

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-108
Public Service Commission, on)	Progression Order No. 3
its own Motion, to make)	
adjustments to its high-cost)	
distribution mechanism and make)	ORDER SEEKING FURTHER
revisions to its reporting)	COMMENTS AND SETTING
requirements.)	HEARING
)	
)	Entered: June 19, 2018

BY THE COMMISSION:

On December 19, 2017, the Nebraska Public Service Commission (Commission) issued a progression order in the above-captioned docket seeking comment on proposed changes to the high-cost distribution mechanism and its reporting requirements for rate-of-return (ROR) carriers. In 2015, in Docket No. NUSF-99, the Commission began the process of reforming high-cost distributions for Price Cap carriers in coordination with changes to the federal high-cost support mechanism, which is now referred to as the Connect America Fund (CAF).

Subsequently, the Federal Communications Commission (FCC) finalized the support mechanism for ROR carriers. Some carriers had the ability to elect model-based support ("A-CAM" support) while other carriers remained on a revised legacy-based support mechanism. As the federal universal service fund support mechanism for ROR carriers became more defined, the Commission sought comment on modifications to its state universal service support and reporting requirements relative to ROR carriers.

Comments on the issues described in our December 19, 2017 Order were filed by interested parties on or around March 5, 2018. Comments were filed by Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink (collectively referred to as CenturyLink); Charter Fiberlink-Nebraska, LLC and Time Warner Cable Information Services (collectively referred to as Charter); CTIA-The Wireless Association (CTIA); the Nebraska Rural Independent Companies (RIC); and the Rural Telecommunications Coalition of Nebraska (RTCN). Reply comments were filed on or around April 12, 2018 by Charter, CTIA, RIC, RTCN, as well as CenturyLink joined by Windstream and Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska (Frontier).

RIC put forward some guiding principles for the Commission's consideration. The RIC proposal would use the State

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Broadband Cost Model (SBCM) to distribute NUSF high-cost support to ROR carriers in each carrier's serving area. RIC proposed an allocation of 53/47 percent between capital expenditures and operations and maintenance expenditures respectively. RIC recommended eliminating the NUSF EARN Form for ROR carriers. RIC further recommended any price cap carrier support not used should be returned to the uncommitted fund balance for redistribution to other carriers. In terms of accountability, RIC suggested ROR carriers be required to identify the number of actual new passed locations completed using NUSF high-cost program funding during the NUSF funding year and identify new locations for build-out during the upcoming NUSF funding year and any associated assumptions relating to the build-out. For carriers that have deployed fiber throughout their service area, RIC recommended the carrier confirm that capability in its annual filing with the Commission and be permitted to utilize up to the full amount of their high-cost program support to realize a return on the investment associated with equity funded build-out. In its reply comments, RIC requested the Commission provide assurance of universal service funding over an extended period, specifically at least ten years, to allow for the predictability of support for long-term planning.

RTCN recommended the Commission prioritize support for operations and maintenance of systems currently capable of providing voice and broadband at 25 Mbps download/3 Mbps upload (25/3). Ensuring sufficient and predictable support for carriers that have made investments, utilizing support, loans and private equity to deploy voice and broadband service will help protect those investments and customers served. RTCN recommended the Commission retain and update the NUSF-EARN Form process, as it could be a vehicle for ensuring state support is complementary to the federal support mechanisms. The Commission should not focus on how the carrier funded its plant investment but should focus on whether the investment was made. In its reply comments, RTCN stated the Commission should consider carrier-of-last-resort responsibilities that incumbent local exchange carriers have which unsubsidized competitors do not.

CenturyLink recognized that different carriers have built out broadband service at different levels and different speeds within their service territories. Therefore, a "one size fits all" allocation of NUSF support between broadband deployment and ongoing maintenance and operating costs is not feasible. CenturyLink recommended the Commission develop objective criteria and a methodology that takes into account the differing

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levels of broadband availability that it can use to determine the amount of NUSF support that must be used for broadband deployment for each carrier. In its reply comments filed jointly with Windstream and Frontier, CenturyLink stated RIC's proposal created a process for the use of NUSF support that differed dramatically from the process currently used by price cap companies. The joint commenters opposed differential treatment based on how they are regulated by the FCC. The joint commenters recommended an objective methodology for determining the amount of support that all carriers are to use for obtaining approval for broadband projects.

CTIA urged the Commission to look closely at reforming the NUSF rules for ROR carriers in a way that minimizes the size of the fund. CTIA stated RIC's proposal should be rejected because it would impose an excessive burden on Nebraska ratepayers and fail to provide adequate safeguards regarding the use of funding. CTIA stated NUSF support should not be available for operating or maintenance expenses. Further, CTIA supported Charter's proposal for awarding support through an auction or other comparative process.

Charter stated there was no reason to limit NUSF support to preexisting local telephone carriers. Charter recommended the Commission adopt a competitive procurement mechanism. Further, Charter stated ROR carriers that voluntarily chose A-CAM support have agreed to deploy broadband to meet required number of locations for each speed tier. Accordingly, Charter stated, for locations supported by A-CAM, no additional state support was needed. In its reply comments, Charter stated it was important for the Commission to monitor the FCC's July CAF auction to observe the types, cost, and number of proposals that compete for the federal support.

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

We continue to move forward with our efforts to reform the ROR carrier distribution mechanism and improve our reporting requirements. Specifically herein, we outline proposed reforms to optimize the use of state universal service support, efficiently target support to areas that need it the most, account for the receipt of targeted federal support, and enhance our ability to track the progress towards connecting unserved consumers. We have reviewed the recommendations of various commenters and will give the comments further consideration as we proceed to evaluate reform options. Some suggestions have

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been incorporated into the proposal outlined below for further comment.

Issues for Comment:

We solicit further comments on the following proposed modifications to reform the high-cost program distribution mechanism for ROR carriers:

First, we propose to isolate census blocks where support should be targeted. In this process, we propose to remove urban census blocks similar to our historic in-town and out-of-town distribution methodology. We also propose removing the CAF-supported census blocks. Finally, we propose removing census blocks where an unsubsidized competitor is offering wireline voice and broadband service at speeds of at least 25/3 Mbps. We believe this approach will create a more efficient use of support while targeting limited resources to consumers lacking sufficient broadband service. We further note this approach is relatively consistent with how we have reformed the distribution mechanism for price cap carriers.

Next, we propose to publish this list of eligible census blocks. A listing of all eligible census blocks would be made available on an annual basis to reflect the current state of broadband deployment. Carriers may challenge or file corrections to the Commission's proposed list through the filing of specific information documenting that the census blocks are served/unserved or should otherwise be considered eligible for support.

Once the list of eligible census blocks has been vetted and finalized, the Commission proposes to make an allocation between ongoing and grant-based support based on the overall CapEx/OpEx split for eligible blocks. Similar to how the distribution process is set up today, the Commission would release the high-cost distribution model support on an annual basis.

Grant Support Allocation

Carriers may be eligible to receive grant-based support if they have eligible census blocks in their territory. For determining grant-based support, we propose to use a cost model to guide the calculation of relative costs to deploy broadband at a census block level. We believe that using the State

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Broadband Cost Model (SBCM) may be a better alternative than maintaining the Benchmark Cost Proxy Model (BCPM) for determining costs to deploy fiber-based broadband networks. Use of the SBCM would serve as a starting point; however, as we recognize that SBCM costs may be overstated or understated in certain cases. As such, we propose to use actual costs in the reimbursement process for grant-based projects.

In addition, to ensure that high-cost support investments are spent prudently we further propose to establish a per customer location cap of \$15,000 in each census block which may decrease the overall amount of support available for grant-based projects. Carriers could still seek support for consumers in those census blocks, however recovery would be limited to a per customer location cap. In determining this level, the Commission notes that this proposed limitation would only impact the highest cost locations. It would not affect approximately 90 percent of customer locations. Further, given that the SBCM may overstate some costs, and not all projects will be full fiber-to-the-home (FTTH) build projects, the impact on the number of consumer locations may be smaller than estimated.

Carriers eligible for allocated grant-based support may request support by providing a detailed description of the eligible census block locations they intend to serve, a description of the proposed voice and broadband service to be provided, the estimated budget, and the timeline for completion. As the Commission will have already vetted the eligible census blocks for support, the Commission proposes this filing to be subject to the Commission's internal review process and not subject to the more formal application and notice requirements. We seek comment on this proposal and seek input on additional information that should be filed in the grant-based support process as relevant to our review.

We also propose to permit ROR carriers to carry over the support on a one (1) time basis. We anticipate this process will provide ROR carriers flexibility in how they put together projects while not creating a significant administrative burden for tracking and cost accounting for committed but unused support. We seek comment on this proposal.

In order to administer grant support in the most prudent and demonstrable manner, we propose to reimburse ROR carriers based on actual costs of the grant projects deployed. We propose to permit ROR carriers to submit invoices as frequently as

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needed without placing rigid timelines for the invoice submission process. We seek further comment on how to establish a process that will make the submission of invoices to the Department easy for the carriers and produce a timely and seamless reimbursement framework. We further propose to require the ROR carriers to sign an affidavit upon completion with details regarding which census blocks were completed. We seek further comment on how we validate this information. Is an affidavit sufficient? Should we have the ROR carrier file updated FCC Form 477 data with the Commission?

We propose to give ROR carriers two (2) years to complete each grant project. This timeframe would not include the invoice submission process. Upon a showing of good cause, the carrier could request an extension of this two-year period, not to exceed an additional 12 months, or three years total. Absent an extension, if support is not used, we propose to de-commit the unused support and return it to the general fund balance.

In addition, we propose to allow ROR carriers with small grant allocations, or de minimis allocations, to request to have those amounts distributed as ongoing support. We seek comment on this proposal and the threshold level at which this could be requested. Should we set the threshold at a single census block or a percentage of the total support? We seek comment on whether a 2 percent of the total support should be the de minimis threshold if set on a percentage basis.

Ongoing Support Allocation

We propose to allocate ongoing support to carriers based on the eligible census blocks within their exchanges. Census blocks that are eligible for support, but not yet capable of 25/3 Mbps broadband service, would receive a portion of the overall ongoing support budget based only on the Operating Expenses portion of SBCM calculations (these blocks could also receive support through a grant if the carrier chooses to build out to that location). Conversely, for carriers that have eligible census blocks already built out with broadband networks capable of 25/3 Mbps service, we propose to pay both operating expenses and capital expenses for these blocks, based on the calculation of support by SBCM. All ongoing support would continue to be subject to an earnings test. However, the Commission may update the NUSF-EARN Form process at a later time. In cases where support is remaining due to overearnings of carriers in this allocation block, such support would be

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redistributed to other ROR carriers eligible to receive ongoing support.

Further Comments

The Commission requests that interested parties provide comments responsive to the proposals described above on or before **July 19, 2018**. Commenters should file five (5) paper copies and one (1) electronic copy of their Comments with the Commission. Electronic copies should be sent to Cullen.Robbins@nebraska.gov and Brandy.Zierott@nebraska.gov.

Hearing

A hearing in this proceeding will be held on **August 15, 2018** at 10:00 a.m. central time. The hearing will be held in the Commission Hearing Room, 1200 N Street, 300 The Atrium, Lincoln, Nebraska 68508. The hearing will be conducted in legislative format.

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 Commission at (402) 471-0213 (TDD) or 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 the issues identified herein be and they are hereby open for public comment.

IT IS FURTHER ORDERED that interested persons may file written comment on or before **July 19, 2018** in the manner prescribed above.

IT IS FURTHER ORDERED that a hearing in this matter is scheduled for **August 15, 2018** at 10:00 a.m., in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 19th
day of June, 2018.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Crystal Knudsen

Frank E. Landis

Tim Shran

//s//Frank E. Landis

//s//Mary Ridder

Mary Ridder

Chair

ATTEST:

Michelle K. P.

Executive Director