

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public Service )                    Application No. C-5561  
Commission, on its own motion, to                    )  
administer the Nebraska Broadband Bridge                    )  
Program in the 2024 program year                    )

**COMMENTS OF QWEST CORPORATION D/B/A CENTURYLINK QC AND  
UNITED TELEPHONE OF THE WEST D/B/A CENTURYLINK**

Lumen Technologies Inc. (“Lumen”) submits these comments to the Nebraska Public Service Commission (the “Commission”) on behalf of Qwest Corporation d/b/a CenturyLink QC and United Telephone of the West d/b/a CenturyLink (collectively “CenturyLink”). These comments are submitted in response to the Commission’s Order in the above-captioned docket Opening Docket and Seeking Comment and Notice of Hearing dated February 3, 2024 (“Commission Order” or “Order”).

The Order proposes to generally maintain its prior structure for the 2024 program year of the Nebraska Broadband Bridge Program (“NBBP”) but asks for comments on 11 proposed changes associated with the 2024 program year. Lumen does not have comments on the first three items identified for discussion in the Order. As to the remainder of the issues, Lumen comments as follows:

**Item 4: Benchmark Rates**

The Commission has reviewed the rates offered by 2023 NBBP awardees and has determined that the median rate offering for 2023 was \$49.99, and the average rate offering was \$55.31.7 The Commission notes that these rate offerings are markedly lower than in previous program years. While several providers were able to offer rates at or below these benchmarks, many others did not.

The Commission therefore seeks comment on whether its methodology for scoring rate comparability should be adjusted. Should the benchmark rate continue to be set in the same manner, using the median rate from the previous year, and excluding notable outliers? Alternatively, should the Commission adopt an alternative benchmark rate, and if so, what should that benchmark be?

**Comments:**

CenturyLink agrees with the current method for finding the benchmark broadband rate and measuring rate comparability. The current method of using the middle rate from the last year and leaving out extreme outliers is a reasonable and effective way to set the benchmark rate. However, CenturyLink believes the Commission should ensure benchmark rates are based on similar speed offerings. CenturyLink values the Commission's work to examine and ask for feedback on this issue and hopes to keep working with the Commission to make sure that the benchmark rate remains a valid and reliable indicator of rate comparability.

**Item 5: Project Budget and Reimbursement**

The Commission proposes that beginning in the 2024 NBBP program year, awardees should be required to use a Commission-provided budget template and reimbursement form to assist in the review of requests and issuance of reimbursements. Awardees from prior NBBP program years will be encouraged, but not required, to use Commission-provided forms for reimbursement requests. The Commission welcomes comments on this proposal.

**Comments:**

CenturyLink opposes the Commission's proposal to use a Commission provided budget template and reimbursement form for the 2024 NBBP program year. Because each provider may create estimated costs differently, this requirement would be too complicated and would not provide much valuable information to the Commission compared to the additional work it would require from the applicants and from Commission staff. Also, based on CenturyLink's experience with NUSF grants, cost categories shift as the engineering plans become more detailed and third-party contracts are signed, causing potential future issues explaining why budget categories do not match actual invoices. It is not clear what benefit to the Commission the extra efforts in categorization would bring. Moreover, there may be privacy issues with sharing more detailed cost information. The current system of submitting reimbursement requests has worked well, and

CenturyLink does not see a reason for the additional costs that the proposed budget template would create. CenturyLink values the Commission's efforts to make the review and payment of reimbursements better but does not think that this proposal creates a better process. If a more detailed template is required, submissions to the Commission should be kept confidential.

**Item 6: Approval from Local Authorities**

The Commission proposes that applicants not be required to obtain a letter of support from the relevant local authority, but that submitting such a letter could result in an increase in the application's score. Recognizing the diversity of local authorities across Nebraska, the Commission encourages applicants to include letters of support from any pertinent local authority that would signal strong community endorsement, such as a city or county elected official, commissioner, or tribal authority. Applicants should provide an explanation of how these local authorities have been identified as possessing decision-making authority within the project area.

Moreover, projects demonstrating significant readiness, such as secured permits and approvals, may be eligible for additional points during the evaluation process. The Commission seeks comment on this proposal. If this approach is adopted, how should it be weighted? Alternatively, should a letter of consent from local authorities be required to be submitted?

**Comments:**

CenturyLink appreciates that the Commission does not ask for a letter of support from local authorities in the application process. CenturyLink understands that there may be situations that make it difficult for local organizations to provide a letter of support.

Scoring for project readiness should only depend on showing technical ability, broadband deployment experience and cost estimation. Broadband deployments are usually estimated using desktop software at first and not designed in detail to the level needed to apply for permits at the grant application stage. Detailed engineering requires detailed plans for field checking ROW, railroad and NDOT crossings, possible verification of existing aerial vs. in ground facilities, etc., doing field visits, completing engineering designs and applying for permits require financial investment, which under Commission rules would not be reimbursed as an expense before the grant award. Should the Commission determine that securing permits and approvals prior to grant

awards should be encouraged, the Commission needs to change the rules to allow reimbursement of these costs if incurred prior to the award. Even if costs incurred prior to grant awards were to be allowable, the timeline from grant order with final program guidelines to application deadline is not adequate to complete detailed engineering plans.

#### **Item 7: Maximum Per Location Cost**

To date, the Commission has not set a maximum amount which may be spent per location. However, in the interest of ensuring NBBP funding reaches as many locations as possible, the Commission is considering whether it would be advisable to set a per location funding cap for NBBP projects. Would such a cap be beneficial to the program? Conversely, would a per location funding cap prevent NBBP grant funds from reaching the hardest to reach areas? The Commission seeks comments on this topic.

#### **Comments:**

CenturyLink appreciates the Commission's goal of optimizing spending to deliver broadband to as many locations as possible. However, placing a per location funding cap could prevent grant funds from reaching the hardest to reach areas. CenturyLink believes that the proposed scoring based on location density helps achieve consideration of hard-to-reach areas. Additionally, the Commission should consider scoring for cost per location for similar project areas as opposed to a cost per location funding cap. CenturyLink appreciates the Commission's efforts to ensure that NBBP funding reaches as many locations as possible, but does not believe that a per location funding cap is the best way to achieve that goal.

#### **Item 8: Past Performance and Useful Life of Facilities**

Currently, the Commission considers the history of filing annual reports, remittance reports, and whether the applicant fails to identify anticipated obstacles such as local zoning, right of way access, and the permitting process. Should the Commission consider other metrics to quantify an applicant's past performance in fulfilling grant obligations? If so, what should those metrics be? Should the Commission take into consideration requests for extensions for prior projects filed by the applicant? If so, should such consideration extend to both NUSF and grant programs such as NBBP, CPF, and PRO-AG? Are there any circumstances in which an applicant should be considered ineligible for grant awards?

Additionally, pursuant to CPF-2, the Commission now allows applicants to provide an additional demonstration showing expected useful life of the facilities and its long-term commitment to serve the area for an additional ten points. Should this scoring change be adopted in NBBP as well?

**Comments:**

CenturyLink disagrees with the commission's idea of considering grant extension requests when deciding NBBP grant awards. All FTTP grant projects are different depending on geography, size, and jurisdiction(s) involved. As CenturyLink noted in response to item 6, costs incurred prior to the grant award cannot be reimbursed. As such, there are some issues that will not be accurately assessed during preliminary engineering that can affect the schedule for any applicant. If the Commission wants to add scoring or eligibility requirements based on past performance, it should only be for failing to fulfill a previous grant award and for reasons that the awardee could control (e.g. financial).

CenturyLink is a provider of voice and broadband services in Nebraska with a long track record. It backs the use of scoring for the lifespan of facilities and the lasting dedication to serving an area that a grant project would cover.

**Item 9: Submission of Serviceable Locations**

The Commission seeks comment on whether a similar requirement to submit all serviceable locations should be implemented in NBBP. Should applicants be required to identify all serviceable locations in the project area, using the Broadband Data Collection location ID? If not, why not? What other data could the Commission seek from applicants to ensure all locations within the project area receive service?

**Comments:**

CenturyLink knows how important it is to make sure all eligible locations are covered by a grant project area. CenturyLink has a long history of serving much of Nebraska and usually aims for grant projects in our existing service area where our own records are used to identify eligible locations. Using the Broadband Data Collection (BDC) location ID for programs that do not

depend on federal funding would require significant additional investment for licensing which may make it too expensive for potential applicants, including CenturyLink, to take part in some grant programs. Most ISPs only have a Tier 2 Fabric license and possibly a Tier D license. The Tier 2 license is only for the semiannual BDC filing. The Tier D license allows use of the Fabric for reporting of Federally funded grants. These licenses prohibit using the fabric for planning and other uses not expressly permitted in the license agreement. A possible way to reduce the licensing cost of CostQuest's Fabric data for applicants, is for the NBO to provide the qualified locations and their related BDC location ID's, latitude and longitude and/or to make the cost of the applicable CostQuest license reimbursable under the NBBP or other grant program. Additionally, there are still accuracy and completeness concerns with the BDC location ID information.

#### **Item 10: Cybersecurity and Prohibited Equipment**

The Commission proposes to require that applicants in the 2024 NBBP program year should be required to provide a cybersecurity plan. The cybersecurity plan should a description of policies the applicant has in place to protect its physical assets and prevent cyber-attacks or threats. The cybersecurity plan must also include an attestation that the applicant does not use any equipment prohibited for use by the Federal Communications Commission pursuant to 47 U.S.C. § 1601.

Should the Commission adopt this requirement? If so, should it be a scored category? If this requirement is adopted, should any other information be included in the cybersecurity plans? Should the cybersecurity plans be kept confidential pursuant to a Protective Order?

#### **Comments:**

CenturyLink agrees cybersecurity and ensuring prohibited equipment is not used in broadband deployment is extremely important. CenturyLink believes the Commission should require attestations and only require submittal of plans on an exception basis if an applicant is not yet compliant. This would be consistent with the approach utilized by the Commission in the most recent Capital Project Fund application. Validation can be available via awardee audits if necessary

and would minimize placing additional administrative burden on compliant applicants, but any plans submitted to the Commission should be kept confidential.

### **Item 11: Program structure**

As the first NBBP awards come to fruition, the Commission seeks general input on the structure of the grant program. How has the NBBP impacted broadband access in Nebraska to date? Are there other changes to the program structure the Commission should consider for the 2024 and future program years? Or, if the program structure is sufficiently developed, should the Commission open a rulemaking proceeding to formally adopt regulations governing the structure of NBBP applications, challenges, awards, and reimbursements?

### **Comments:**

CenturyLink suggests the following factors should be taken into account as the NBBP program design develops:

Construction timeline. The current statutory timeframe to complete the network deployment is 18 months from grant award acceptance. Nebraska's winter weather can limit the time frame for field work. Usually, ISP's hire third party partners for field site visits to finalize the engineering design and construction. Frost and snow can delay field site visits and construction. Since many of the grant areas are more rural, it is difficult to arrange prompt re-deployment of remote work forces. The Commission should be open to and maintain the flexibility to extend construction time frames especially for larger grant projects (based on square miles or fiber miles).

Challenge process: Challengers should not have to do speed tests for fiber to the premise locations reported as such in the FCC BDC. For those fiber locations not yet shown in the BDC mapping, challengers should be able to provide proof of the BDC filing. Fiber to the premise by nature provides speeds in excess of program goals.

Transparency: Feedback from the community provided to the Commission in response to grant applications should be provided to the applicant.

## CONCLUSION

Lumen appreciates the opportunity to participate in and comment upon the Nebraska Broadband Bridge Program. We look forward to participating in the hearing in this matter.

DATED this 1st day of March 2024.

Respectfully submitted,

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