

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Petition of) Application No. NUSF-77
the Nebraska Telecommunications) Progression Order No. 4
Association for Investigation)
and Review of Processes and) ORDER ISSUING FINDINGS,
Procedures Regarding the NUSF.) SEEKING FURTHER COMMENTS AND
) SETTING HEARING
)
) Entered: September 27, 2011

BY THE COMMISSION:

Background

On January 14, 2010, the Nebraska Telecommunications Association (NTA) filed a petition for investigation and review of the Nebraska Universal Service Fund (NUSF) processes and procedures. On March 8, 2010, the Commission held a planning conference to discuss a timeline for the submission and development of issues to be considered for possible inclusion in this investigation. The Commission requested that a listing of issues be filed by interested parties. Those issues were discussed at a workshop held on June 24, 2010. The issues of many of the commenters focused on establishing a program within the NUSF that would support broadband deployment in Nebraska. The Commission sought comments on how a broadband pilot program could be structured.

We invited interested parties to comment on whether the Commission should implement a broadband pilot program within the NUSF, and if so, how the broadband pilot program should be administered.

On June 14, 2011, the Commission issued Progression Order No. 3, which sought comments on the general framework and funding level for Year One of a Nebraska Broadband Pilot Program (NEBP). In that Order, the Commission proposed that the NEBP program should be administered as a grant program whereby applications are submitted, evaluated, and approved by the Commission and grantees are subject to oversight and audit processes, similar to the Commission's Dedicated Wireless Fund program. The Commission believed that specific and targeted broadband support to unserved and underserved areas will be the best method to close the broadband availability gap in the near

term. The Commission sought comments on setting aside \$4 million for Year One of the NEBP.¹

The Commission's proposal included a general framework for determining eligibility, provided application requirements, and general criteria to be considered when determining whether to approve applications for NEBP support.

Further Comments and Reply Comments Filed

Allo Communications LLC (Allo) recommended the Commission apply its allocation methodology used in NUSF-50/C-3554. Allo stated that the Commission's minimum requirement for broadband was inadequate and recommended changing the definition to 4 Mbps download and 1 Mbps upload. Allo also recommended that the NEBP program support more than one network in a given area. Allo supported the Commission's proposed requirements related to eligibility and the proposed application ranking criteria. Allo also suggested that matching funds should be considered in approving projects, that deployment of proven technologies should receive higher priority and that the Commission consider other funding sources for proposed projects.

CTIA expressed concern about the Commission's proposal to fund broadband through assessments on intrastate telecommunications services. However, to the extent that the Commission proceeds with its goal to distribute NEBP support, the Commission's program should be competitively neutral and should focus on unserved areas. CTIA supports the Commission's proposal to rank applications. CTIA recommended the Commission leverage existing data to determine unserved areas. CTIA points to the California Advanced Services Fund (CASF) as a model for determining supported areas.

Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska ("Frontier") commented that one limited aspect of the CASF is the matching requirement. In some cases, California's matching requirement makes funding certain projects unfeasible. Citizens recommended a lower

¹ The Commission also stated that during Year One of the NEBP program, the Commission would seek further comments on transitioning the limited pilot program to a distribution process which will create incentives for carriers to meet broadband deployment objectives, taking into consideration operation and maintenance of high-cost broadband capable networks, and directing funding to carriers which have met broadband deployment objectives. At that time, we will seek comments on the long-term objectives of the high-cost distribution mechanism as well as the Dedicated Wireless Fund.

matching threshold. Frontier supported the Commission's proposed list of six commitments, but suggested minor modifications. With respect to Commitment 6, Frontier suggested that a five-year reporting and audit application be used corresponding to the five-year service obligation. Frontier also stated that it is likely that the demand for NEBP funding will be greater than available funding, accordingly it is important that a clear ranking and prioritization process is in place so that applicants will be able to fully describe their projects in relation to the ranking criteria. Frontier recommended that projects which already receive some sort of public funding ought to receive a lower priority. In its reply comments, Frontier stated that weight should be given to the breadth of broadband deployment. Frontier also recommended the Commission consider the company's willingness to provide a match and use the size of the match along with various other factors rather than establishing a fixed matching requirement.

Cox Nebraska Telcom, LLC ("Cox") supported the Commission's proposal to make \$4 million available for the NEBP. Cox recommended that because limited resources are available, the Commission must clearly identify the criteria to be used for prioritizing funding. Cox supported the Commission's proposal to rank applications using the criteria set forth in Progression Order No. 3. Cox advocates the Commission utilize a bidding system where carriers comprehensively detail their project and include the estimated retail cost as well as a commitment to price "cap" retail rates for a certain number of years. Cox was not opposed to Commission's proposal to use census blocks to determine unserved and underserved areas. Cox supported a matching requirement, however recommended the Commission refrain from using a specific percentage. Instead, Cox recommended the Commission should look at a company's willingness to do a financial match and the size of the match in consideration of the size of the project.

United Telephone Company of the West d/b/a CenturyLink (CenturyLink) supported the Commission's NEBP proposal to evaluate the feasibility to support applicants that provide both broadband and voice services. CenturyLink recommended the Commission make support available to only terrestrial broadband providers. CenturyLink recommended the Commission support only one network in a given area. CenturyLink recommended the Commission clarify that an applicant may provide voice service using voice over internet protocol (VoIP) to fulfill this obligation. CenturyLink generally supports the Commission's proposed application process and content. CenturyLink recommends

the Commission require applicants to provide highly-detailed maps to clearly denote the potential expanded deployment. CenturyLink also recommended the Commission provide an option for broadband providers to submit data demonstrating whether broadband service is already available in proposed areas where applicants are seeking support to construct facilities. CenturyLink also recommended the Commission use the FCC's proposed download and upload speeds to avoid potential conflicts with the Connect America Fund. Further, CenturyLink recommended that the Commission give the incumbent local exchange carrier the right of first refusal to deploy broadband in the area in question and be given an opportunity to provide a response to an application for support. CenturyLink supported a matching requirement and suggested the Commission require the applicant to match a minimum of 25 percent and a maximum of 50 percent before being eligible to receive funding from the program. In addition, CenturyLink recommended the Commission consider allowing applicants the opportunity to submit invoices for reimbursement regularly, such as on a quarterly basis. Both the Commission and the applicant should maintain sufficient records to track the costs that have been reimbursed.

The Nebraska Telecommunications Association ("NTA") supported the Commission's proposal for Year One of the NEBP. The NTA recommended the speed minimum requirements be amended to reflect a minimum speed of 1.5 Mbps download. In addition, the NTA recommended that applicants who are funding a portion of a proposed project should be favored over those who are requesting the entire project be funded by a grant. The Commission should monitor the project to confirm the level of the applicant's investment.

The Rural Independent Companies (RIC) provided information on broadband programs in California, Idaho, Maine, New York and Utah. RIC supported the Commission's proposed Year One funding level for the NEBP. RIC urged the Commission to limit NEBP grant awards to only wireline broadband network projects in Year One. In addition to the designation criteria proposed in Progression Order No. 3, RIC suggested the Commission also adopt the reporting requirements in section 009.04 of Chapter 5 of the Telecommunications Rules and the audit requirements specified in section 003.05 of the Nebraska Universal Service Fund Rules. In addition, RIC recommended two modifications to the Commission's proposed designation requirements. First, with regard to requirement 2, RIC recommended carriers should be required to commit to offer a voice grade service to customers and to commit

to comply with all relevant quality of service standards as established by the Commission.

RIC also recommended adding language to the proposed description of financial qualifications to require the applicant to detail other sources of funding commitment such as loans, bank statements, or commitment letters. In addition, RIC recommended the Commission add a requirement that the applicant must demonstrate that the project is financially sustainable.

In terms of the review process, RIC recommended that only projects targeting unserved or underserved areas as defined in their comments be considered eligible for program funding. RIC noted that in order to properly rank applications, the primary objective should be to provide as many households in unserved areas with broadband access while expending the lowest feasible grant funding per household per Mbps. RIC recommended a minimum of 50 percent financial match commitment should be required from the applicants seeking funding from the NEBP program. RIC recommended a formal process be used for applicants to follow.

In its reply comments RIC recommended the Commission accurately determine which areas of the state are currently and will continue for the foreseeable future be unserved or underserved. RIC stated broadband service providers could furnish to the Commission information regarding areas already served with broadband and areas in which broadband service is planned to be built.

The Rural Telecommunications Coalition of Nebraska ("RTCN") recommended that the terms "unserved" and "underserved" be defined in the Commission's order. The RTCN also requested further clarity on the funding source for the \$4 million support amount. The RTCN recommended the Commission should proportionately draw funding from the existing dedicated wireless fund program. The RTCN stated that wireless carriers should not be eligible for both dedicated wireless fund and NEBP program support. The RTCN generally supported the eligibility requirements outlined in the Commission's order. The RTCN strongly urged the Commission to reconsider its proposed speed standards. As an alternative, the RTCN proposed using 4 Mbps download and 1 Mbps upload similar to what is being considered by the FCC. The RTCN suggested the Commission require a match equal to at least 25 percent of the funding required to successfully complete a project. RTCN additionally recommended that carriers that received stimulus funding should not be eligible for NEBP funding for the same or overlapping project.

In its reply comments, RTCN agreed with RIC's suggested additional eligibility requirements.

N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless (Viaero) supported the Commission's proposal to allocate \$4 million to broadband deployment. Viaero endorsed the Commission's six eligibility criteria with minor suggestions. First, Viaero suggested the Commission retain the requirement that all eligible carriers must offer the supported broadband services to all households in the defined area for a minimum of five years. Second, Viaero suggested the Commission add a limited amount of flexibility to support a network that provides coverage to most but not all remote customers. In addition, Viaero also suggested the Commission utilize the FCC's technical standard to define broadband speeds.

In terms of the review process, Viaero suggested the Commission review and fund applications on a wire center basis. Viaero suggested a collaborative review process rather than an adversarial proceeding. Finally, Viaero suggested the Commission refrain from adopting a financial match requirement.

Summary of Hearing Testimony

The Commission held a public hearing on the NEBP proposal on August 8, 2011. Loel Brooks entered an appearance for Viaero. Deonne Bruning entered an appearance on behalf of Cox Nebraska Telephone. Jack Shultz entered an appearance on behalf of the Nebraska Telecommunications Association. Steve Seglin entered an appearance on behalf of Verizon. James Overcash entered an appearance on behalf of the RIC. Troy Kirk entered an appearance on behalf of the RTCN. Shana Knutson entered an appearance on behalf of the Commission.

Ms. Vanicek provided the Commission staff recommendations for Year One of the NEBP. In her testimony she stated the staff and most parties to the proceeding have agreed to have the Commission make \$4 million available for broadband grants in Year One of the program. Ms. Vanicek stated that Commission staff agrees with the proposal to designate available NUSF monies not distributed through the high-cost mechanism for Year One of the Broadband Pilot program and to assign additional NUSF monies from the high-cost funding mechanism to make \$4 million available, if necessary. Ms. Vanicek also stated that staff agrees with the Commission proposal to make all facilities-based ISPs and telecommunications carriers that are eligible for NETC

designation eligible for NEBP support if the applicants meet the conditions set forth in NUSF-77 PO #3.

Ms. Vanicek supported RIC's recommendation that carriers commit to complying with all quality of service regulations relevant to voice service. Ms. Vanicek testified that staff agreed that speed standards should be 4 mbps download and 1 mbps upload, and recommends that applicants identify proposed project areas in terms of census blocks which are publicly available geographic areas. Carrier plans for broadband deployment should not be considered in determining what areas are served and unserved/underserved because reliance on the information may cause an otherwise eligible area to be deemed ineligible.

In addition, she recommended the Commission accept one round of applications filed by the due date, with funding requests filed in the form of discrete projects. Each project would then be evaluated using an "all or nothing" approach so that the Commission may identify projects that carriers should be expected to commit to if awarded funding. Additionally, staff recommended that carriers be required to contribute a funding match equal to or greater than 25%, or that the Commission use a scoring process where such a match would receive greater weight. Ms. Vanicek testified that any ranking or weight process for applications should not be released prior to receiving the first round of applications in order to avoid geographically disparate awarding of funding. Additionally, Ms. Vanicek stated cash flow or business case analyses should not be adopted as an application requirement because they are sensitive to assumptions and forecasts that must be verified, creating an administrative burden and delaying the application process.

Mr. Shultz stated that NTA was generally supportive of the Commission staff proposal with minor exceptions. NTA was pleased that recipients of the fund would need to meet NETC requirements. Mr. Shultz also testified that NTA believes that the emphasis of the program should be on unserved areas and not try to support a second network on an experimental basis, and cautioned that the Commission should ensure that speeds are not promised to consumers that cannot actually be provided. Finally, Mr. Shultz agrees with the idea of a financial match, giving more credence to those who invest more of their own money.

Mr. Caldwell stated that the RIC believes that the NEBP should be targeted to provide financial assistance for expanding broadband to areas where service is not available and market

conditions preclude a reasonable return on investment to broadband providers. Program support should be provided first to unserved areas, then to underserved areas. RIC strongly agreed with the idea of a financial match, with the level of matching funds being criteria used to rank or score applications for the NEBP. In addition, Mr. Caldwell stated that the grant funded cost of any project application should also be used as a criterion.

RIC also supported using \$4 million from surcharge revenue surplus or reserve for program Year One. RIC did not support combining dedicated wireless funds and broadband funds at this time, but believed that the Commission should ensure that each fund is able to meet its primary objective. The funds for the broadband program should be used for fiber based wireline network project proposals. The RIC did not support the funding of duplicate networks. In regards to eligibility criteria, the Commission should consider the adherence to the Commission's Telecommunications Rules and Regulations service quality standards and reporting requirements, as well as NUSF Rules and Regulations dealing with audits. In addition, RIC suggested a requirement that applicants provide underlying funding sources, a demonstration of the applicant's financial sustainability, and a requirement showing that the project would not occur if not for the funding to be received from the program. Speed should be an application criterion and set as a floor speed, with those applications noting the greatest speeds being given the most weight.

Additionally, Mr. Caldwell stated accurate and sufficient broadband service data is essential, and that the mapping data was not sufficient without additional information from applicants regarding the exact locations where the proposed projects will be. RIC was also supportive of all or nothing funding for applications. Finally, Mr. Caldwell stated that RIC supported of a minimum match of 50%, making use of the \$4 million in funds more effective.

Viaero's witness Mr. Newell stated a matching requirement should not be adopted. Instead the scoring process should be based on the actual cost of deployment. Mr. Newell stated that carrier matches cannot be compared equally since each carrier receives subsidies in varying amounts from other state and federal funding sources which could possibly be used as the funds for the company's match.

Mr. Newell further recommended that the Commission evaluate and verify the services being provided and not rely on what carriers represent that they are providing. Mr. Newell recommended that the Commission look at the retail pricing to ensure that the service will not be too expensive for consumers. Viaero also stated that funding projects on an all or nothing basis would be problematic. Finally, Mr. Newell stated that encouraging applicants to apply for projects on a census block basis would be tedious because census blocks are so small. He recommended that the Commission speak with all applicants as proposals come in to determine whether the application could be modified to ensure that the money is distributed in the most efficient way possible.

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

The Commission enters this Progression Order to adopt certain findings as it relates to the establishment of a Nebraska Broadband Program (NEBP) and to seek further comment on the application requirements, eligibility, criteria, and accountability. In general, the commenters were supportive of the Commission's proposal to implement a broadband pilot program and with the general process described in the Commission's previous Progression Order. In response to this Order, commenters may file recommendations on the Commission's proposed modifications and offer additional testimony as it relates to the establishment of the NEBP.

Most commenters supported the Commission's proposal to make \$4 million available for broadband grants in Year One of the NEBP. Upon consideration of the comments, reply comments and hearing testimony, the Commission finds that setting aside \$4 million for the NEBP will further accelerate broadband deployment, promoting access to advanced services, while maintaining sufficient levels of high-cost program funding. Accordingly, the Commission hereby adopts the proposal to set aside \$4 million for Year One of the NEBP.

In addition, the Commission sought comments on whether it should provide funding to only one broadband network in a given area and requested comment on how that provider should be determined. The Commission also solicited comments on its proposal to prioritize support to unserved and underserved areas. A number of commenters supported the notion of providing funding to only one network in a given area and supported the targeting of support to unserved areas first. Accordingly, we

find that the Commission's review process will give highest priority to providing broadband service to areas where the area is considered to be unserved. Areas that are underserved will also be eligible for broadband support but will be given less priority by the Commission. The Commission anticipates, based on the comments filed thus far, that requests for funding will exceed the limited support available. Accordingly, if such support is targeted to unserved areas first, then the Commission would not be supporting more than one broadband provider in a given support area.

The Commission agrees with the commenters suggesting that the terms "unserved" and "underserved" should be defined terms.² Having these terms explicitly defined by the Commission will add clarity for potential applicants and greater transparency in the review process. No commenter objected to the definitions of "unserved" and "underserved" as proposed by RIC. No other commenter provided alternative definitions. We find that the definitions for "unserved" and "underserved" provided by RIC should be adopted as follows:

"Unserved" shall mean any area where no facilities-based provider offers broadband, and where Internet connectivity can only be made through dial-up service.

"Underserved" shall mean any area where a facilities-based provider offers Internet access at speeds greater than 56K down but not greater or equal to those speeds defined as broadband.

The Commission further finds that the NEBP program should be administered in a competitively and technologically neutral manner. The Commission proposed to make all Facilities-Based Internet Service Providers (ISPs) and telecommunications carriers eligible for Nebraska Eligible Carrier Designation for NEBP program support. This would include regulated wireline, wireless, and unregulated communications providers as eligible assuming the carrier meets the Commission designation requirements. Although some carriers requested the Commission limit NEBP support to wireline providers, the Commission declines to adopt the recommendation to limit the eligibility of NEBP support to one type of facilities-based provider.

² See Rural Independent Companies' Comments (July 15, 2011) Appendix B.

In addition, the Commission agrees with the vast majority of commenters recommending the Commission modify the definition of broadband so that broadband is defined as service that provides consumers with a minimum actual download speed of 4 Mbps and upload speed of 1 Mbps, which mirrors the FCC's National Broadband Plan standard. The Commission also agrees with the commenters that the definition of broadband should be subject to ongoing review and revision by the Commission as needed to meet³ consumer demand. The Commission seeks further comment on how often this standard should be reviewed.

Most commenters also agreed that the applicants should make some financial commitment to the project. According to CenturyLink, "requiring applicants to pay part of the cost of the broadband deployment will ensure that only those carriers serious about deploying broadband to rural areas receive funding." The Commission agrees that some level of match should be required. However, the matching requirement should not be structured in a way that it creates a barrier for some providers having a very beneficial project. The Commission believes that a 25 percent match requirement would be an appropriate balance of the concerns raised by the commenters. Accordingly, the Commission finds that a 25 percent matching requirement should be adopted.

Eligibility Requirements

In order to be designated as an eligible provider for NEBP program support, the Commission proposed to have each applicant:

- (1) Commit to offer the supported broadband service upon completion of the deployment to all households within the area defined by the application, for a minimum period of 5 years;
- (2) Commit to offer a voice grade service to customers within the service area of the broadband deployment;
- (3) Commit to offer access to emergency services;
- (4) Commit to using broadband support only for the purposes intended and which have been approved by the Commission through the application process;

³ CenturyLink Reply Comments at 2 (July 29, 2011).

- (5) Commit to offering the voice and broadband service at reasonably comparable rates for comparable services in urban areas; and
- (6) Commit to fulfilling reporting and audit requirements adopted by the Commission for oversight of the NEBP program.

With a few modifications a majority of commenters supported the proposed eligibility requirements. The Commission finds some of these requirements should be adopted. The Commission also seeks further comment on the modifications suggested by the commenters as described below.

RIC and Allo suggested clarification of requirement number (2) above, to ensure voice-grade service is of a quality that is not less than the current voice services offered by the industry. A number of commenters supported RIC's proposal to incorporate, by reference, the standards in the Commission's Telecommunications Rules and Regulations in Title 291, Chapter 5, Sections 002.02 through 002.05 and 002.11 through 002.13. The Commission finds incorporating the current voice-grade requirements from the Telecommunications Rules and Regulations will add clarity to this requirement. The Commission finds it appropriate to include this modification.

Some commenters suggested the Commission incorporate the Commission's audit requirements into section (6) above. As with the Dedicated Wireless Fund, the Commission will require the capital expenditure to be made prior to support being paid to the eligible carrier. The Commission will then review the invoices and pay those expenses based on the invoiced cost. This process is distinguishable from the payment of support in the high-cost program which is based on the Support Allocation Mechanism (SAM). While the Commission will continue to ensure that payments from the NUSF are being used for the provision and maintenance of telecommunications equipment and services, the Commission's oversight of the NEBP will need to be tailored to the manner in which support is distributed for the specific projects approved. Accordingly, the Commission declines to incorporate the current audit provisions from Title 291, Chapter 10 at this time.

In addition, some commenters suggested the Commission add a requirement that any company receiving grant funding from the NEBP should be required to commit to abide by all Commission

orders issued related to the NEBP program and that the carrier receiving a grant award commit to collecting and remitting the NUSF surcharge on those portions of the customer revenues derived from operations of the funded project to the extent allowable by law. The Commission agrees that any carrier receiving NEBP support must abide by all applicable Commission rules and orders. The Commission proposes to include this modification. The Commission seeks further comment on any specific requirements which should be included in a Commission Order granting NEBP support.

Application Requirements

The Commission proposes Applicants should be required to submit the following information to the Commission for each proposed broadband project:

<u>PROPOSED APPLICATION CHECKLIST</u>	
1. A listing of all companies associated with the proposed broadband project, including a main point of contact for all companies;	
2. A description of the proposed broadband project plan for which NEBP funding is being requested including download and upload speed capabilities which can be provided using the proposed infrastructure. Minimum speed standards should be 4 mbps download and 1 mbps upload;	
3. A description of which areas are "unserved" or "underserved" in accordance with the Commission's definition;	
4. An electronic map ⁴ of all geographic locations where broadband facilities will be deployed. 2010 Census Block boundaries of service area, by project, along with a demonstration that the area is currently unserved or underserved. The map must demonstrate coverage in 2010 census blocks;	
5. An estimate of the number of potential new broadband	

⁴ Electronic maps shall be submitted in an editable, ESRI compatible format with all underlying data included and available.

subscribers;	
6. A schedule for broadband deployment with commitment to complete the build-out within 24 months of approval of the application. The schedule should describe milestones in project completion increments of 25 percent, and the estimated date by which the milestones will be completed;	
7. A proposed budget, showing total project costs, in electronic format, ⁵ with a detailed breakdown of the cost elements and a depreciation schedule showing the life of the investment;	
8. Proposed retail pricing, including both monthly recurring costs and nonrecurring costs for the new broadband service(s) to be offered;	
10. A description of the applicant's commitment to offer broadband services to all households within the service area of the project;	
11. A description of the applicant's commitment to provide broadband data to the Commission and its vendors for the duration of the State Broadband Data and Development (SBDD) program so that this broadband coverage area can be depicted on the Commission's state broadband data inventory map and on the National Telecommunications and Information Administration's (NTIA's) national broadband map;	
12. A description of the applicant's financial qualifications, which may be filed on a confidential basis, to meet the commitments made in the application;	
13. If the applicant does not have a certificate of public convenience and necessity to provide telecommunications services in Nebraska, a demonstration of the applicant's financial, technical, and managerial competence. ⁶	

⁵ A proposed budget shall be submitted in an editable, Microsoft Excel format with all underlying data included and available.

⁶ A balance sheet and income statement can be submitted to demonstrate financial competency.

14. A description of the applicant's financial match which will be used to meet the commitments made in the application; and	
15. An affidavit from the Applicant attesting to the truth and accuracy of all information included in the application	

All confidential materials should be clearly marked. A redacted copy of the application should be filed for public dissemination.

Review Process

In Progression Order No. 3, the Commission proposed to publish notice of the applications consistent with its Rules of Commission Procedure. Interested parties would then be permitted to file Protests or Petitions of Intervention where an interest has been demonstrated in the applicable time frame pursuant to the Commission's rules. In the event that a hearing is required, the Commission may consolidate the hearings on all applications received in a given calendar year, where administratively convenient similar to its hearings on Dedicated Wireless Fund support. No party objected to using this process. The Commission believes this process has worked well with respect to the Dedicated Wireless Fund support. Accordingly, the Commission adopts this procedure for Year One of the NEBP.

The Commission proposes scoring applications received and make funding determinations based upon the extent that the areas are unserved by any provider or underserved by existing providers, the retail price of the service to be offered, the cost per household, number of households which will potentially be served, area density, the proposed benefit to consumers, and the strength of the applicant's commitments. In addition, the Commission staff will refine the process by which areas are prioritized based on the factors described herein and the use of data collected through the broadband mapping project. The Commission may also rely on testimony, speed tests, and evidence presented by the applicant, intervenor(s), or protestant(s).

Application Window

The Commission proposes to open the application window for Year One of the NEBP on **January 2, 2012**. Applications for NEBP

support may be filed between **January 2, 2012 and February 1, 2012**. Consistent with the procedure described above, the Commission will publish notice of the applications and determine an appropriate hearing date.

Audit and Verification Requirements

We propose requiring recipients of NEBP program funds to submit invoices prior to the receipt of NUSF support similar to the process used by the Commission for the Dedicated Wireless Fund support. Recipients of NEBP program support may submit invoices upon partial completion of milestones at 25 percent increments (of the total project plan as designated in the approved application) or upon total completion of the approved project(s). Recipients may be required to submit additional information for verification of the use of NEBP program support. Where deemed necessary and appropriate the Commission may require an audit of NEBP program support. In addition, to the extent appropriate, the Commission may require verification of broadband speeds, plant improvements, and commitments met.

Commission Hearing

A Hearing on the proposals outlined herein will be held on **October 31, 2011 at 10:00 a.m.** central time in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508.

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.

Pre-filed testimony responsive to this proposal must be filed on or before **October 20, 2011**. Interested parties should file one (1) paper copy and one (1) electronic copy of their testimony with the Commission. Electronic copies should be sent to Sue.Vanicek@nebraska.gov and Brandy.Zierott@nebraska.gov. An electronic copy of the testimony must also be served on all other interested parties on the Commission's service list.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that pre-filed testimony responsive to the proposals described herein may be filed on or before **October 20, 2011**.

IT IS FURTHER ORDERED that a Hearing on this matter will be held on **October 31, 2011** at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508.

MADE AND ENTERED at Lincoln, Nebraska this 27th day of September, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Deputy Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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O R D E R

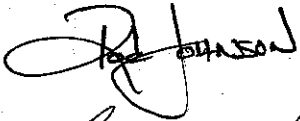
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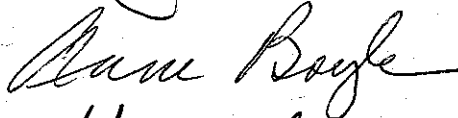
IT IS FURTHER ORDERED that a Hearing on this matter will be held on **October 31, 2011** at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508.

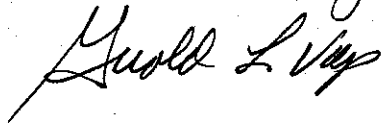
MADE AND ENTERED at Lincoln, Nebraska this 27th day of September, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:







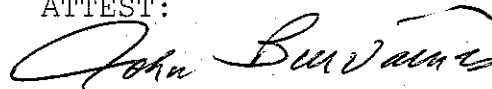
//s// Frank Landis

//s// Tim Schram



Chairman

ATTEST:



Deputy Director