

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

|                                   |   |                            |
|-----------------------------------|---|----------------------------|
| In the Matter of the Nebraska     | ) | Application No. NUSF-69.15 |
| Public Service Commission,        | ) |                            |
| on its own Motion, seeking to     | ) |                            |
| implement policies and procedures | ) |                            |
| related to providing dedicated    | ) | GRANTED IN PART            |
| universal service support for     | ) |                            |
| wireless telecommunications       | ) |                            |
| services: Petition received       | ) |                            |
| July 1, 2013 from United States   | ) |                            |
| Cellular Corporation.             | ) | Entered: November 25, 2013 |

APPEARANCES:

**For the Applicant:**

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Lincoln, Nebraska 68502

**For the Commission:**

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Lincoln, Nebraska 68508

BY THE COMMISSION:

By Petition filed July 1, 2013 United States Cellular Corporation (US Cellular), sought support from the Nebraska Universal Service Fund (NUSF) dedicated wireless program. Notice of the application appeared in the Daily Record, Omaha, Nebraska on July 8, 2013. A Petition of Informal Intervention was filed by the Rural Telecommunications Coalition of Nebraska ("RTCN"). The Petition was granted by the Hearing Officer on September 18, 2013.

A public hearing on the application was held on November 4, 2013 in Lincoln, Nebraska with appearances as shown above. In support of its application, US Cellular submitted pre-filed testimony from Ms. Stephanie Cassioppi. The Commission staff submitted pre-filed testimony for Ms. Sue Vanicek and Mr. Tyler Frost.

Ms. Vanicek, the Director of the Commission's Nebraska Telecommunications Infrastructure and Public Safety (NTIPS) Department, presented her testimony. In her pre-filed testimony, Ms. Vanicek recommended the Commission impose several

conditions upon the approval of US Cellular's application consistent with funding commitments in prior years. First, she recommended approving the tower in a high cost, unserved, and underserved area, and that the tower be constructed to collocate public safety equipment and equipment from other carriers. Next, US Cellular should be required to enter into roaming agreements with other carriers when technically feasible. In addition, Ms. Vanicek recommended that the Commission require US Cellular to enable the tower to be capable of providing Phase II Enhanced 911 services in anticipation of a request from a Phase II capable PSAP. Finally, Ms. Vanicek described the conditions adopted by the Commission in 2011 to promote the deployment of broadband services. In NUSF-69, Progression Order No. 7, the Commission directed the staff to consider the availability of wireless broadband service among the factors used to make a recommendation to the Commission for wireless fund support. She stated the Commission staff considered US Cellular's commitment to provide broadband service in recommending approval of its application.

Mr. Tyler Frost testified on behalf of the Commission staff. Mr. Frost is the Commission's economist and cost model expert. Mr. Frost provided a review of the Commission's analysis for determining whether the proposed tower site should be eligible for universal service support and, if so, at what level. Mr. Frost testified the staff employed a methodology similar to that adopted by the Commission in its previous findings in dedicated wireless fund orders.

Mr. Frost testified that based on location he used out-of-town household density, households per square mile, to determine eligibility for the proposed location. Those towers located in areas with less than 4.5 households per square mile were identified as serving high-cost areas and eligible for dedicated wireless program support. In order to provide benefits to the greatest number of households in high-cost areas, staff assigned rankings to all towers found to be eligible for funding from those serving the greatest number of out-of-town households to those serving the least number of out-of-town households. Further, staff assigned additional proximity rankings to all towers found to be eligible for funding from those furthest from existing tower locations in the state to those closest. Together, the two rankings then determine the proposed tower's funding priority. Those towers receiving higher funding priority are funded first.

As a result, the staff proposed that the Commission fund the tower site submitted by US Cellular in the amount requested

with the exception that the amount be adjusted for the removal of US Cellular's submitted first year operating expenses.

Ms. Stephanie Cassioppi testified on behalf of US Cellular. Ms. Cassioppi is employed by US Cellular to provide state legislative and regulatory support. She testified that US Cellular seeks dedicated wireless universal service fund support to build one tower. The location of the tower was to be built near DeWitt, Nebraska. US Cellular estimated the total cost of construction to be \$444,193.

In addition, Ms. Cassioppi addressed the commitments historically required by the Commission in exchange for receipt of Dedicated Wireless Fund support. She testified the cell tower would be constructed so that it is E911 equipped and US Cellular can implement Phase II E911 upon request. She also testified that US Cellular would construct the cell site in such a manner that will permit another carrier to collocate equipment on the US Cellular tower. Finally, Ms. Cassioppi testified that US Cellular committed to constructing the supported tower with 3G capability; however, technical upgrades were constantly occurring and it was possible a faster technology could be deployed.

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

The Commission allocated \$5 million for the 2013 NUSF calendar funding year in which this Petition was filed. Three wireless carriers filed Petitions seeking Dedicated Wireless Fund Program support. Based on the application and the evidence in the record, the Commission finds US Cellular's application for dedicated wireless universal service funds should be approved for the **DeWitt** tower site.

#### Reimbursement Process:

US Cellular estimated the total construction costs for all towers proposed to be approximately \$444,193. The Commission staff recommended support for the tower site. We agree with the staff's proposed methodology and that the amount requested by US Cellular be adjusted for the removal of US Cellular's submitted first year operating expenses. Upon further review of the application and the costs submitted by US Cellular, the Commission approves reimbursement up to **\$398,859** or the **actual cost** of construction for the tower site approved in this order, whichever is lower. This number represents an amount consistent

with staff's recommendation on the proposed tower site costs minus first year operating expenses.

US Cellular must first make the investment and then may file a request for reimbursement with the NTIPS Department. US Cellular does not need to complete the construction process prior to seeking reimbursement; rather, it may work with the NTIPS Department to develop intervals at which reimbursement can be sought. The dedicated wireless program will reimburse US Cellular for reasonable expenditures made related to the cell site approved in this Order. Once the investment is made, US Cellular shall file a request for support, provide the NTIPS Department with copies of the invoices and shall certify to the Department that it had 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 US Cellular must meet the following conditions:

Infrastructure Sharing:

US Cellular shall be required to construct tower facilities in a manner that would accommodate collocation and sharing of additional equipment of other wireless carriers, public safety agencies, Internet providers and other providers with technologies that qualify. Such collocation will be required where technically feasible and upon commercially reasonable terms and conditions. While the Commission will not require US Cellular to routinely file collocation agreements, if an issue is raised by public safety agency or another wireless provider, the Commission will make a determination as to whether these ordered conditions are being met.

Roaming Agreements:

US Cellular must agree to permit roaming at commercially reasonable rates. We believe this requirement to be an important policy objective. In its testimony, US Cellular indicated that it has roaming agreements with other carriers and agreed to this condition. The Commission will not require US Cellular to routinely file its roaming agreements. Entities denied roaming access at commercially reasonable or market-based rates may file a request with the Commission to make a determination as to 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. US Cellular must report broadband availability to the Commission and its vendors for the duration of the State Broadband Data and Development (SBDD) Program consistent with the Commission's findings in NUSF-69, Progression Order No. 7.

Phase II Enhanced 911 Capability:

To advance public safety, the Commission requires that the cell site funded by this approval must have the equipment and software necessary for Phase II wireless E911 capability. In addition, in a manner consistent with federal regulations, the wireless provider must provide Phase II wireless E911 service after a request has been made by a County or Public Safety Answering Point (PSAP). US Cellular must certify to the completion and commitment of these requirements prior to reimbursement from the dedicated wireless program.

Reporting Requirements:

US Cellular 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 US Cellular will not request reimbursement for equipment or tower construction where grant money was also received from another source. US Cellular 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 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.

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 it 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.

MADE AND ENTERED at Lincoln, Nebraska this 25th day of November, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director