

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public	)	Application No. NUSF-133
Service Commission, on its own motion,	)	Progression Order No. 3
to implement standards for the	)	
verification of broadband service	)	ORDER SEEKING COMMENT
provider coverage and speed data.	)	AND
	)	NOTICE OF HEARING
	)	
	)	Entered: October 7, 2025

BY THE COMMISSION:

On March 15, 2022, the Nebraska Public Service Commission (“Commission”) opened this proceeding on its own motion to implement standards for the verification of broadband service provider coverage and speed data in accordance with Neb. Rev. Stat. § 86-324.02. Notice of the application was published in The Daily Record, Omaha, Nebraska, on March 22, 2022. Following comments and a hearing in this matter, the Commission entered an order on November 8, 2022 setting speed test requirements for Nebraska Telecommunications Universal Service Fund (“NUSF”) high-cost recipients and entities receiving funding from other Commission grant programs.¹ These speed testing requirements were then revised in Commission Docket No. NUSF-133, Progression Order No. 1, on October 8, 2024.² The Commission also revised the speed testing requirements with regard to certain reverse auction participants on August 19, 2025.³

The Commission now finds that, based upon feedback from staff and from the industry, the speed testing requirements in place continue to present significant difficulty. Due to this feedback, the Commission hereby opens the above-captioned Progression Order for the purpose of revisiting and revising the overall speed testing framework. The Commission therefore sets forth several topics for discussion below.

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*, Commission Docket No. NUSF-133, Order Setting Speed Test Requirements (Nov. 8, 2022) (“Nov. 8 Order”).

² *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*, Commission Docket No. NUSF-133, Progression Order No. 1, Order Revising Speed Testing Requirements (Oct. 8, 2024) (“Oct. 8 Order”).

³ *In the Matter of the Nebraska Public Service Commission, on its own motion, to establish reverse auction procedures and requirements*, Commission Docket No. NUSF-131, Progression Order No. 4, Order Adjusting Reverse Auction Speed Testing Requirements (Aug. 19, 2025).

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Interested parties are invited to submit comments responsive to the issues set forth below on or before **Friday, November 14, 2025, at 3:00 p.m. Central Time**. Comments should be submitted via email to psc.nusf@nebraska.gov.

1. Testing Requirements Framework

Nebraska law requires that recipients of ongoing high-cost NUSF support, Nebraska Broadband Bridge Program (“NBBP”) grants, and precision agriculture (“PRO-AG”) connectivity grants submit to speed tests “as determined by the Commission.”⁴ In addition, recipients of Capital Projects Fund (“CPF”) broadband grants are subject to testing requirements established by the Commission, administered pursuant to Neb. Rev. Stat. §§ 81-12,245 and 86-1312. Neb. Rev. Stat. § 86-324.02 also specifically requires NUSF ongoing support recipients to submit speed tests that are conducted for one week using a random sample of locations of consumers who subscribe to services provided over infrastructure for which ongoing high-cost support is received.

In the Nov. 8 Order, the Commission sought to adopt a framework which would generally follow the existing performance measures testing framework put in place by the Federal Communications Commission (“FCC”).⁵ The requirements in the Nov. 8 Order were similar to those put in place by the FCC, and further modified by the Oct. 8 Order. The Communications and NUSF Department of the Commission (“Department”) issued a Speed Testing Overview guidance document to providers subject to speed testing in October 2024,⁶ and a Memorandum guidance document regarding speed test requirements on January 10, 2025.⁷ These documents were issued for the purpose of clarifying the requirements and alternative testing protocols set forth in the Nov. 8 and Oct. 8 Orders.

⁴ Neb. Rev. Stat. § 86-324.02; Neb. Rev. Stat. § 86-1304(3); Neb. Rev. Stat. § 86-1405(2).

⁵ See *In the Matter of Connect America Fund*, WC Docket No. 10-90, *Order* (July 6, 2018) (“2018 Testing Order”); *In the Matter of Connect America Fund*, WC Docket No. 10-90, *Order on Reconsideration* (Oct. 31, 2019) (“2019 Order on Reconsideration”).

⁶ Speed Testing Overview (Oct. 2024), *available at* <https://psc.nebraska.gov/sites/default/files/doc/Speed%20Testing%20Overview.pdf>.

⁷ Application of speed testing requirements and alternative speed testing (Jan. 10, 2025), *available at* https://psc.nebraska.gov/sites/default/files/doc/2025-01-10%20Speed%20testing%20memo_FINAL_0.pdf.

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Despite the issuance of modifications to the speed testing requirements and ongoing information through the use of guidance documents, the Department continues to encounter numerous unique circumstances where a single carrier is unable to meet existing speed test requirements. Conversely, the variety of approved pathways already offered to carriers to meet testing requirements can result in confusion and ambiguity for carriers and the Department alike. The Department has also identified circumstances where the guidance set forth in the Commission's orders and in the FCC's 2018 Testing Order and 2019 Order on Reconsideration are ambiguous or confusing.

Based on these issues, the Department has identified several potential issues with the current speed testing framework that may benefit from modifications, as set forth below. As a result of these identified ongoing issues, the Commission seeks to examine whether the overall testing framework should be revised. Does following the general outline of the FCC's existing performance measures testing framework reduce the burden of speed testing for providers? Would deviating further from the FCC framework, or adopting an entirely different framework, lessen the administrative burdens caused by speed testing for providers? If a different framework is adopted, what requirements could be put in place? Conversely, what testing requirements should be avoided? The Commission seeks comment on any general program changes which should be adopted.

2. Frequency and Timing of Tests

The Commission also seeks to revisit the frequency and timing of speed testing. Is the frequency of testing currently required an appropriate means to determine if service exists? At present, speed tests are required to be performed for six consecutive hours, each day, during the seven day testing window. This requirement was originally adopted as a means of harmonizing Nebraska's testing requirements with the FCC performance measures testing framework. Is it helpful to set this standard to match with the FCC's standards? Is there any separate policy rationale for requiring six consecutive hours of testing?

The Department further notes that issues with "cross-talk" can cause tests to not complete, or fail.⁸ This can be a significant issue for carriers failing speed tests

⁸ The term "cross-talk" generally refers to interference on the network caused by other network usage at the time of testing.

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when re-tests don't happen in a timely fashion, or are considered failed tests by the testing platform. Should the limitation on the times during the day when tests are required to be taken be removed? Are there times during the day when cross-talk is typically low enough for more tests to successfully complete? And, as a general matter, the Commission seeks comment on the necessity of latency testing within the context of the Commission's programs. Is latency testing necessary to determine whether a network has been constructed? Should latency testing be continued, and if so, should latency testing requirements be modified in any way?

3. Alternative Testing

Previously, in the Oct. 8 Order, the Commission allowed alternative testing for grant recipients when providers were unable to obtain sufficient test locations by the applicable deadline. This alternative testing framework is often utilized for projects in sparsely populated areas or where few active subscribers exist. Is this approach effective? Could any other methods reasonably demonstrate compliance under these circumstances?

Additionally, at present, requests for alternative testing must be submitted prior to the testing deadline. In some cases, late-filed requests have been justified due to unforeseen circumstances. The Commission seeks comment on whether this requirement should remain in place, or whether limited flexibility for late requests should be allowed, and if so, under what circumstances.

The Commission also seeks comment on whether alternative testing should be limited to new deployments or whether it should be made available more broadly. For example, should carriers in sparsely populated areas or those with low subscriber counts be eligible to request alternative testing even for existing networks? Are there other situations where standard testing requirements create undue burdens that could be mitigated through alternative testing methodologies? The Commission invites input on what criteria or guidelines should be used to determine when broader access to alternative testing is appropriate.

4. Submission of Test Results

The Commission expects that all test results be submitted without deletions, edits, or exclusions. Should providers be allowed to submit evidence of test infrastructure failures or other anomalies that may have impacted results? If so, what

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level of detail should be required to allow the Commission to evaluate and, where appropriate, adjust results for compliance?

5. Equipment Limitations and Customer Participation

The Commission recognizes that equipment limitations and customer participation may create challenges for certain providers, particularly smaller carriers, new deployments, or areas with low subscriber counts. This is especially challenging where provider-supplied CPE is unavailable or lacks built-in testing features. In such cases, separate measurement devices may be installed with customer consent. How should the Commission handle situations where customers decline installation of testing equipment, particularly if it prevents the provider from meeting minimum testing requirements? Should substitute test locations be allowed, and if so, what criteria should be used to select them? Are there other approaches to reduce the burden on providers while still ensuring reliable testing results? The Commission welcomes comments on this topic.

6. Purpose of Testing

The Commission further seeks comment as to what the primary purpose of speed testing should be. Should broadband deployment projects be subject to the same testing requirements as providers receiving ongoing high-cost support must meet? Should speed testing requirements be relaxed in circumstances where it is clear that the network has been built and is providing adequate service, even if not all testing requirements can be met? Does the purpose of speed testing differ based on the type of support received?

7. Other Topics

The Commission welcomes comments on other topics relevant to its speed testing framework.

H E A R I N G

The Commission further finds that this matter should be set for hearing. A hearing will therefore be held on **Monday, December 8, 2025, at 2:30 p.m. Central Time** in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street,

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Lincoln, Nebraska. Videoconference access to the hearing will be available through the Commission's website, available at <http://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 that comments on the topics described above shall be due to the Commission by **Friday, November 14, 2025, at 3:00 p.m. Central Time** with service to psc.nusf@nebraska.gov.

IT IS FURTHER ORDERED that a hearing in this matter shall be held on **Monday, December 8, 2025, at 2:30 p.m. Central Time** in in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska, and by videoconference as described above.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 7th day of October, 2025.

NEBRASKA PUBLIC SERVICE COMMISSION

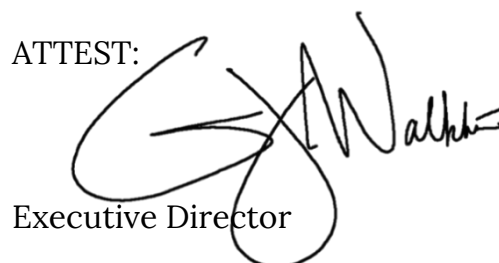
COMMISSIONERS CONCURRING:






Chair

ATTEST:


Executive Director