of revisiting the requirements of the Gigabit tier and the speed testing necessary to demonstrate that a network is adequately built for this tier. The Commission therefore sets forth the following issues for comment.

## 1. Speed Testing Framework

Reverse Auction awardees in the First 2024 Auction and Second 2024 Auction are required to comply with the speed testing requirements set forth in Commission Docket No. NUSF-133 ("Original Framework").<sup>2</sup> However, as set forth in Commission Docket No. NUSF-133, P.O. No. 1, reverse auction awardees may voluntarily utilize the modified speed testing framework set forth in the Oct. 8 Order in that docket (the "Unified Framework").<sup>3</sup> Carriers electing to use the Unified Framework, however, are required to use all elements of that framework; they may not pick and choose between aspects of the two available testing frameworks.<sup>4</sup>

Under the Original Framework, *inter alia*, carriers must demonstrate that at least eighty percent of the locations tested meet or exceed eighty percent of the speed and latency thresholds required by the relevant program ("80/80 Standard").<sup>5</sup> Testing must be performed on an hourly basis between the hours of 6:00 p.m. and 12:00 a.m. local time each day, and a test duration of at least ten seconds is required.<sup>6</sup> The number of test locations is set based upon the number of locations in the funded area, with a minimum of

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<sup>2</sup> See Commission Docket No. NUSF-131, Progression Order No. 2, *Order Revising Reverse Auction Procedures and Issuing 2024 Reverse Auction Schedule* (Nov. 7, 2023) ("Nov. 7 Order"), at 6-7; Commission Docket No. NUSF-131, Progression Order No. 3, *Order Issuing Procedures for Second 2024 Reverse Auction and Announcing Qualified Bidders* (June 25, 2024) ("June 25 Order"), at 6-7. Speed testing requirements for the award made in the 2022 Auction were set forth separately and are not at issue for purposes of this Progression Order.

<sup>3</sup> "[T]he Commission invites and encourages carriers to voluntarily utilize the speed testing framework adopted herein for outstanding grants the following programs: NBBP, CPF, NUSF-99, NUSF-108, and NUSF-131. If carriers do opt to utilize the updated framework, they must utilize it in its entirety. In other words, a carrier may not pick and choose certain aspects of the revised requirements to use or discard." NUSF-133 P.O. 1 Oct. 8 Order, at 14.

<sup>4</sup> *Id.*

<sup>5</sup> NUSF-133 Nov. 8 Order at 2.

<sup>6</sup> *Id.*

ten locations which must be tested for areas containing fifty or fewer locations.<sup>7</sup> A carrier may request to utilize replacement subscriber locations if it is unable to meet the minimum number of required locations due to subscriber discontinued service, natural disaster, or other extenuating circumstances.<sup>8</sup>

The Unified Framework provides some additional flexibility. The minimum number of locations to be tested is reduced to five, or all locations in the project area if it contains fewer than five locations.<sup>9</sup> A carriers may seek alternative testing if it is unable to obtain sufficient subscribed locations.<sup>10</sup> Additionally, the 80/80 Standard was adjusted so that carriers must demonstrate that at least one test per tested location within the tested area meets or exceeds the minimum speed requirements, in order to ensure the network tested is capable of meeting the required speeds.<sup>11</sup>

Carriers who were awarded MBUs in the reverse auction Gigabit tier will need, under the Unified Framework, to demonstrate at least one speed test result for each tested location at 1 Gbps. However, the Commission understands that some network equipment currently in use by awardees may not allow the awardee to measure speeds above 940 Mbps, despite the underlying network's actual capability to deliver 1 Gbps. Specifically, "transport" or "protocol" overhead of a network connection is not a part of a measurable test payload. As the overhead may take up to six percent of the total bandwidth, the overhead may prevent speed tests conducted by awardees from demonstrating the full 1 Gbps speed.

The Commission seeks feedback as to whether its understanding of the issue is accurate, and if so, how this issue might be remedied. If the Unified Framework is not suitable for reverse auction awardees, is the Original Framework a feasible option? If not, what barriers exist to carriers meeting speed testing requirements under the Original Framework?

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<sup>7</sup> *Id.* at 4.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> NUSF-133 P.O. 1 Oct. 8 Order at 9-11.

<sup>10</sup> *Id.* at 10-11.

<sup>11</sup> *Id.* at 13.

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Additionally, the Commission seeks comment as to whether any specific elements of either speed testing framework pose difficulty for awardees in the reverse auction program. Do carriers generally have the capability to perform tests demonstrating a full gigabit? If not, what barriers exist to obtaining adequate testing under current speed testing rules?

Do any other challenges in relation to speed testing exist which are specific to the reverse auction? If so, should any changes be made to the speed testing framework for reverse auction awardees? Are there any further changes the Commission should consider? Should the Commission consider any modifications to its speed testing rules, as applied to the reverse auction program, to accommodate these issues?

## 2. Comment Deadline

The Commission hereby requests that interested parties submit comments on the above-described topics by **Friday, June 13, 2025, at 5:00 p.m. Central Time**. Parties may submit comments via email to [psc.nusf@nebraska.gov](mailto:psc.nusf@nebraska.gov).

## 3. Hearing

The Commission hereby finds that this matter should be set for hearing. The hearing will be held on **Tuesday, July 1, 2025 at 10:00 a.m. Central Time** in the Commission Hearing Room, 1200 N Street, 300 The Atrium, Lincoln, Nebraska 68508, and via WebEx, available at <https://psc.nebraska.gov/stream>.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

## O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that comments in this proceeding shall be filed on or before **Friday, June 13, 2025, at 5:00 p.m. Central Time**.

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IT IS FURTHER ORDERED that a hearing in this matter shall be held scheduled for **Tuesday, July 1, 2025 at 10:00 a.m. Central Time** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska and via videoconference as described above.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 13th day of May, 2025.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Eric M. Hamler*  
*[Signature]*  
*Kevin Stocker*  
*Don W. [Signature]*

*Tim Schram*

Chair

ATTEST:

*Thomas W. Golden*  
Executive Director