

instead, accelerate the combination of these programs. The Commission solicited comments from interested parties on whether to combine both programs in 2014 by allocating \$9 million in support for the NEBP which could be used for wireline and/or wireless infrastructure improvement projects. In the alternative, the Commission sought comments on whether to combine the support for both programs to a lesser degree but combine the support faster than four years. In addition, the Commission solicited comments on whether the absorption of the dedicated wireless fund into the NEBP would accelerate the delivery of wireless and wireline broadband services because of the 25 percent matching requirement.

Comments responsive to the Commission's questions were filed on May 24, 2013 by the following entities: Qwest Corporation d/b/a CenturyLink QC and United Telephone Company of the West d/b/a CenturyLink("CenturyLink"), the Rural Telecommunications Coalition of Nebraska ("RTCN"), the Rural Independent Companies ("RIC"), N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless ("Viaero"), Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska ("Frontier"), and Charter Fiberlink-Nebraska, LLC ("Charter").

Reply comments were filed on June 7, 2013 by CenturyLink, Viaero, and RIC.

The Commission held a public hearing on the issues raised in Progression Order No. 8 on August 20, 2013 in the Commission Hearing Room, Lincoln, Nebraska. The hearing was held in legislative format.

Summary of Comments

Generally, most commenters supported the proposal to accelerate the combination of these two programs by moving the dedicated wireless fund program support into the NEBP program in 2014. CenturyLink supported the acceleration of the time line because maintaining two separate funds with similar goals slows the deployment of advanced services to Nebraskans. CenturyLink further stated that having both the Dedicated Wireless Program and the NEBP is an inefficient use of the Commission's limited resources. RIC agreed that combining these programs is appropriate policy in recognition that both fixed and mobile technologies are being deployed to provide broadband services. RIC believes combining the Dedicated Wireless Fund Program and the NEBP would be more efficient. Frontier also agreed that there was no issue that should prevent the merger from occurring sooner rather than later. The RTCN did not oppose the

acceleration of the transition but did not take a position on how quickly the transition should occur. Viaero supported the Commission's proposal to combine the Dedicated Wireless Fund with the NEBP program in light of the Commission's decision to require wireless carriers to deploy broadband services as a precondition to receiving dedicated wireless fund support. Viaero also supported increasing the amount of support allocated to the NEBP in light of the significant number of applicants seeking funding to the NEBP.

Conversely, Charter expressed concerns about accelerating the merger of these programs. Charter stated the NEBP is barely in its second year; and, until there is an adequate track record for assessing the needs and performance of the NEBP, the Commission should not combine the programs.

The reply comments filed by CenturyLink, RIC and Viaero all supported the combination of the Dedicated Wireless Fund program with the NEBP program. In its reply comments, RIC argued maintaining two separate programs as suggested by Charter would eliminate the advantages identified by RIC, CenturyLink, and RTCN.

Additionally, most commenters supported the retention of the 25 percent match requirement in the NEBP. CenturyLink was supportive of the match requirement which will ensure that all applicants have some financial investment. RTCN also stated the 25 percent match requirement should remain. RIC argued the 25 percent match requirement did not act as a deterrent. According to the RIC comments, the retention of the match requirement will ensure that more consumers are reached with broadband service at a faster pace.

Viaero recommended the Commission eliminate the 25 percent match requirement. Viaero has consistently argued that the Commission should not impose a 25 percent match requirement in the NEBP program. Viaero expressed its concern that a carrier could block a competitor's access to NEBP funding by leveraging its own financial assets or those received from other universal service fund sources. Viaero also argued that the 25 percent match requirement will significantly deter investment in unserved areas and thereby slow down the Commission's ability to reach more consumers at a faster pace.

Public Hearing Testimony

The Director of the Nebraska Telecommunications and Public Safety (NTIPS) Department, Sue Vanicek, testified in support of the complete integration of the Dedicated Wireless Fund program

support into the NEBP in 2014. Ms. Vanicek stated that this will accelerate broadband deployment in unserved and underserved areas. Combining the two programs would also increase efficiency and reduce the administrative burden for both the Commission staff and for applicants. Ms. Vanicek stated that there is an obvious need for the increased NEBP support as the number of NEBP applications increased from 7 to 16 and the number of total projects increased from 19 to 60.

In response to Viaero's concern about the match requirement, Ms. Vanicek stated Viaero applied for NEBP support in 2012 and 2013. An additional wireless carrier also applied for NEBP support in 2013. Accordingly, she did not believe the match requirement has deterred any potential applicant from submitting an application.

Additionally, in response to Charter's comments, Ms. Vanicek stated that several Year 1 NEBP projects have been completed, and the demand for NEBP funding is much greater this year than in 2012. The staff believes these are indicators that the NEBP is meeting the objective of deploying broadband in unserved and underserved areas.

Mr. Robert Logsdon testified on behalf of Cox Nebraska Telcom LLC ("Cox"). Cox filed comments on this issue in Progression Order No. 6 in August of 2012. Cox did not object to the merger of these two programs occurring at some point. Mr. Logsdon stated that careful consideration should be given to ensure no company is double-dipping and receiving both federal and state support for the same project or service area. Mr. Logsdon also reiterated that efforts should be taken to minimize overbuilding in census blocks where broadband service is available.

Mr. Dan Davis testified on behalf of RIC. RIC recommended combining the dedicated wireless fund program and the NEBP in a single step in 2014. Mr. Davis stated that doing so would maximize the benefits of the NEBP to consumers. Mr. Davis stated the Commission should retain the match requirement. He further stated that an additional \$1.25 million in matching support would be available annually to bring broadband in underserved and unserved areas of the state.

Mr. Andrew Newell, General Counsel for Viaero, testified the Commission should move from a voice-centric support mechanism for rural networks to a broadband focus of support. Mr. Newell stated that by virtue of the grant awards the Commission has some authority over quality of service. Viaero

also argued the Commission should give some consideration to areas that weren't populated but nevertheless should have broadband access or at least access to voice service. He did not believe the current formula contemplated these uninhabited areas. Further, Mr. Newell stated Viaero doesn't believe there should be a matching requirement on the grant support. Finally, Viaero did not believe the Commission should use the broadband map to define opportunities for investment.

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

In consideration of all of the comments, reply comments, and live testimony at the hearing, the Commission is of the opinion and finds it should accelerate the consolidation of Dedicated Wireless Fund program support with the NEBP program support. The NEBP will be the surviving program with wireless capital costs being eligible costs under the grant program. Further, the Commission finds the 25 percent match requirement should be retained.

The Commission agrees with the majority of the commenters who stated this proposal would be more efficient and would bring the benefits of broadband services to Nebraska consumers at a faster pace. As evidenced by the increase in the number of applicants, projects and the amount of support requested, the NEBP is a useful program which can accelerate broadband deployment in unserved and underserved areas. The Commission's Dedicated Wireless Fund program has also brought voice and broadband¹ capable services to remote areas of the state where wireless voice service would not otherwise be available to consumers. With the ability to apply for grants for capital construction projects in the NEBP, wireless carriers can continue to apply for and receive funds for constructing wireless broadband facilities which also provide voice service.

The Commission disagrees with Charter that a "wait and see" approach would be better. The Commission believes the efficiencies that will be gained by combining the two programs outweigh the concerns raised by Charter in its comments.

¹The definition for "broadband" under the Dedicated Wireless Fund program did not mirror the 4/1 Mbps standard used in the NEBP program. Rather, the definition was based upon the Federal Communications Commission's definition of "3G." In terms of speed qualifications, this was defined as an outdoor minimum of 200 kbps uplink and 768 kbps downlink to handheld mobile devices at vehicle speeds up to 70 MPH.

The Commission also agrees with the majority of the commenters who supported retention of the 25 percent match requirement. The Commission agrees with CenturyLink that a certain level of financial investment on the part of the carrier is appropriate. The Commission agrees with the commenters who cite the benefit of being able to reach more consumers at a faster pace with the 25 percent match. Moreover, match requirements are a standard practice in use by other states with similar programs as well as with federal grant programs.

Contrary to Viaero's argument, the Commission does not believe that the match requirement has served or will in the future serve as a deterrent to any particular broadband provider wishing to apply for NEBP support. The Commission has not heard from any potential broadband applicant that the match requirement was a barrier to submitting an application. Further, the Commission does not agree that the match requirement unfairly advantages one provider over another.

Overall, the Commission finds the Dedicated Wireless Fund program should be absorbed by the NEBP program in 2014 resulting in \$9 million of grant support for broadband capital improvement projects in 2014. The Commission further finds the 25 percent match requirement should be retained as an eligibility requirement for NEBP support.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the findings and conclusions made herein be and they are hereby adopted.

MADE AND ENTERED at Lincoln, Nebraska this 4th day of September, 2013.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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COMMISSIONERS CONCURRING:

Tim Schram

Paul Johnson
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//s//Anne C. Boyle
//s//Frank E. Landis

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Chair

ATTEST:

Joyce Meredith

Executive Director