

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. NUSF-92.12
Public Service Commission, on)
its own motion, seeking to)
administer the Nebraska)
Universal Service Fund's) DENIED
Broadband Program: Application)
to the Nebraska Broadband)
Program Received from Pinpoint)
Wireless d/b/a BLAZE Wireless.) Entered: June 24, 2014

APPEARANCES:

For Pinpoint Wireless, Inc. d/b/a BLAZE Wireless:

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BY THE COMMISSION:

Background

By Application filed January 31, 2014, Pinpoint Wireless, Inc. d/b/a BLAZE Wireless ("Pinpoint" or "Applicant") seeks Nebraska Broadband Pilot (NEBP) Program support. Notice of the Application appeared in the Daily Record, Omaha, Nebraska on February 7, 2014. Petitions of Formal Intervention were filed by N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless ("Viaero"), BW Telcom ("Raicom"), and Great Plains Communications ("Great Plains"). On May 15, 2014, Viaero withdrew its Formal Intervention.

A staff recommendation was filed on April 22, 2014. Pre-filed testimony was filed by Pinpoint on May 9, 2014. Pre-filed testimony in opposition to the Application was filed by Raicom on May 28, 2014.

On June 10, 2014, the Commission held a public hearing on the application in Lincoln, Nebraska. For administrative efficiency, the hearing was consolidated with the hearings in NUSF-92.01 through NUSF-92.11 and NUSF-92.13 through NUSF-92.16.

Mr. Russell Westerhold entered an appearance on behalf of the Applicant, Pinpoint. Mr. Andrew S. Pollock entered an appearance on behalf of Raicom.

Project Overview

Applicant is a Nebraska corporation with its principal office located in Cambridge, Nebraska. Applicant is a subsidiary of Pinpoint Holdings, Inc., a diversified holdings company of telecommunications entities. Applicant is authorized to provide Cellular Mobile Radio Services (CMRS) in Nebraska Trading Area 270. Applicant originally proposed six (6) broadband projects in Nebraska.

Applicant provided a project timeline, a proposed budget showing project costs, a 25 percent match, and a detailed breakdown of the cost elements. Applicant provided a depreciation schedule showing the life of the investment. Applicant provided a copy of its latest financial report to demonstrate financial qualifications to complete its portion of the proposed project. In addition, Applicant provided information detailing the proposed project coverage in census blocks.

Staff Analysis

The Commission staff analyzed each project including the projects filed by Pinpoint. The staff first reviewed the application to determine whether the eligibility requirements had been met. Next, the staff reviewed the application to determine whether all application requirements listed in Progression Order No. 5 were fulfilled. Each project was then scored.

To score this application, the Commission staff took various pieces of information directly from the applications submitted for each project and utilized in factor development. This data included; retail monthly recurring and nonrecurring end-user rates for the provisioning of broadband service; the speed (Mbps) of the respective service being offered; and the total grant request amount for each project.

Additionally, the staff obtained various other data, from publicly available sources, also used in factor development. This data included: residential monthly recurring rates for voice service and subscriber line charges, if applicable;¹

¹ Company specific publicly filed tariffs.

population and household by census block;² area by census block;³ and broadband availability.⁴

The Commission staff then utilized a group assignment to prioritize areas determined as unserved,⁵ using the broadband mapping data as a starting point for its review. Staff triaged the projects into categories, or groups, based on the nature of each area being served and the total cost of each project. Any project comprised completely of unserved areas received a Group Assignment value of one (1). If not identified as Group Assignment one, the highest scoring project submitted by each applicant received a Group Assignment of two (2). All remaining projects, containing some hybrid of various levels of unserved and underserved areas, received a Group Assignment of three (3) through five (5), based on the total cost of the project.⁶

The Commission staff noted the dramatic increase in the number of projects submitted resulting in demand which significantly outpaced supply. As such, the Commission staff utilized total cost in the determination of the group assignment in an effort to advance the objectives of the NEBP; expanding broadband service availability to the greatest number of Nebraskans.⁷ The staff's group assignment created a priority hierarchy. Within each hierarchy, the project score assigns rank based on the criteria described in the Staff Recommendation.

As a result, the staff recommended approving Pinpoint's application, in part, by recommending support for one (1) project, the Wauneta project, in the amount of **\$276,750**.

² United States Census Bureau, Census 2010 Summary File 1.

³ United States Census Bureau, 2010 Tiger/Line Shapefiles.

⁴ State Broadband Initiative Broadband Mapping Data, April 2014 submission.

⁵ See *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Docket No. NUSF-77, Progression Order No. 5, ORDER at 7 (November 21, 2011).

⁶ All projects filed for the NEBP in 2014 are independent of all other projects filed by the same applicant.

⁷ See *In the Matter of the Petition of the Nebraska Telecommunications Association for Investigation and Review of Processes and Procedures Regarding the Nebraska Universal Service Fund*, Docket No. NUSF-77, Progression Order No. 7, ORDER at 5 (January 15, 2013)(describing the NUSF Act's goal to ensure all Nebraskans have comparable access to advanced services).

Hearing

Ms. Sue Vanicek, Director of the Department presented testimony at the hearing relative to the recommended adjustments to funding amounts. She testified that the Department reviewed each application and identified certain costs which should be excluded. Ms. Vanicek's testimony was offered and received into the record as Exhibit No. 22.

Mr. Tyler Frost, the staff Economist presented testimony related to the staff's methodology for recommending NEBP support. Mr. Frost provided further details about how the staff reviewed and scored each application. Mr. Frost's testimony was offered and received into the record as Exhibit No. 23.

Mr. Tom Shoemaker, Executive Vice President of Pinpoint, testified in support of the application. Mr. Shoemaker's pre-filed testimony was received into evidence as Exhibit No. 38. Pinpoint's application was received into evidence as Exhibit No. 14. Mr. Shoemaker testified Pinpoint currently offers service in the southwest portion of Nebraska. Pinpoint has focused its service in an eight county area to supply both voice and data services. Mr. Shoemaker stated Pinpoint offers mobile and fixed data and voice services. Pinpoint sought approximately \$1.7 million in NEBP grant support. The Commission staff recommended support for one (1) project, the Wauneta project, in its April 22, 2014 Staff Recommendation.

Raicom, Inc. an affiliate of Benkelman Telephone Company (BWT) opposed support for the Wauneta project. Mr. Randall Raile, General Manager of Raicom, testified BWT has fiber in and around Wauneta, over which it offers broadband as defined by the Commission. Mr. Raile's pre-filed testimony was received into evidence as Exhibit No. 39. Mr. Raile testified Raicom also has a fixed and mobile wireless product, which provides consumers with both fixed and mobile wireless broadband capabilities throughout the proposed service territory. Mr. Raile testified Raicom's LTE wireless broadband service is a relatively new service offering that has not yet been reported to the Commission's broadband data collection contractor.

Under cross-examination, Mr. Raile testified that its dual fixed/mobile wireless broadband service provides consumers access to voice service through an integrated access device that will allow the consumer to bring a Voice Over Internet Protocol circuit over to a residence or facility. Mobile voice service can be provided through downloading an application ("app") on a computer or wireless device. Mr. Raile testified that Raicom provides 911 capability. Mr. Raile testified that the 911

location information would be the subscriber's registered location, which would normally be the subscriber's home.

In light of the arguments made by Raicom in its opposition testimony, Mr. Frost testified the staff recommendation should be reconsidered. The Commission accepted the offer of a late-filed exhibit from Raicom demonstrating its broadband coverage throughout the Wauneta project area. The Commission also accepted the offer of a late-filed response from Pinpoint. Those exhibits were received into the record as late-filed Exhibit Nos. 47 and 48 respectively.

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

On June 14, 2011, the Commission issued Progression Order No. 3 in NUSF-77, finding that making explicit NUSF support available for broadband deployment would complement the Commission's existing goal to support networks that provide voice service as well as advanced services. In addition, the Commission found promoting ubiquitous broadband availability was a state and federal responsibility which would require both state and federal financial support. Through further progression orders the Commission adopted criteria for the NEBP program eligibility, application requirements, and provided a timeline for the consideration of NEBP projects.

Based on the evidence provided at the hearing, the Commission finds Raicom adequately demonstrated the existence of access to mobile broadband coverage in the area Pinpoint proposed to serve through its Wauneta project. Pinpoint did not dispute the overlap but argued the Commission should not consider the two broadband services as comparable. In support of its argument, Pinpoint stated that its product would provide a mobile broadband service with superior voice, emergency access and roaming capabilities which subscribers are more likely to seek from a wireless provider. While it is true that there are differences between the two broadband products, the Commission declines to weigh the advantages and disadvantages of competing broadband services at this time. The Commission is not convinced that the area lacks mobile broadband access given the testimony and evidence presented by Raicom.

Accordingly, the Commission finds that support for the Pinpoint Wauneta project should be denied. The Commission encourages Pinpoint to re-file the proposed projects not receiving support due to the exhaustion of the NEBP support made available in the next round.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Application filed by Pinpoint Wireless, Inc. d/b/a BLAZE Wireless shall be, and it is hereby, denied.

MADE AND ENTERED at Lincoln, Nebraska, this 24th day of June, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Application filed by Pinpoint Wireless, Inc. d/b/a BLAZE Wireless shall be, and it is hereby, denied.

MADE AND ENTERED at Lincoln, Nebraska, this 24th day of June, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Aune Boege
Tim Schram
Red Johnson
Guoel Hup

Frank E. Landis
Chairman

ATTEST:

Steve Meradith
Executive Director

//s//Frank E. Landis