

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. NUSF-92.25
Public Service Commission, on)	
its own motion, seeking to)	
administer the Nebraska)	
Universal Service Fund's)	GRANTED, IN PART
Broadband Program: Application)	
to the Nebraska Broadband)	
Program Received from Glenwood)	
Telecommunications, Inc.)	Entered: July 21, 2015

APPEARANCES:

For Glenwood Telecommunications Inc.:

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For Pinpoint Wireless, Inc. d/b/a BLAZE Wireless and Windstream Communications of Nebraska:

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For the Commission:

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BY THE COMMISSION:

Background

By Application filed November 26, 2014, Glenwood Telecommunications, Inc. ("Glenwood") seeks Nebraska Broadband Program ("NEBP") support. Notice of the Application appeared in the Daily Record, Omaha, Nebraska on December 4, 2014. Petitions for Formal Intervention were filed by N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless ("Viaero"), and Windstream Communications of Nebraska ("Windstream"). The Petitions were granted. Subsequently, Viaero's Intervention was withdrawn.

A staff recommendation was filed on May 11, 2015. Pre-filed testimony was filed by Glenwood on June 12, 2015.

On July 6, 2015, the Commission held a public hearing on the application in Lincoln, Nebraska. For administrative efficiency, the hearing was consolidated with the hearings in NUSF-92.17 through NUSF-92.19, NUSF-92.21, NUSF-92.23 through NUSF-92.24, NUSF-92.27, NUSF-92.28, NUSF-92.30, NUSF-92.32, NUSF-92.33, NUSF-92.35 through NUSF-92.40. Mr. Andrew S. Pollock filed an appearance on behalf of the applicant. Mr. Russell Westerhold filed an appearance on behalf of Windstream.

Project Overview

Glenwood is a competitive telecommunications provider in Nebraska. Its principal office is located in Blue Hill, Nebraska. Glenwood originally proposed three (3) broadband projects.

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

Staff Analysis

The Commission staff analyzed each project including the three projects filed by Glenwood. 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 population and household by census block;² area by census block;³ and broadband availability.⁴

¹ Company specific publicly filed tariffs.

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.

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), provided the project's Cost/HH value falls below the Cost/HH Threshold ("Threshold") described in the Staff Recommendation. 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 Projects subject the staff's Cost/HH Threshold were assigned to a Group Assignment value of three (3) through five (5), based on the respective Cost/HH. Within each hierarchy, the project score assigns rank based on the criteria described in the Staff Recommendation.

As a result, the staff recommended approving Glenwood's application for the Sutton project in the amount of **\$179,360.**

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. 24.

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. 25.

Mr. Stan Rouse testified in support of the application. Mr. Rouse's pre-filed testimony described the projects recommended for broadband support. His testimony was received into evidence

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 2015 are independent of all other projects filed by the same applicant.

as Exhibit No. 42. Glenwood's application was received into evidence as Exhibit No. 9. Mr. Rouse testified that Glenwood proposes to install fiber optics and fixed wireless equipment to provide broadband service to the rural areas surrounding the community of Sutton in Clay County. He stated the area consists mainly of rural farm families who increasingly rely on broadband for their farm and other business operations, as well as education and entertainment. He further testified residents of this rural area currently do not have access to reliable broadband service to meet those needs. Without adequate speeds, rural farmers are at a disadvantage.

Windstream testified in opposition to the Glenwood request for NEBP support as recommended by the Commission staff. Mr. Brad Hedrick, Division Vice President, Field Operations for a seven-state region that includes Nebraska, testified on behalf of Windstream. Mr. Hedrick's reply testimony was received into evidence as Exhibit No. 31. Mr. Hedrick stated the Glenwood project represented an extensive overbuild of Windstream's currently available broadband services in and around Sutton. In addition, Mr. Hedrick testified, some of the areas in and around Sutton are eligible for Connect America Fund ("CAF") Phase II funding from the FCC. Windstream maintains that the Commission's funding resources should be put to better use than to support this project.

In response to questions, Mr. Hedrick testified that Windstream's recent upgrade in service reflecting broadband speeds in the Sutton area was not reflected in the mapping information used by the Commission staff for its recommendation. The Sutton upgrade came online on April 27, 2015.

Mr. Hedrick further testified Windstream has not decided whether to accept CAF Phase II funding for the Sutton area. Whether the unserved customers around the Sutton area will get broadband from Windstream will depend greatly on where Windstream comes out on its CAF Phase II decision. Mr. Hedrick did not know whether the CAF Phase II support would cover broadband build out to all of the unserved areas in the proposed project area. Mr. Hedrick further testified that he believed the Windstream coverage information provided to Glenwood in earlier discussions was current information but he could not know for certain unless he verified the information.

Mr. Rouse provided rebuttal testimony. He testified that the Glenwood project is not a significant overbuild of the area. He also testified the equipment upgrades Windstream discussed were transport and backhaul equipment but not equipment or lines to the end users. Windstream currently continues to serve end

users using copper plant and not fiber. Accordingly, there would be significant distance limitations beyond two and a half to three miles with DSL equipment and VDSL.

Mr. Frost, the staff Economist, was recalled to provide some clarification on the staff's methodology. Mr. Frost testified that historically, the staff and the Commission have been very hesitant of promised coverage or coverage to be in existence at some future point in time. He said that is part of what we are talking about here with the CAF Phase II discussion.

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.

The Commission staff made a recommendation which included the support of Glenwood's Sutton project in the amount of **\$179,360**. The Commission staff acknowledged that a portion of this project, as well as a number of other projects supported through this program, will overlap areas with existing broadband service. However, the evidence reflects there are also portions of the proposed project area which are completely unserved. The issue becomes whether deny the broadband support based upon the customers served or grant the support based on the customers that are unserved.

Based on the application and the evidence in the record, the Commission finds the Glenwood application for NEBP program support should be approved in part consistent with the staff recommendation. The Commission finds based upon the particular facts and evidence presented in this case there are rural customers in the project area which are and may remain unserved absent this support. The Commission further declines to deny the application based upon the claim that some or all of the subscribers in this area may potentially be served if Windstream elects to take CAF Phase II support. Accordingly, the Commission approves support up to an amount of **\$179,360 or actual cost** of construction for the project whichever amount is lower.

Reimbursement Process:

Glenwood must first make the investment and then may file a request for reimbursement with the NTIPS Department. Glenwood 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 NEBP program will reimburse Glenwood for reasonable expenditures made related to project specifications detailed in the application and approved in this Order. Once the investment is made, Glenwood shall file a request for support, provide the NTIPS Department with copies of the invoices or other acceptable documentation⁷ 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 area defined in the application.

As a NEBP program recipient, the Commission finds Glenwood must meet the following conditions:

1. The supported broadband service upon completion of the deployment must be available as a service offering to all households within the area defined by the application for a minimum period of five (5) years;
2. The project must be completed within 24 months from the date of this Order unless otherwise extended by the Commission;
3. Voice grade service must be available to customers within the service area of the broadband deployment;
4. Access to emergency services must be available to customers within the service area of broadband deployment;
5. Broadband support must only be used for the purposes intended and which have been approved by the Commission;
6. Voice and broadband service in the area described in its application must be offered at reasonably comparable rates for comparable services it offers in urban areas;
7. Reporting, verification, and audit requirements adopted by the Commission for oversight of the NEBP program must be met; and
8. Adherence to all applicable Commission rules, regulations and orders.

Continuing Nature of Requirements:

⁷ The Commission will provide the Department with the discretion to determine the type of documentation needed to verify the expenditures made when not provided through a third-party invoice.

The Commission will enforce these requirements throughout the period of the grant and the five (5) year period following the completion of the project to ensure the Commission's objectives for this program are being met. Glenwood shall notify the Commission in writing once the project(s) have been completed and the proposed broadband service is being offered. The Commission may take any action it deems necessary and appropriate to enforce the requirements and conditions in this Order.

To encourage public awareness about the deployment of broadband service in Nebraska, we find Glenwood should be required to report broadband availability to the Commission upon completion of the project(s).

These opinions and findings carry no precedential value other than establishing minimum standards and criteria the Commission applied in this application for NEBP program support. The Commission may modify the minimum requirements and conditions for future petitions for support from the NEBP program.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Application filed by Glenwood Telecommunications, Inc. shall be, and it is hereby, granted in part, to the extent provided herein.

IT IS FURTHER ORDERED that Applicant shall comply with requirements set forth herein.

IT IS FURTHER ORDERED that Applicant shall submit detailed and accurate invoices and other documentation required by the Department prior to reimbursement for the supported project(s).

IT IS FURTHER ORDERED that Applicant shall use Nebraska Broadband Program support only for the purposes described in its application and authorized by the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 21st day of July, 2015.

NEBRASKA PUBLIC SERVICE COMMISSION
COMMISSIONERS CONCURRING:

Vice Chairman

ATTEST:

Executive Director

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Crystal Broadus
Deborah

Tim Schram
Vice Chairman

//s//Frank E. Landis
//s//Tim Schram

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ATTEST:

A handwritten signature in cursive script, appearing to read "Jeffrey L. Puley".

Executive Director