

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska	)	Application No. NUSF-99
Public Service Commission, on	)	
its Own Motion, to Administer	)	ORDER OPENING DOCKET,
the Universal Service Fund	)	SEEKING COMMENT AND SETTING
High-Cost Program.	)	HEARING
	)	
	)	Entered: October 15, 2014

BY THE COMMISSION:

The Nebraska Public Service Commission (Commission) initiates this proceeding to consider certain modifications to the high-cost funding mechanism in the universal service fund program. At this time, the Commission is seeking comment on modifications affecting the carriers classified federally as price cap carriers.

The Nebraska Telecommunications Universal Service Fund Act (NUSF) Act requires the Commission to preserve and advance universal service so that access to telecommunications and advanced communications services are provided in all regions of the state. To achieve that directive, the Commission developed a support mechanism based on forward looking costs designed to support networks capable of providing both telecommunications and broadband services. In exchange for support, all eligible telecommunications carriers (ETCs) have been required to provide the supported services ubiquitously throughout their study areas. High-cost support has been used for both capital construction and ongoing operational expenses. Earnings information has been required to track carrier investment and expenses; and to determine an appropriate level of support.

At the same time, the Commission must be cognizant of changes in federal policy, the evolving level of communications and the expectations of consumers. To that end, we seek comment on a number of proposals designed to coordinate state high-cost support with federal universal service reform.

*Background*

On November 3, 2004 the Commission entered its Findings and Conclusions in Docket No. NUSF-26, where it established the long-term funding mechanism for the high-cost program. The Support Allocation Methodology ("SAM") was created to determine high-cost universal service support amounts for

each eligible telecommunications carrier (ETC). Then, on December 19, 2006, in Docket No. NUSF-50, the Commission made adjustments to the high-cost mechanism.

In 2010, to encourage broadband deployment, the Commission created the Nebraska Broadband Pilot Program (NEBP). This program has provided explicit broadband grant support for approved capital improvement projects.

Subsequently, on November 18, 2011, the Federal Communications Commission (FCC) reformed the manner in which federal universal service support was distributed and established the Connect America Fund (CAF) to explicitly support broadband service.<sup>1</sup> In the *Transformation Order*, the FCC established two pathways for how support was determined—one for price cap carriers and the other for rate-of-return carriers.<sup>2</sup> Price cap carriers are eligible to receive CAF support in certain census blocks designated by the FCC as eligible for support.

While the Commission's Support Allocation Methodology (SAM) has effectively targeted high-cost support to the highest cost areas of the state for a number of years, the Commission believes it may be an appropriate time to consider changes to its allocation mechanism for price cap carriers to complement federal universal service reform.

The Commission seeks comment on how it should modify high-cost support as it relates to price cap carriers to ensure that these carriers can coordinate the use of state high-cost support with their CAF Phase I frozen high-cost support and CAF Phase II funding. The Commission is concerned that price cap carriers are not taking advantage of FCC CAF opportunities because of the level of support made available. The Commission also wants to ensure that broadband deployment is targeted efficiently with CAF broadband centric support.

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<sup>1</sup> See *In the Matter of Connect America Fund et al.*, WC Docket No. 10-92, et al., Report and Order and Further Notice of Proposed Rulemaking (November 18, 2011) ("*Transformation Order*").

<sup>2</sup> *Transformation Order* ¶129. (Historically, carriers were distinguished as "rural" and "non-rural" for universal service support.)

*Issues for Public Comment*

Generally, the Commission proposes to adopt a separate distribution mechanism for price cap carriers designed to target and track Nebraska universal service fund investments in broadband infrastructure. The Commission proposes to distribute support to price cap carriers outside the current distribution mechanism in a way that is more comparable to the FCC's CAF mechanism.

Specifically, the Commission seeks comment on the following:

1. Should the Commission consider revising the manner in which high-cost support is allocated to the price cap carriers? Why or why not?
2. As it pertains to price cap carriers only, should the Commission stop utilizing the current method to allocate and distribute support?
  - a. If so, how should the level of support for price cap carriers be determined?
  - b. Should the Commission create two separate budgets, one for price cap carriers and one for rate-of-return carriers?
    - i. If so, how should the budgets be determined?
    - ii. Should the Commission freeze current support levels in terms of the relative support allocated to price cap carriers and rate-of-return carriers (and going forward maintain the relative level of support)?
3. How can the Commission revise the Nebraska universal service high-cost support mechanism for price cap carriers that would be complementary to the FCC's CAF Phase II funding for the same carriers?
  - a. Should the Commission utilize a process similar to the NUSF-92 broadband grant process to allocate support?
    - i. Why or why not?

- ii. How should the methodology be designed to ensure support is allocated to areas in need of broadband investment?
  - iii. Should price cap carriers continue to be eligible for NUSF-92 support if Nebraska price cap model support is allocated to broadband investment? Why or why not?
- b. Should the Commission use the FCC's CAF II model to determine the areas that need support?
  - i. Should those CAF II areas be the areas that are/are not eligible for state support?
  - ii. Should the CAF II model output also be used to determine the level of support needed?
  - iii. If not, how should this be determined?
  - iv. If not, how should the Commission make sure that support to a carrier is based upon a reasonable cost for voice and broadband service?
- c. Should the Commission require broadband obligations, similar to those established by the FCC, as a condition of a price cap carrier accepting Nebraska support?
  - i. If broadband obligations are made a condition to accepting support, what should be required?
  - ii. How can the Commission ensure that rates for comparable services remain affordable?
  - iii. What should the Commission do if a carrier refuses to apply for or accept support in a given area?
  - iv. How can the Commission structure a mechanism so that broadband is built out in the urban areas as well as the rural areas?
  - v. Should there be a specific time period for making the broadband investment?
  - vi. How should broadband obligations be reported?
- d. The FCC's CAF support is based upon an existing cost model to determine a per location support amount.

- i. Does the Commission need to make a similar per location determination to ensure that support amounts per subscriber/household remain reasonable?
  - ii. Should it be based upon the CAF Phase II output?
- e. Should the Commission continue to require NUSF-EARN Forms from price cap carriers?
  - i. If the price cap carriers no longer receive SAM model support, would the filing NUSF-EARN Forms be relevant and/or necessary?
  - ii. Is the Commission required to have a third party audit performed on each price cap carrier's information if it does not use this information to calculate the level of support going forward?
  - iii. Does the Commission need a certain level of financial information from each price cap carrier to ensure that the support is being used for its intended purpose?
  - iv. Is there another form of oversight that should be used in its place?

#### *Comments and Hearing*

The Commission requests that interested parties provide comments responsive to the issues raised above on or before **November 13, 2014**. Reply comments may be filed on or before **December 3, 2014**. Commenters should file one (1) paper copy and one (1) electronic copy of their Comments with the Commission. Electronic copies should be sent to [Sue.Vanicek@nebraska.gov](mailto:Sue.Vanicek@nebraska.gov) and [Brandy.Zierott@nebraska.gov](mailto:Brandy.Zierott@nebraska.gov).

A hearing on these issues will be held on **December 10, 2014** at 1:30 p.m. central time, in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska 68508. The hearing will be held in legislative format. 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.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be opened.

IT IS FURTHER ORDERED that comments responsive to the foregoing questions and issues may be filed on or before **November 13, 2014 and December 3, 2014** in the manner prescribed herein.

IT IS FURTHER ORDERED that a public hearing on this matter will be held on **December 10, 2014**, at 1:30 p.m. in the Commission Hearing Room, 1200 N Street. Suite 300, Lincoln, Nebraska 68508

MADE AND ENTERED at Lincoln, Nebraska this 15<sup>th</sup> day of October, 2014.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Sam Boyle*  
*Tim Schram*  
*Debra*  
*Gerald L. Vop*

*Frank E. Landis*  
Chairman

ATTEST:

*Steve Meredith*  
Executive Director

//s//Frank E. Landis