

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the ) Application No. NUSF-108  
Nebraska Public Service )  
Commission, on its Own )  
Motion, to make adjustments ) ORDER OPENING DOCKET AND  
to its high-cost ) SEEKING COMMENT  
distribution mechanism and )  
make revisions to its )  
reporting requirements. )  
 ) Entered: September 27, 2016  
BY THE COMMISSION:

The Nebraska Public Service Commission (Commission) initiates this proceeding to consider certain modifications to the high-cost funding mechanism in the universal service fund program. Previously, the Commission solicited comments on certain modifications affecting the carriers classified federally as price cap carriers. The Commission adopted a separate distribution mechanism for price cap carriers designed to target and track Nebraska universal service fund investments in broadband infrastructure. The Commission intended to distribute support through a mechanism that was complimentary to the changes occurring for price cap carriers through the FCC's Connect America Fund. In addition, the Commission envisioned a new reporting mechanism to track carrier investment in Nebraska specific to the deployment of broadband infrastructure.

On September 1, 2015, the Commission entered Progression Order No. 1 in Docket No. NUSF-99, whereby the Commission froze the amount of support and made specific allocations for ongoing and broadband support. The Commission found "price cap carriers will be filing more specific information relative to where and when broadband is being deployed, the number of households affected, and the speeds at which the service is being provided." Finally, the Commission found NUSF support should be specifically targeted to extend the reach of broadband deployment where FCC CAF II support was not already being provided. The Commission found its broadband grant approval process should be streamlined in the event that support was not being requested for the FCC CAF II areas.

Implementation of the Commission's decision was put on hold pending reconsideration of the support amounts. On July 12, 2016, the Commission entered an Order on Reconsideration adjusting the support amounts for 2016. Broadband grant applications were then delayed as a result.

A larger issue of concern however is the incentive the Commission provides to carriers to make investments in their networks. Although the Commission anticipated the NUSF-26 high-cost mechanism would incent all carriers to continually invest in their Nebraska networks, not all carriers were incented to make needed investments in their plant facilities in a timely fashion. While support has enabled a number of carriers to invest in broadband networks, the NUSF-EARN Form and other reporting measures were not revised to account for the changes occurring in the market. Accordingly, our current distribution and reporting procedures may not properly incent continued carrier investment in IP networks.

Accordingly, the Commission enters this Order to propose certain modifications it believes are appropriate to further encourage carriers to continue to invest in their broadband capable networks. These proposals should be seen in coordination with the Commission's goal to reform the contribution mechanism and resize the program. In the short term, however, the Commission wants to ensure the limited resources of this program are used efficiently and responsibly, and in coordination with federal support.

#### ***Issues for Public Comment***

The Commission proposes several modifications to the distribution and reporting processes as described below.

##### **A. Distribution Mechanism**

First, with the modifications discussed below, the Commission proposes to put the distribution of support for price cap carriers back through Support Allocation Mechanism (SAM). The Commission believes the SAM will better capture the support needed by the price cap carriers and will provide a more stable, predictable and transparent calculation of support. However, the Commission proposes to retain separate budgets for the price cap carriers and the rate-of-return carriers. This is consistent with the FCC's universal service distribution mechanism which has separate budgets and requirements for the price cap carriers and rate-of-return carriers. Further, we believe separate budgets will prevent larger swings from investment patterns of the larger carriers impacting the rate-of-return carriers and will help both types of carriers to plan from year to year. As a starting point, we propose to utilize 2016 support as the budget for

the price cap carriers and the rate-of-return carriers. The budget may be adjusted to reflect declining or increasing remittances. We propose to release the results of the SAM calculation to all carriers similar to the NUSF-50 process historically once that calculation has been made. Unlike the previous NUSF-50 distribution mechanism however, the Commission proposes to treat NUSF-7 support through a separate process.

We invite interested parties to comment on the proposal to return the calculation of support for price cap carriers back into the SAM process. We seek specific comments relative to why the Commission's proposal shouldn't be adopted.

#### B. Reported Earnings Adjustments

We further propose to maintain the use of the NUSF-EARN Form. However, the purpose of the NUSF-EARN data would not be to disallow or cap NUSF high-cost support. Rather, we propose to utilize the NUSF-EARN data to determine the percentage of ongoing versus grant-based support that would be provided to each price cap carrier. To get to this point, we propose a several step process.

1. First, the Commission would consider competitive losses experienced by each price cap carrier to ensure the Commission is not artificially supporting competition with NUSF support. Competitive losses would be determined using the landline 911 reports filed with the NTIPS department by all local exchange carriers and the basic local rate on file with the Commission. The Commission would then add the revenue back in to the calculation to offset the loss in revenue experienced due to competitive attrition.
2. Second, the Commission proposes to lower the current 12 percent rate of return input to 9.75 percent consistent with the FCC's recent decision relative to universal service fund support for rate-of-return carriers.<sup>1</sup>

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<sup>1</sup> See *In The Matter Of Connect America Fund; ETC Annual Reports and Certifications; Developing a Unified Inter-carrier Compensation Regime*, WC Docket Nos. 10-90, 14-58, CC Docket No. 01-92, 31 FCC Rcd. 3087, 3093, 31 F.C.C.R. 3087, 3093 (March 30, 2016).

3. Finally, the Commission proposes to account for federal universal service fund support received by the carrier through the CAF II program. The Commission currently considers federal high-cost support received through its SAM process. The Commission seeks proposals from interested parties on how to properly account for federal universal service support received, and in particular, seeks comment on the timing in the support should be considered.

#### C. The Calculation of Support

With the adjustments made to the NUSF-EARN Form reporting process as described above, rather than disallowing or capping NUSF support calculated through the SAM process, the Commission proposes to allocate that portion of support which would be above a 9.75 percent rate of return to that carrier for grant-based projects. Any support not allocated to grant-based projects would be distributed to the carrier as it had been previously distributed under the SAM mechanism for ongoing provision, maintenance and upgrades to their networks. The Commission believes adoption of this proposal will spur broadband investment in a manner that continues to be specific, predictable and sufficient. The Commission seeks comment on its proposal to allocate grant-based versus ongoing model support.

#### D. Broadband Coverage

The Commission seeks to target support to areas lacking in broadband coverage. The Commission proposes to utilize Form 477 broadband deployment data as well as data from carriers deploying broadband using Connect America Fund support. The Commission's hope is that carriers will develop a build-out plan for extending broadband out to unserved areas in an efficient and practical manner and in a way which permits the Commission to better track how support was used. The Commission therefore seeks comment on how best to use the Form 477 data as well as data from the carriers for this purpose. Is there another dataset the Commission should consider?

#### ***Comments and Hearing***

The Commission requests that interested parties provide comments responsive to the issues raised above on or before

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**October 27, 2016.** Reply comments may be filed on or before **November 14, 2016.** Commenters should file one (1) paper copy and one (1) electronic copy of their Comments with the Commission. Electronic copies should be sent to [Sue.Vanicek@nebraska.gov](mailto:Sue.Vanicek@nebraska.gov) and [Brandy.Zierott@nebraska.gov](mailto:Brandy.Zierott@nebraska.gov).

A hearing on these issues will be held on **November 29, 2016** at 1:30 p.m. central time, in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska 68508. The hearing will be held 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 (7) days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be opened.

IT IS FURTHER ORDERED that comments responsive to the foregoing questions and issues may be filed on or before **October 27, 2016** and **November 14, 2016** in the manner prescribed herein.

IT IS FURTHER ORDERED that a public hearing on this matter will be held on **November 29, 2016**, at 1:30 p.m. in the Commission Hearing Room, 1200 N Street. Suite 300, Lincoln, Nebraska 68508.

MADE AND ENTERED at Lincoln, Nebraska this 27<sup>th</sup> day of September, 2016.

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Gerald L. Vop*

*Tim Schram*  
Chairman

*Crystal Guader*

ATTEST:

*Dee Jones*

*John R. R. R.*  
Deputy Director

//s//Frank E. Landis

//s//Tim Schram